



February 23, 2020

Testimony in Strong Support of SB2994 Relating to Highway Safety

Aloha Chair Rhoads, Vice Chair Keohokalole, Senate Committee on Transportation, and esteemed members of the committee:

Hawaii Bicycling League **strongly supports with suggested amendments** Senate Bill 2994, a program for photo red light imaging detector systems. Last session the legislature determined that red light running is dangerous, and that red light cameras reduce red light running, crashes, injuries, and deaths.

Hawaii Red Light Running Committee recommendations. The Hawaii Red Light Running Committee during the interim included **all** county police, transportation/public works, and prosecutors; state transportation department, judiciary, and public defenders; and non-profit advocates from the Hawaii Bicycling League, MADD, AAA Hawaii, and a staff member of the Portland Bureau of Transportation. The red light committee agreed on best practices in red light running photo enforcement. https://www.capitol.hawaii.gov/session2020/bills/DC250_.pdf.

Hawaii Bicycling League spent ten years doing research on red light cameras, visited red light camera operations in Culver City, CA and New York City, NY, and participated in three Vision Zero conferences as part of the national Vision Zero coalition where the red light camera issue is widely covered.

New York City Red Light Camera Program Successful. NYC has the longest running and most successful red light running Program in the US. Fines are low; repeat offender rates are low.

<https://www1.nyc.gov/html/dot/downloads/pdf/nyc-red-light-camera-program.pdf>. In NYC:

- the average daily number of red light running violations issued at each camera location has declined by over 75 percent
- comparison of the three years prior to the launch of the Program to the most recent three year period for which data is available shows that reportable right angle crashes at signalized intersections have declined by 71 percent citywide, from 7,221 to 2,084 annually
- severe injuries from such crashes have declined by over 83 percent, from 633 to 103 annually
- the program has not led to an increase in rear-end crashes. A comparison of the three years prior to the launch of the Program to the most recent three year period shows that reportable rear end crashes at signalized intersections have declined by 41 percent

citywide, from 7,348 annually to 4,344 annually. In addition severe injuries from such rear-end crashes have declined by 63 percent, from 341 to 126 annually.

- the Program has proven to be a valuable tool for deterring law-breaking and protecting New Yorkers at signalized intersections. People still die and get injured, but red light running crashes are drastically reduced, moving communities closer to Vision Zero.

New York State Statute Proven Successful. SB2994SD1 includes most of the recommendations made by the Hawaii Red Light Running Committee and much of the language of the New York State statute (see attachment A). The Hawaii Bicycling League requests that your committee use the New York State statute, proven over the last 25 years, as a base to add provisions that have helped make the NYC program tops in the country.

License-Plate Only Photos Most Effective. The primary difference between SB2994SD1 and the NY state statute is that NY state does not require, and, in fact, prohibits photos of drivers. **The registered owner is held liable for the vehicle running the red light. The identity of the driver is irrelevant. A car that runs the red light is like a dangerous loaded weapon being fired in traffic.** Most of the time the shot misses. No one is hurt. According to Hawaii DOT statistics, however,

- between 2015 and 2018, 13 people were killed in Hawaii as a direct result of red light running, more than 3 per year. If we do nothing, we can expect that more people will die each year from red light running crashes.
- between 2014 to 2018, a total of 1,312 intersection crashes occurred in Hawaii as a result of red light and other traffic signal violations, roughly 2 crashes every 3 days. The number of seriously injured persons from those red light crashes was not listed, but is estimated to be much higher than the 13 people killed. Who is hurt and killed? More than half of those injured and killed in red light crashes nationally are innocent people obeying the law, not the offending driver.

Of 23 states that use red light cameras, 20 have systems that require photographs of the car license plate only. (Only 3 states require photographs of the driver because of the cost, complications, and mainly because driver photos are not necessary to achieve the goal of changing driver behaviors.)

The photo enforcement system in Hawaii should be required by statute to capture the license plate only and hold the registered owner responsible to pay the fine. Without making it a statutory prerequisite for a violation, a county may decide to ask the contractor to provide photographs of drivers only if required by the Hawaii courts on rare occasions. This is what the Hawaii Red Light Running Committee intended.

Specific New York state statute guidance (see attachment A).

