

# SENATE BILL No. 387

May 19, 2011, Introduced by Senators GLEASON, HUNTER, BIEDA, JONES, NOFS, SCHUITMAKER, MOOLENAAR, PAPPAGEORGE, GREEN and WHITMER 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~~ **AN OPERATOR** of a motor vehicle who is  
2 given by hand, voice, emergency light, or siren a visual or audible  
3 signal by a police or conservation officer, acting in the lawful  
4 performance of his or her duty, directing the ~~driver~~ **OPERATOR** to  
5 bring his or her motor vehicle to a stop shall not willfully fail  
6 to obey 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

1 official police or department of natural resources vehicle.

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

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

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

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

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

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

27 (a) The violation results in serious impairment of a body

1 function of an individual.

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

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

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

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

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

26 (8) Except as otherwise provided, a conviction under this  
27 section does not prohibit a conviction and sentence under any other

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

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