

HOUSE BILL No. 5170

October 14, 2003, Introduced by Reps. Pastor, LaJoy, Nofs, Amos, Robertson, Casperson, Acciavatti, Rocca, Drolet and Brandenburg and referred to the Committee on Criminal Justice.

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
8 to flee or elude the police or conservation officer. This
9 subsection does not apply unless the police or conservation
10 officer giving the signal is in uniform and the officer's vehicle

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1 is identified as an official police or department of natural
2 resources vehicle.

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

8 (3) Except as provided in subsection (4) or (5), an
9 individual who violates subsection (1) is guilty of third-degree
10 fleeing and eluding, a felony punishable by imprisonment for not
11 **less than 2 years or** more than 5 years or **imprisonment for not**
12 **less than 2 years or more than 5 years and** a fine of not more
13 than \$5,000.00, ~~—or both,~~ if 1 or more of the following
14 circumstances apply:

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

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

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

23 (4) Except as provided in subsection (5), an individual who
24 violates subsection (1) is guilty of second-degree fleeing and
25 eluding, a felony punishable by imprisonment for not **less than 2**
26 **years or** more than 10 years or **imprisonment for not less than 2**
27 **years or more than 10 years and** a fine of not more than

1 \$10,000.00, ~~or both,~~ if 1 or more of the following
2 circumstances apply:

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

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

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

15 (5) If the violation results in the death of another
16 individual, an individual who violates subsection (1) is guilty
17 of first-degree fleeing and eluding, a felony punishable by
18 imprisonment for not **less than 2 years or** more than 15 years or
19 **imprisonment for not less than 2 years or more than 15 years and**
20 a fine of not more than \$15,000.00. ~~, or both.~~

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

26 (7) Upon a conviction for a violation or attempted violation
27 under subsection (4) or (5), the secretary of state shall revoke

1 the individual's operator's or chauffeur's license as provided in
2 section 303 of the Michigan vehicle code, 1949 PA 300,
3 MCL 257.303.

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

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