1. First, gray highlights indicate NY state law provisions already included in SB2994SD1.
2. Second, green highlights indicate NY state law provisions Hawaii Bicycling League recommends to include. The locations for the inclusions are in handwritten notes to SB2994SD1 in attachment B.
3. Third, yellow highlights indicate NY state law provisions also recommended to be inserted into SB2994SD1 as follows:

-Insert NY state statute section 1111-a (k) 2. (presumption of owner's consent to operate vehicle) [insert after SB2994SD1 section -3 (a) (County powers and duties)].
--Insert NY state statute section 1111-a (j) (lessee deemed owner) [insert after SB2994SD1 section -9 (Liability for rental or U-drive vehicle)].
---Insert NY state statute section 1111-a (k) 1. (owner may seek indemnification against operator) [insert after SB2994SD1 section -11(b) (Penalty)].
----Insert NY state statute section 1111-a (b) (not subject to double jeopardy if also ticketed by police officer for same violation) [insert after SB2994SD1 section -11(b) (Penalty)].

Changes to HRS 291C-32 and 291C-31. (see attachment C).

HRS 291C-32. The New York State statute 1111 (see top section of attachment A) makes clear that it is "traffic" that must obey the green, yellow, and red signals. HRS 2391C-32 also makes clear that "vehicular traffic" must obey the green, yellow, and red signals in paragraph (A). But for red signals paragraphs (B) and (C), HRS 291C-32 uses the word "driver" to describe who must obey the red signals under paragraphs (B) and (C). Hawaii Bicycling League's suggestion is to delete "a driver" and replace with "vehicular traffic" to be consistent and to prevent any argument that a registered owner must be the driver to be liable for a red light camera fine. The goal is not to prohibit a "driver" from violating the law, but to prohibit the vehicle from violating the law, so that the registered owner can be held liable no matter who is driving. The identity of the driver is irrelevant, as it is for parking violations and tow-away zones. The registered owner is also held liable for damages and injuries through insurance claims that may reach thousands and millions of dollars, no matter if someone else was driving the vehicle. The registered owner is responsible for entrusting a potentially dangerous weapon to someone else.

HRS 291C-31. HRS 291C-31 describes "Obedience to and required traffic control devices." The words "The driver of any vehicle" should be deleted and replaced with "Vehicular traffic" to make clear that it is all vehicular traffic that must obey traffic control devices. This change is to prevent a defense attorney from claiming that if the registered owner was not the driver, then the registered owner does not need to pay the fine for the red light camera violation. This may seem like semantics, but that is what defense attorneys have used in similar circumstances to defeat the intent of reasonable laws.

Other important recommendations to SB2994SD1 from the Hawaii Red Light Running Committee:

1. **Camera Locations.** Allow the county police departments together with county and state transportation officials to use data for red light running crashes, injuries, fatalities, incidents, citations, and traffic volume, along with their experience, to determine where red light cameras will be placed, with the goal of preventing crashes, injuries, and deaths.

2. **Engineering Reviews.** Require that engineering reviews be conducted before red light cameras are installed at potential intersections to determine whether engineering improvements such as road

improvements, signal visibility, traffic signal timing, and other countermeasures can feasibly be addressed prior to installing red light cameras.

Thank you again for your support for red light safety cameras to make our streets safe for every person.

Ride and Drive Aloha,



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Attachments:

Attachment A: NY State Statutes Sections 1110, 1111 and 1111(a), 9 pages.

Gray highlights: provisions from NY State red light camera statute already in SB2994SD1

Green highlights: provisions from NY State red light camera statute suggested for inclusion in SB2994SD1, as marked on Attachment B.

Yellow highlights: provisions from NY State red light camera statute suggested for insertion in SB2994SD1, as noted on attachment B.

Attachment B: Marked copy of SB2994SD1, pages 1-9 only, showing where Green and Yellow highlighted provisions of NY State red light camera statute are proposed for inclusion. (Pages 10-14 not attached; no changes proposed).

Attachment C: Marked copies of HRS 291C-32 and HRS 291C-31 with proposed language changes. 3 pages.

Hawaii Bicycling League testimony re SB2994SD1

ATTACHMENT A.

Article 24 - NY State Vehicle and Traffic Law, Title VII, Article 24 NY Vehicle and Traffic Law

<http://ypdcrime.com/vt/article24.htm#t1110>

S 1110. Obedience to and required traffic-control devices. (a) Every person shall obey the instructions of any official traffic-control device applicable to him placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this title.

(b) No provision of this title for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.

