

HOUSE BILL No. 5081

August 1, 2007, Introduced by Reps. Espinoza, Constan, Polidori, Mayes, Rick Jones and Stahl and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 479a (MCL 750.479a), as amended by 2002 PA 270.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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
4 performance of his or her duty, directing the driver to bring his
5 or her motor vehicle to a stop shall not willfully fail to obey
6 that direction by increasing the speed of the vehicle,
7 extinguishing the lights of the vehicle, or otherwise attempting to
8 flee or elude the police or conservation officer. This subsection
9 does not apply unless the police or conservation officer giving the
10 signal is in uniform and the officer's vehicle is identified as an
11 official police or department of natural resources vehicle.

1 (2) Except as provided in subsection (3), (4), or (5), an
2 individual who violates subsection (1) is guilty of fourth-degree
3 fleeing and eluding, a felony, ~~punishable~~**AND SHALL BE PUNISHED** by
4 imprisonment for ~~not more than 2 years, or~~**AND MAY BE PUNISHED BY** a
5 fine of not more than \$2,000.00. ~~, or both.~~

6 (3) Except as provided in subsection (4) or (5), an individual
7 who violates subsection (1) is guilty of third-degree fleeing and
8 eluding, a felony, ~~punishable~~**AND SHALL BE PUNISHED** by imprisonment
9 for not **LESS THAN 2 YEARS OR** more than 5 years, ~~or~~**AND MAY BE**
10 **PUNISHED BY** a fine of not more than \$5,000.00, ~~or both,~~ if 1 or
11 more of the following circumstances apply:

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

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

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

20 (4) Except as provided in subsection (5), an individual who
21 violates subsection (1) is guilty of second-degree fleeing and
22 eluding, a felony, ~~punishable~~**AND SHALL BE PUNISHED** by imprisonment
23 for not **LESS THAN 2 YEARS OR** more than 10 years, ~~or~~**AND MAY BE**
24 **PUNISHED BY** a fine of not more than \$10,000.00, ~~or both,~~ if 1 or
25 more of the following circumstances apply:

26 (a) The violation results in serious impairment of a body
27 function of an individual.

1 (b) The individual has 1 or more prior convictions for first-,
2 second-, or third-degree fleeing and eluding, attempted first-,
3 second-, or third-degree fleeing and eluding, or fleeing and
4 eluding under a current or former law of this state prohibiting
5 substantially similar conduct.

6 (c) The individual has any combination of 2 or more prior
7 convictions for fourth-degree fleeing and eluding, attempted
8 fourth-degree fleeing and eluding, or fleeing and eluding under a
9 current or former law of this state prohibiting substantially
10 similar conduct.

11 (5) If the violation results in the death of another
12 individual, an individual who violates subsection (1) is guilty of
13 first-degree fleeing and eluding, a felony, ~~punishable~~ **AND SHALL BE**
14 **PUNISHED** by imprisonment for not **LESS THAN 2 YEARS OR** more than 15
15 years, ~~or~~ **AND MAY BE PUNISHED BY** a fine of not more than
16 \$15,000.00. ~~, or both.~~

17 (6) Upon a conviction for a violation or attempted violation
18 under subsection (2) or (3), the secretary of state shall suspend
19 the individual's operator's or chauffeur's license as provided in
20 section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319.

21 (7) Upon a conviction for a violation or attempted violation
22 under subsection (4) or (5), the secretary of state shall revoke
23 the individual's operator's or chauffeur's license as provided in
24 section 303 of the Michigan vehicle code, 1949 PA 300, MCL 257.303.

25 (8) Except as otherwise provided, a conviction under this
26 section does not prohibit a conviction and sentence under any other
27 applicable provision for conduct arising out of the same

1 transaction. A conviction under subsection (2), (3), (4), or (5)
2 prohibits a conviction under section 602a of the Michigan vehicle
3 code, 1949 PA 300, MCL 257.602a, for conduct arising out of the
4 same transaction.

5 (9) As used in this section, "serious impairment of a body
6 function" means that term as defined in section 58c of the Michigan
7 vehicle code, 1949 PA 300, MCL 257.58c.