

# HOUSE BILL No. 5953

June 18, 1998, Introduced by Rep. Schermesser and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 367c, 382, and 479a (MCL 750.367c, 750.382, and 750.479a), section 367c as added by 1982 PA 63, section 382 as amended by 1980 PA 159, and section 479a as amended by 1996 PA 586.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 367c. ~~—A—~~ THE SECRETARY OF STATE SHALL SUSPEND THE  
2 OPERATOR'S OR CHAUFFEUR'S LICENSE OF A person ~~who is~~ convicted  
3 of an offense under this chapter involving the theft of motor  
4 vehicle fuel ~~, which theft~~ THAT occurred by pumping the fuel  
5 into a motor vehicle, ~~may have his or her license to operate a~~  
6 ~~vehicle in this state suspended for up to 1 year in addition to~~  
7 ~~any other penalty imposed for the offense~~ AS PROVIDED IN  
8 SECTION 319 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300,

1 MCL 257.319. The person ~~whose operator's or chauffeur's license~~  
2 ~~is ordered suspended pursuant to this section~~ shall immediately  
3 surrender ~~that~~ HIS OR HER OPERATOR'S OR CHAUFFEUR'S license to  
4 the court. The court shall immediately forward the license and a  
5 certificate of conviction to the secretary of state. ~~The cer-~~  
6 ~~tificate of conviction shall indicate the sentence imposed under~~  
7 ~~this section.~~

8 Sec. 382. (1) A person who ~~wilfully~~ WILLFULLY and mali-  
9 ciously, or wantonly and without cause, cuts down, destroys, or  
10 injures any tree, shrub, grass, turf, plants, crops, or soil of  
11 another PERSON that is standing, growing, or located on the land  
12 of another PERSON is guilty of a misdemeanor ~~—~~ punishable by  
13 imprisonment for not more than 90 days ~~—~~ OR a fine of not more  
14 than \$100.00, or both. A person convicted under this subsection  
15 shall be required to make restitution for any damage done.

16 (2) ~~A~~ THE SECRETARY OF STATE SHALL SUSPEND THE OPERATOR'S  
17 OR CHAUFFEUR'S LICENSE OF A person convicted under subsection (1)  
18 who committed the offense with a vehicle, as ~~defined in section~~  
19 ~~79 of Act No. 300 of the Public Acts of 1949, being section~~  
20 ~~257.79 of the Michigan Compiled Laws, may have his or her license~~  
21 ~~to operate a vehicle in this state suspended for up to 1 year in~~  
22 ~~addition to a penalty imposed under subsection (1)~~ PROVIDED IN  
23 SECTION 319 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300,  
24 MCL 257.319. AS USED IN THIS SUBSECTION, "VEHICLE" MEANS THAT  
25 TERM AS DEFINED IN SECTION 79 OF THE MICHIGAN VEHICLE CODE, 1949  
26 PA 300, MCL 257.79.

1           Sec. 479a. (1) A driver of a motor vehicle who is given by  
2 hand, voice, emergency light, or siren a visual or audible signal  
3 by a police or conservation officer, acting in the lawful per-  
4 formance of his or her duty, directing the driver to bring his or  
5 her motor vehicle to a stop shall not willfully fail to obey that  
6 direction by increasing the speed of the vehicle, extinguishing  
7 the lights of the vehicle, or otherwise attempting to flee or  
8 elude the police or conservation officer. This subsection does  
9 not apply unless the police or conservation officer giving the  
10 signal is in uniform and the OFFICER'S vehicle ~~driven by the~~  
11 ~~police or conservation officer~~ is identified as an official  
12 police or department of natural resources vehicle.

13           (2) Except as provided in subsection (3), (4), or (5), an  
14 individual who violates subsection (1) is guilty of fourth-degree  
15 fleeing and eluding, a felony punishable by imprisonment for not  
16 more than 2 years or a fine of not more than \$500.00, or both.

17           (3) Except as provided in subsection (4) or (5), an individ-  
18 ual who violates subsection (1) is guilty of third-degree fleeing  
19 and eluding, a felony punishable by imprisonment for not more  
20 than 5 years or a fine of not more than \$1,000.00, or both, if 1  
21 or more of the following circumstances apply:

22           (a) The violation results in a collision or accident.

23           (b) A portion of the violation occurred in an area where the  
24 speed limit is 35 miles an hour or less, whether that speed limit  
25 is posted or imposed as a matter of law.

26           (c) The individual has a prior conviction for fourth-degree  
27 fleeing and eluding, attempted fourth-degree fleeing and eluding,

1 or fleeing and eluding under a current or former law of this  
2 state prohibiting substantially similar conduct.