(c) Whenever official traffic-control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(d) Any official traffic-control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence.

(e) For purposes of this article, "intersection" shall include the area embracing the juncture of a highway with a private road or driveway and "intersecting roadway" shall include an intersecting private road or driveway.

S 1111. Traffic-control signal indications. Whenever traffic is controlled by traffic-control signals, other than lane direction control signal indications provided in section eleven hundred sixteen, exhibiting different colored lights, or colored lighted arrows, successively, one at a time or in combination, only the colors green, yellow and red shall be used, and said lights shall indicate and apply to drivers of vehicles and to pedestrians as follows:

(a) Green indications:

1. Traffic, except pedestrians, facing a steady circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. Such traffic, including when turning right or left, shall yield the right of way to other traffic lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

2. Traffic, except pedestrians, facing a steady green arrow signal may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time, except that a U-Turn may be made by traffic facing a left green arrow signal unless a sign prohibits such U-Turn or such U-Turn is in violation of any other provision of law. Such traffic shall yield the right of way to other traffic lawfully within the intersection or an adjacent cross walk at the time such signal is exhibited.

3. Unless otherwise directed by a pedestrian-control signal as provided in section eleven hundred twelve, pedestrians facing any steady green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(b) Yellow indications:

1. Traffic, except pedestrians, facing a steady circular yellow signal may enter the intersection; however, said traffic is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter.

2. Traffic, except pedestrians, facing a steady yellow arrow signal may cautiously enter the intersection only to complete the movement indicated by such arrow or make such other movement as is permitted by other indications shown at the same time; however, said traffic is thereby warned that the related green arrow movement is being terminated or that a red indication will be exhibited immediately thereafter.

3. Unless otherwise directed by a pedestrian-control signal as provided in section eleven hundred twelve, pedestrians facing any steady yellow signal are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(d) Red indications:

1. Traffic, except pedestrians, facing a steady circular red signal, unless to make such other movement as is permitted by other indications

shown at the same time, shall stop at a clearly marked stop line, but if none, then shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of the approaching traffic on the intersecting roadway before entering the intersection and shall remain standing until an indication to proceed is shown except as provided in paragraph two of this subdivision.

2. Except in a city having a population of one million or more, unless a sign is in place prohibiting such turn:

a. **Traffic** facing a steady circular red signal may cautiously enter the intersection to make a right turn after stopping as required by paragraph one of this subdivision, except that right turning traffic is not required to stop when a steady right green arrow signal is shown at the same time. Such traffic shall yield the right-of-way to pedestrians within a marked or unmarked crosswalk at the intersection and to other traffic lawfully using the intersection;

b. **Traffic**, while on a one-way roadway, facing a steady red signal may cautiously enter the intersection to make a left turn onto a one-way roadway after stopping as required by paragraph one of this subdivision. Such traffic shall yield the right-of-way to pedestrians within a marked or unmarked crosswalk at the intersection and to other traffic lawfully using the intersection.

Notwithstanding any other provision of law, any city having a population of one million or more, is hereby authorized and empowered to adopt a local law authorizing subparagraph a or b of this paragraph to be applicable within such city. Upon the adoption of such local law the exception provided herein for a city having a population of one million or more shall no longer be applicable within such city.

c. On or after the effective date of this subparagraph, the sign which prohibits such turn shall be prominently displayed from all newly installed traffic signals where possible.

3. Traffic, except pedestrians, facing a steady red arrow signal may not enter the intersection to make the movement indicated by such arrow and, unless entering the intersection to make such other movement as is permitted by other indications shown at the same time, shall stop at a clearly marked stop line, but if none, then shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk at the point nearest the intersecting roadway where the driver has a view of the approaching traffic on the

intersecting roadway before entering the intersection and shall remain standing until an indication to proceed is shown.

4. Unless otherwise directed by a pedestrian-control signal as provided in section eleven hundred twelve, pedestrians facing any steady red signal shall not enter the roadway.

5. Notwithstanding the provision of paragraph two of this subdivision, no school bus, while transporting pupils for any purpose, shall be permitted to proceed when facing a steady red signal.

(e) Traffic shall obey signs requiring obedience to traffic-control signals at intersections other than those at which such signals are located. No intersection not controlled by such signs prior to the effective date of this section shall hereafter be made subject to such method of control and no ordinance, order, rule or regulation requiring such obedience shall hereafter be adopted.

