

# HOUSE BILL No. 4163

February 2, 2005, Introduced by Reps. Pastor, Gosselin, Sak and Garfield 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

1 signal is in uniform and the officer's vehicle is identified as an  
2 official police or department of natural 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~~ **AND SHALL BE PUNISHED** by  
6 imprisonment for ~~not more than~~ 2 years ~~or a fine of~~ **AND MAY BE**  
7 **FINED** 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~~ **AND SHALL BE PUNISHED** by  
11 imprisonment for not **LESS THAN 2 YEARS OR** more than 5 years ~~or a~~  
12 ~~fine of~~ **AND MAY BE FINED** not more than \$5,000.00, ~~—or both,—~~ if 1  
13 or more of the following circumstances apply:

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

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

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

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

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

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

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

13 (5) If the violation results in the death of another  
14 individual, an individual who violates subsection (1) is guilty of  
15 first-degree fleeing and eluding, a felony, ~~punishable~~ **AND SHALL**  
16 **BE PUNISHED** by imprisonment for not **LESS THAN 2 YEARS OR** more than  
17 15 years ~~or a fine of~~ **AND MAY BE FINED** not more than \$15,000.00. ~~—~~  
18 ~~or both.~~

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

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

27 (8) Except as otherwise provided, a conviction under this

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

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