

HOUSE BILL No. 6323

July 1, 2010, Introduced by Rep. Miller and referred to the Committee on Tourism, Outdoor Recreation and Natural Resources.

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~~ **AN OPERATOR** of a motor vehicle **OR**
2 **VESSEL** who is given by hand, voice, emergency light, or siren a
3 visual or audible signal by a police or conservation officer,
4 acting in the lawful performance of his or her duty, directing the
5 ~~driver~~ **OPERATOR** to bring his or her motor vehicle **OR VESSEL** to a
6 stop shall not willfully fail to obey that direction by increasing
7 the speed of the vehicle **OR VESSEL**, extinguishing the lights of the
8 vehicle **OR VESSEL**, or otherwise attempting to flee or elude the
9 police or conservation officer. This subsection does not apply
10 unless the police or conservation officer giving the signal is in

1 uniform and the officer's vehicle **OR VESSEL** is identified as an
2 official police or department of natural resources vehicle **OR**
3 **VESSEL**.

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

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

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

14 (b) ~~A--FOR A VEHICLE, A~~ portion of the violation occurred in an
15 area where the speed limit is 35 miles an hour or less, whether
16 that speed limit is posted or imposed as a matter of law **OR, FOR A**
17 **VESSEL, A PORTION OF THE VIOLATION OCCURRED IN AN AREA DESIGNATED**
18 **AS "SLOW--NO WAKE", "NO WAKE", OR "RESTRICTED" WHETHER THE AREA IS**
19 **POSTED OR CREATED BY LAW OR ADMINISTRATIVE RULE.**

20 (c) The individual has a prior conviction for fourth-degree
21 fleeing and eluding, attempted fourth-degree fleeing and eluding,
22 or fleeing and eluding under a current or former law of this state
23 prohibiting substantially similar conduct.

24 (4) Except as provided in subsection (5), an individual who
25 violates subsection (1) is guilty of second-degree fleeing and
26 eluding, a felony punishable by imprisonment for not more than 10
27 years or a fine of not more than \$10,000.00, or both, if 1 or more

1 of the following circumstances apply:

2 (a) The violation results in serious impairment of a body
3 function of an individual.

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

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

14 (5) If the violation results in the death of another
15 individual, an individual who violates subsection (1) is guilty of
16 first-degree fleeing and eluding, a felony punishable by
17 imprisonment for not more than 15 years or a fine of not more than
18 \$15,000.00, or both.

19 (6) Upon a conviction for a violation or attempted violation
20 under subsection (2) or (3), the **FOLLOWING APPLY:**

21 **(A) IF THE INDIVIDUAL WAS OPERATING A VEHICLE, THE** secretary
22 of state shall suspend the individual's operator's or chauffeur's
23 license as provided in section 319 of the Michigan vehicle code,
24 1949 PA 300, MCL 257.319.

25 **(B) IF THE INDIVIDUAL WAS OPERATING A VESSEL, THE INDIVIDUAL'S**
26 **PRIVILEGE TO OPERATE A VESSEL SHALL BE SUSPENDED FOR A PERIOD NOT**
27 **TO EXCEED 5 YEARS.**

1 (7) Upon a conviction for a violation or attempted violation
2 under subsection (4) or (5), **THE FOLLOWING APPLY:**

3 **(A) IF THE INDIVIDUAL WAS OPERATING A VEHICLE,** the secretary
4 of state shall revoke the individual's operator's or chauffeur's
5 license as provided in section 303 of the Michigan vehicle code,
6 1949 PA 300, MCL 257.303.

7 **(B) IF THE INDIVIDUAL WAS OPERATING A VESSEL, THE INDIVIDUAL'S**
8 **PRIVILEGE TO OPERATE A VESSEL SHALL BE REVOKED FOR A PERIOD OF NOT**
9 **LESS THAN 5 YEARS.**

10 (8) Except as otherwise provided, a conviction under this
11 section does not prohibit a conviction and sentence under any other
12 applicable provision for conduct arising out of the same
13 transaction. A conviction under subsection (2), (3), (4), or (5)
14 prohibits a conviction under section 602a of the Michigan vehicle
15 code, 1949 PA 300, MCL 257.602a, for conduct arising out of the
16 same transaction.

17 (9) As used in this section: ~~,"serious impairment of a body~~
18 ~~function"~~

19 **(A) "SERIOUS IMPAIRMENT OF A BODY FUNCTION"** means that term as
20 defined in section 58c of the Michigan vehicle code, 1949 PA 300,
21 MCL 257.58c.

22 **(B) "VESSEL" MEANS THAT TERM AS DEFINED IN SECTION 80104 OF**
23 **THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA**
24 **451, MCL 324.80104.**