(f) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

*** S 1111-a. Owner liability for failure of operator to comply with traffic-control indications.** (a) 1. Notwithstanding any other provision of law, each city with a population of one million or more is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such city in accordance with the provisions of this section. Such demonstration program shall empower a city to install and operate traffic-control signal photo violation-monitoring devices at no more than one hundred fifty intersections within such city at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo violation-monitoring systems shall not include images that identify the driver, the passengers, or the contents of the vehicle. Provided, however, that no notice of liability issued pursuant to this section shall be dismissed solely because a photograph

or photographs allow for the identification of the contents of a vehicle, provided that such city has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any city which has adopted a local law or ordinance pursuant to subdivision (a) of this section, the owner of a vehicle shall be liable for a penalty imposed pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo violation-monitoring system; provided however that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section where the operator of such vehicle has been convicted of the underlying violation of subdivision (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal which automatically produces two or more photographs, two or more microphotographs, a videotape or other recorded images of each vehicle at the time it is used or operated in violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the city in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo violation-monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance, except that in a city which, by local law, has authorized the adjudication of such owner liability by a parking violations bureau, such schedule shall be promulgated by such

bureau. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance may provide for an additional penalty not in excess of twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period.

(f) An imposition of liability under a local law or ordinance adopted pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

(g) 1. A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section. Personal delivery on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein.

2. A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation and the identification number of the camera which recorded the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

4. The notice of liability shall be prepared and mailed by the city having jurisdiction over the intersection where the violation occurred, or by any other entity authorized by the city to prepare and mail such notification of violation.

(h) Adjudication of the liability imposed upon owners by this section shall be by a traffic violations bureau established pursuant to section three hundred seventy of the general municipal law or, if there be none, by the court having jurisdiction over traffic infractions, except that any city which has established an administrative tribunal to hear and determine complaints of traffic infractions constituting parking,

standing or stopping violations may, by local law, authorize such adjudication by such tribunal.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle was reported to the police department as having been stolen, it shall be a valid defense to an allegation of liability for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this subdivision it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the traffic violations bureau, court having jurisdiction or parking violations bureau.

(j) 1. In a city where the adjudication of liability imposed upon owners pursuant to this section is by a traffic violations bureau or a court having jurisdiction, an owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision (g) of this section shall not be liable for the violation of subdivision (d) of section eleven hundred eleven of this article, provided that he or she sends to the traffic violations bureau or court having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty-seven days after receiving notice from the bureau or court of the date and time of such violation, together with the other information contained in the original notice of liability. Failure to send such information within such thirty-seven day time period shall render the owner liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for the violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

2. (i) In a city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, an owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision (g) of this section shall not be liable for the violation of subdivision (d) of section eleven

hundred eleven of this article, provided that:

(A) prior to the violation, the lessor has filed with the bureau in accordance with the provisions of section two hundred thirty-nine of this chapter; and

(B) within thirty-seven days after receiving notice from the bureau of the date and time of a liability, together with the other information contained in the original notice of liability, the lessor submits to the bureau the correct name and address of the lessee of the vehicle identified in the notice of liability at the time of such violation, together with such other additional information contained in the rental, lease or other contract document, as may be reasonably required by the bureau pursuant to regulations that may be promulgated for such purpose.

(ii) Failure to comply with clause (B) of subparagraph (i) of this paragraph shall render the owner liable for the penalty prescribed in this section.

(iii) Where the lessor complies with the provisions of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for such violation pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

(k) 1. If the owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

2. Notwithstanding any other provision of this section, no owner of a vehicle shall be subject to a monetary fine imposed pursuant to this section if the operator of such vehicle was operating such vehicle without the consent of the owner at the time such operator failed to obey a traffic-control indication. For purposes of this subdivision there shall be a presumption that the operator of such vehicle was operating such vehicle with the consent of the owner at the time such operator failed to obey a traffic-control indication.

(l) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of subdivision (d) of section eleven hundred eleven of this article.

(m) In any city which adopts a demonstration program pursuant to subdivision (a) of this section, such city shall submit an annual report on the results of the use of a traffic-control signal photo

violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand seven and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;
2. within each borough of such city, the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the year preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;
3. within each borough of such city, the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used, to the extent the information is maintained by the department of motor vehicles of this state;
4. the number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;
5. the total number of notices of liability issued for violations recorded by such systems;
6. the number of fines and total amount of fines paid after first notice of liability issued for violations recorded by such systems;
7. the number of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems;
8. the total amount of revenue realized by such city from such adjudications;
9. expenses incurred by such city in connection with the program; and
10. quality of the adjudication process and its results.