3 (4) Except as provided in subsection (5), an individual who  
4 violates subsection (1) is guilty of second-degree fleeing and  
5 eluding, a felony punishable by imprisonment for not more than 10  
6 years or a fine of not more than \$5,000.00, or both, if 1 or more  
7 of the following circumstances apply:

8 (a) The violation results in serious injury to an  
9 individual.

10 (b) The individual has 1 or more prior convictions for  
11 first-, second-, or third-degree fleeing and eluding, attempted  
12 first-, second-, or third-degree fleeing and eluding, or fleeing  
13 and eluding under a current or former law of this state prohibit-  
14 ing substantially similar conduct.

15 (c) The individual has any combination of 2 or more prior  
16 convictions for fourth-degree fleeing and eluding, attempted  
17 fourth-degree fleeing and eluding, or fleeing and eluding under a  
18 current or former law of this state prohibiting substantially  
19 similar conduct.

20 (5) If the violation results in the death of another indi-  
21 vidual, an individual who violates subsection (1) is guilty of  
22 first-degree fleeing and eluding, a felony punishable by impris-  
23 onment for not more than 15 years or a fine of not more than  
24 \$10,000.00, or both.

25 (6) An individual who forcibly assaults or commits a bodily  
26 injury requiring medical care or attention upon a peace or police  
27 officer of this state while the peace or police officer is

1 engaged in making a lawful arrest, knowing him or her to be a  
2 peace or police officer, is guilty of a misdemeanor punishable by  
3 a fine of not more than \$1,000.00 or imprisonment for not more  
4 than 2 years, or both.

5       (7) ~~As part of the sentence imposed~~ FOR A CONVICTION under  
6 subsection (2) or (3), ~~the court shall order~~ the secretary of  
7 state ~~to~~ SHALL suspend the individual's operator's or  
8 chauffeur's license ~~for a period of 1 year. The individual is~~  
9 ~~not eligible to receive a restricted license during the first 6~~  
10 ~~months of the period of suspension. If a term of imprisonment is~~  
11 ~~served as a part of the sentence, the period of suspension of the~~  
12 ~~individual's license shall begin after the completion of the term~~  
13 ~~of imprisonment~~ AS PROVIDED IN SECTION 319 OF THE MICHIGAN VEHI-  
14 CLE CODE, 1949 PA 300, MCL 257.319.

15       (8) ~~As part of the sentence imposed~~ FOR A CONVICTION under  
16 subsection (4) or (5), ~~the court shall order~~ the secretary of  
17 state ~~to~~ SHALL revoke the individual's operator's or  
18 chauffeur's license AS PROVIDED IN SECTION 303 OF THE MICHIGAN  
19 VEHICLE CODE, 1949 PA 300, MCL 257.303.

20       (9) Except as otherwise provided, a conviction under this  
21 section does not prohibit a conviction and sentence under any  
22 other applicable provision for conduct arising out of the same  
23 transaction. A conviction under subsection (2), (3), (4), or (5)  
24 prohibits a conviction under section 602a of the Michigan vehicle  
25 code, ~~Act No. 300 of the Public Acts of 1949, being section~~  
26 ~~257.602a of the Michigan Compiled Laws~~ 1949 PA 300,  
27 MCL 257.602A, for conduct arising out of the same transaction.

1 (10) As used in this section, "serious injury" means a  
2 physical injury that is not necessarily permanent, but that con-  
3 stitutes serious bodily disfigurement or that seriously impairs  
4 the functioning of a body organ or limb. Serious injury  
5 includes, but is not limited to, 1 or more of the following:

6 (a) Loss of a limb or of use of a limb.

7 (b) Loss of a hand, foot, finger, or thumb or of use of a  
8 hand, foot, finger, or thumb.

9 (c) Loss of an eye or ear or of use of an eye or ear.

10 (d) Loss or substantial impairment of a bodily function.

11 (e) Serious visible disfigurement.

12 (f) A comatose state that lasts for more than 3 days.

13 (g) Measurable brain damage or mental impairment.

14 (h) A skull fracture or other serious bone fracture.

15 (i) Subdural hemorrhage or hematoma.

16 Enacting section 1. This amendatory act takes effect 1 year  
17 after the date of its enactment.

18 Enacting section 2. This amendatory act does not take  
19 effect unless all of the following bills of the 89th Legislature  
20 are enacted into law:

21 (a) House Bill No. 4210.

22 (b) House Bill No. 4576.

23 (c) House Bill No. 5122.

24 (d) House Bill No. 5123.

25 (e) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
26 no. 06515'98).

1 (f) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
2 no. 06517'98).

3 (g) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
4 no. 06518'98).