(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

A BILL FOR AN ACT

HBL Attachment B pp. 1-9

RELATING TO HIGHWAY SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. The legislature finds that the prevalence of drivers violating Hawaii's traffic laws has become intolerable, particularly drivers who run red lights. These violations endanger the lives of motorists and pedestrians and compound the already hazardous conditions on Hawaii's roads and highways. It has become increasingly common to hear reports of hit-and-run drivers who have run over children or the elderly. Disregarding traffic signals has also been the common denominator in many recent, highly-publicized motor vehicle crashes that have claimed a number of lives.

The legislature further finds that in other jurisdictions in the United States, Canada, Europe, and other countries throughout the world, photo red light imaging detector systems have been proven reliable, efficient, and effective in identifying and deterring those who run red lights.

Photo red light imaging detector systems are safe, quick, cost-effective, and efficient. No traffic stop is involved, and a police officer is not at risk from passing traffic or armed violators. With photo red light imaging detector systems, a camera is positioned at intersections where red light violations are a major cause of collisions and serves as a twenty-four-hour deterrent to running a red light. Sensors ~~are buried under a crosswalk and~~ lead to a self-contained camera system mounted on a

nearby structure. When a vehicle enters the intersection against a red light, the camera takes a telephoto color picture of the rear of the car, capturing the license plate. A second wide-angle photograph takes in the entire intersection, including other traffic.

These systems provide numerous benefits. Not only are streets safer, but police officers are also freed from the time-consuming duties of traffic enforcement and have more time to respond to priority calls. A violator is less likely to go to court because the color photograph of the violation, imprinted with the time, date, and location of the violation, and the number of seconds the light had been red before the violator entered the intersection, can be used as evidence in court. Few cases are contested in other jurisdictions using this system, and officers make fewer court appearances, saving court costs.

The system may also result in lower insurance costs for safe drivers through an overall reduction in crashes and injuries and by placing system costs on the violators who have created the need for the program, not on law-abiding taxpayers. Traffic laws are impartially enforced, and safety and efficiency are increased by reducing the number of chases and personnel required for traffic accident clean-up, investigation, and court testimony.

The legislature further finds that the photo speed imaging detector system created by Act 234, Session Laws of Hawaii 1998, and implemented in January 2002, generated intense public opposition. As a result of this opposition, the legislature repealed Act 234 in its entirety. However, the majority of the opposition to this program resulted from the method by which the program was implemented. The public perceived that the program was operated more to maximize revenue for the vendor running the program than to improve traffic safety. In particular, vans in which the cameras were mounted were often placed at locations that did not necessarily have a history of speed-related accidents and instead were used to monitor locations with heavy traffic flow at lower speeds. This permitted the

vendor to issue the maximum number of citations in the shortest period of time and at the least cost, thereby maximizing the potential return to the vendor without improving traffic safety.

The legislature further finds that Act 131, Session Laws of Hawaii 2019, created the red light running committee, whose purpose was to "develop policy recommendations for red light running programs in the city and county of Honolulu, and the counties of Maui, Kauai, and Hawaii."

After examining the red light running programs of Washington, Illinois, New York, and Florida, the red light running committee found that red light photo enforcement programs are a promising tool that, when implemented properly, can save lives and reduce injuries by changing drivers' behaviors and lead to safer driving habits. Based on their findings, the red light running committee made a number of policy recommendations, which are reflected in this Act.

The purpose of this Act is to:

- (1) Establish a photo red light imaging detector systems program to improve enforcement of the traffic signal laws;
- (2) Allow counties to implement the photo red light imaging detector systems program;
- (3) Authorize the deposit of fines collected under county programs into a special fund; and
- (4) Authorize the expenditure of funds from this special fund by the department of transportation in the county in which the fine was collected for the establishment, operation, management, and maintenance of the photo red light imaging detector systems program.

PART II

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

PHOTO RED LIGHT IMAGING DETECTOR SYSTEMS

§ -1 **Definitions.** As used in this chapter, unless the context otherwise requires:

"County" means the counties of Hawaii, Kauai, and Maui, and the city and county of Honolulu.

(No changes to this page)

"County highway" has the same meaning as used in section 264-1.

"Department" means the department of transportation.

"Motor vehicle" has the same meaning as defined in section 291C-1.

"Photo red light imaging detector" means a device used for traffic enforcement that includes a vehicle sensor that works in conjunction with a traffic-control signal and a camera synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear and front of the motor vehicle, ^{and} the motor vehicle license plate ~~and driver of the motor vehicle~~ at the time the vehicles fails to stop when facing a steady red traffic-control signal in violation of section 291C-32.

"State highway" has the same meaning as used in section 264-1.

"Traffic-control signal" has the same meaning as defined in section 291C-1.

§ -2 **Photo red light imaging detector systems program;**
established. There is established the photo red light imaging detector systems program, which may be implemented by any county on state or county highways within the respective county, to enforce the traffic-control signal laws of the State.

§ -3 **County powers and duties.** (a) Each county may establish and implement, in accordance with this chapter, a photo red light imaging detector system imposing monetary liability on the registered owner ~~or operator~~ ^{of the operator thereof} of a motor vehicle for failure to comply with traffic-control signal laws. ^{if such vehicle was used or operated with the permission of the owner, express or implied.} Each county may provide for the procurement, location, ^{insert NY 1111-a (K.2) (presumption of owner's consent.)} installation, operation, maintenance, and repair of the photo red light imaging detector system. Where the photo red light imaging detector system affects state property, the department shall cooperate with and assist the county as needed to install, maintain, and repair the photo red light imaging detector system established pursuant to this chapter.

(b) ^{For} The State or a county that establishes a red light imaging detector system under this chapter, the compensation paid by the State or a

county to a manufacturer or vendor of the equipment used shall be based upon the value of the equipment and services provided or rendered in support of the photo red light imaging detector system, and shall not be based upon a portion of the fine or civil penalty imposed or the revenue generated by the equipment.

§ -4 Photo red light imaging detector system requirements. (a)

Photo red light imaging detector equipment may be operated from a fixed pole, post, or other fixed structure on a state or county highway.

(b) Signs and other official traffic-control devices indicating that traffic signal laws are enforced by a photo red light imaging detector system shall be posted on all major routes entering the area in question to provide, as far as practicable, notice to drivers of the existence and operation of the system.

(c) Proof of a traffic-control signal violation shall be as evidenced by information obtained from the photo red light imaging detector system authorized pursuant to this chapter. A certificate, sworn to or affirmed by the county's agent or employee, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by the system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing a violation shall be available for inspection in any proceeding to adjudicate the liability for that violation.

(d) No summons or citation pursuant to the photo red light imaging detector systems program shall be issued unless it contains a clear and unobstructed photographic, digital, or other visual image of the ^{Vehicle license plate} ~~driver~~ of the motor vehicle.

(e) The conditions specified in this section shall not apply when the information gathered is used for highway safety research or to issue warning citations not involving a fine, court appearance, or a person's driving record.

§ -5 **Summons or citations.** (a) Notwithstanding any law to the contrary, whenever any motor vehicle is determined, by means of a photo red light imaging detector system, to have disregarded a steady red signal in violation of section 291C-32(a)(3), the county shall cause a summons or citation, as described in this section, to be sent by first class mail, which is postmarked within ten calendar days of the date of the incident, to the registered owner of the vehicle at the address on record at the vehicle licensing division. If the end of the ten calendar day period falls on a Saturday, Sunday, or state holiday, then the ending period shall run until the end of the next day that is not a Saturday, Sunday, or state holiday. *Personal delivery on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein.*

(b) The form and content of the summons or citation shall be as adopted or prescribed by the administrative judge of the district courts and shall be printed on a form commensurate with the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the summons or citation valid within the laws of the State; provided that any summons or citation pursuant to the photo red light imaging detector systems program shall contain a clear and unobstructed photographic, digital, or other visual image of the vehicle license plate ~~and the driver~~ of the motor vehicle, which shall be used as evidence of the violation.

(c) Every summons or citation shall be consecutively numbered and each copy thereof shall bear the number of its respective original.

(d) Upon receipt of the summons or citation, the registered owner shall respond as provided for in chapter 291D. A record of the mailing of the summons or citations prepared in the ordinary course of business is prima facie evidence of notification. The registered owner shall be determined by the identification of the vehicle's registration plates.

~~(e) The county, or the county's agent or employee, shall be available to testify as to the authenticity of the information provided pursuant to~~

~~this section.~~

§ -6 Registered owner's responsibility for a summons or citation.

In any proceeding for a violation of this chapter, ~~the information contained in the summons or citation mailed in accordance with section~~

~~-5 shall be deemed prima facie evidence that the registered owner of the motor vehicle~~ ^{that} ~~violated section 291C-32(a)(3).~~ ^{shall be liable for the monetary fine}
^{Registered owner's defenses.}

§ -7 ~~Prima facie evidence.~~ ^{and is provided} (a) Whenever the photo red light imaging detector system determines a motor vehicle to be in violation of section 291C-32(a)(3), ^{and is provided} evidence that the motor vehicle described in the citation or summons issued pursuant to this chapter was operated in violation of that section, ~~together with proof that the person to whom the summons or citation was sent was the registered owner of the motor vehicle at the time of the violation, shall constitute prima facie evidence that the registered owner of the motor vehicle was the person who committed the violation.~~

~~(b) The registered owner of the vehicle may rebut the evidence in subsection (a) by any one of the following:~~

~~(1) Submitting a written statement as provided in section 291D-6(b)(2) and a photocopy of the registered owner's driver's license;~~

~~(2) Testifying in open court under oath that the person was not the operator of the vehicle at the time of the alleged violation;~~

~~(3) Calling witnesses to testify in open court under oath that the person was not the operator of the vehicle at the time of the alleged violation;~~

^{motor vehicle}
 (1)(4) Submitting evidence the driver passed through the intersection when the traffic light was red in order to yield the right-of-way to an emergency vehicle; or at the direction of a law enforcement office;
 (2)(5) Submitting evidence that the motor vehicle was part of a funeral procession escorted by the police;

(3)(6) Presenting, prior to the return date established on the citation or summons issued pursuant to this chapter, a letter of verification of loss from the police department indicating that the vehicle or the vehicle license plates had been reported stolen, to the court adjudicating the alleged violation;

(4) Presenting evidence that the motor vehicle ~~had~~ was sold prior to the

~~(7) Identifying the actual driver of the vehicle at the time of the alleged violation; or~~ ^{time of violation;}

~~(8) At the direction of a law enforcement officer.~~

(5) presenting evidence that traffic-control indications were malfunctioning at the time of the alleged violation.

§ -8 **Failure to comply with summons or citation.** If the registered owner of the vehicle does not return an answer in response to a summons or citation within a period of thirty days from the date of the mailing of the summons or citation, the district court shall issue, pursuant to section 291D-7(e), a notice of entry of judgment of default to the registered owner of the vehicle, *and pursuant to section 291D-10, restrictions on driver's license renewal and motor registration renewal or transfer.*

§ -9 **Liability for rental or U-drive vehicle.** Notwithstanding any law to the contrary, if the registered owner of record is the lessor of a rental or U-drive motor vehicle, as defined in section 286-2, pursuant to a written lease agreement, the lessee at the time of the violation shall be responsible for the summons or citation; provided that the lessor shall be responsible for the summons or citation if the lessor does not provide the court having jurisdiction over the summons or citation with the *name and address of the lessee within thirty days after a notice containing the* *correct* date, time, and location of the alleged violation and the license number of the vehicle is sent to the lessor. *together with such other additional information contained in the rental, lease or other contract document, as may be reasonably required by the lessor*

(insert NY 1111-a(j) (lessee deemed owner))

§ -10 **Reissuance of summons or citation.** A summons or citation will be reissued to the person who the registered owner identifies as the *lessor* ~~driver of the vehicle or the lessor identifies as the lessee of the vehicle~~ at the time of the infraction.

§ -11 **Penalty.** (a) The penalties for all consequences of a violation for disregarding a steady red signal initiated by the use of a photo red light imaging detector system shall be as provided in section 291C-161.

(b) Any summons or citations issues, or convictions resulting from this chapter, shall not be recorded on a person's traffic abstract.

(c) insert NY 1111-a(k) (indemnification against operator) *(d) insert NY 1111-a(l) (double jeopardy)*

§ -12 **Fines for unauthorized disclosure.** All personal and confidential information made available by any government agency to an agent of any county for the photo red light imaging detector systems program shall be kept confidential and shall be used only for the purposes

** court pursuant to regulations that may be promulgated for such purpose.*

for which the information was furnished. Any officer, employee, or agent of a county who intentionally discloses or provides a copy of personal and confidential information obtained from a photo red light imaging detector system to any person or agency without authorization shall be fined not more than \$; provided that the fine shall not preclude the application of penalties or fines otherwise provided for by law.

§ -13 Photo red light imaging detector systems program special fund established. (a) There is established a photo red light imaging detector systems special fund to be administered by the department, into which shall be paid revenues collected pursuant to this chapter.

(b) All fines collected under this chapter shall be deposited into the photo red light imaging detector systems program special fund. Moneys in the fund shall be expended by the department in the county in which the fine was imposed, for purposes that include the establishment, operation, management, and maintenance of a photo red light imaging detector system.

§ -14 insert NY III-9(m) (annual report)
§ -14⁵ Rules. The department shall adopt rules pursuant to chapter 91, as may be necessary to implement this chapter."

PART III

SECTION 3. Section 291C-161, Hawaii Revised Statutes, is amended to read as follows:

"§291C-161 Penalties[-]; photo red light imaging detector system fines. (a) It is a violation for any person to violate any of the provisions of this chapter, except as otherwise specified in subsections (c) and (d) and unless the violation is by other law of this State declared to be a felony, misdemeanor, or petty misdemeanor.

(b) Except as provided in subsections (c) and (d), every person who is determined to have violated any provision of this chapter for which another penalty is not provided shall be fined:

(1) Not more than \$200 for a first violation thereof;

(2) Not more than \$300 for a second violation committed within one year after the date of the first violation;

and

HBL Attachment B
https://www.capitol.hawaii.gov/session2020/bills/SB2994_SD1_HTML

(No changes to this page or the ones that follow in the bill)

§291C-32 Traffic-control signal legend. (a) Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow shall be used, except for special pedestrian signals carrying a word or symbol legend, and the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication:

- (A) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at the place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
- (B) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
- (C) Unless otherwise directed by a pedestrian-control signal, as provided in section 291C-33, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication:

- (A) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.
- (B) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian-control signal as provided in section 291C-33, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) Steady red indication:

- (A) Vehicular traffic facing a steady red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown, except as provided in the next succeeding paragraphs.
- (B) ~~The driver of a vehicle~~ which is stopped in obedience to a steady red indication may make a right turn but shall yield

Vehicular traffic

the right-of-way to pedestrians and other traffic proceeding as directed by the signal at said intersection, except that counties by ordinance may prohibit any such right turn against a steady red indication, which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.

Vehicular traffic (C) ~~The driver of a vehicle~~ on a one-way street which intersects another one-way street on which traffic moves to the left shall stop in obedience to a steady red indication but may then make a left turn into said one-way street, but shall yield right-of-way to pedestrians, proceeding as directed by the signal at said intersection except that counties by ordinance may prohibit any such left turn as above described which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.

(D) Unless otherwise directed by a pedestrian-control signal as provided in section 291C-33, pedestrians facing a steady red signal alone shall not enter the roadway.

(b) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(c) For purposes of this section, a pedestrian is lawfully within an intersection or adjacent crosswalk when any part or extension of the pedestrian, including any part of the pedestrian's body, wheelchair, cane, crutch, or bicycle, is beyond the curb or the edges of the traversable roadway or moves onto the roadway within an intersection or crosswalk. [L 1971, c 150, pt of §1; am L 1981, c 190, §1; am L 2019, c 132, §2]

Case Notes

Defendant had right of allocution before being sentenced for violation charge of illegal turn; denial of right reversible error. 77 H. 241 (App.), 883 P.2d 663.

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PART IV. TRAFFIC SIGNS, SIGNALS AND MARKINGS

Vehicular traffic

✓ [§291C-31] Obedience to and required traffic-control devices. (a) ~~The driver of any vehicle~~ shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with law, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

(b) No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

Whenever a particular section does not state that signs are required, the section shall be effective even though no signs are erected or in place.

(c) Whenever official traffic-control devices are placed in position approximately conforming to law, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(d) Any official traffic-control device placed pursuant to law and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary is established by competent evidence. [L 1971, c 150, pt of §1]

Case Notes

Stop sign was authorized by operation of statutory presumption. 72 H. 573, 827 P.2d 648.

Statutory presumption did not impermissively shift State's burden of proof to defendant; presumption was directory rather than mandatory. 9 H. App. 73, 823 P.2d 154.

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