



H.B. 29

123rd General Assembly
(As Introduced)

Reps. Grendell, Pringle, Clancy, Schuler, Jerse, Taylor, Mottley

BILL SUMMARY

- Increases the penalty for the offense of "failure to comply with an order or signal of a police officer" when that offense is committed by operating a motor vehicle so as willfully to elude or flee a police officer and by either creating a substantial risk of serious physical harm to persons or property or causing serious physical harm to persons or property by doing both of the following: (1) operating the motor vehicle for a significant period of time at a rate of speed at least 35 miles per hour in excess of the applicable speed limit and in an area with heavy vehicular or pedestrian traffic, and (2) either failing to stop for traffic lights or stop signs or operating the motor vehicle without lighted lights during a time in which lighted lights are required.

CONTENT AND OPERATION

Existing law

Existing law prohibits a person from failing to comply with any lawful order or direction of any police officer invested with authority to direct, control, or regulate traffic. Whoever violates this prohibition is guilty of "failure to comply with an order or signal of a police officer," and a violation of this prohibition is a misdemeanor of the first degree. (Sec. 2921.331(A) and (C).)

Existing law also prohibits a person from operating a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop. Whoever violates this prohibition also is guilty of "failure to comply with an order or signal of a police officer." A violation of this prohibition generally is a misdemeanor of the first degree. A violation of this prohibition is a felony of the fourth degree if

the jury or judge as trier of fact finds any one of the following by proof beyond a reasonable doubt (sec. 2921.331(B) and (C)):

(1) In committing the offense, the offender was fleeing immediately after the commission of a felony.

(2) The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property.

(3) The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

Operation of the bill

The bill increases the penalty for violating the prohibition against operating a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop. Under the bill, a violation of this prohibition is a felony of the second degree if the jury or judge as trier of fact finds by proof beyond a reasonable doubt that in operating the motor vehicle the offender either created a substantial risk of serious physical harm to persons or property or caused serious physical harm to persons or property by doing both of the following (sec. 2921.331(C)(5)):

(1) Operating the motor vehicle for a significant period of time at a rate of speed at least 35 miles per hour in excess of the applicable speed limit and in an area with heavy vehicular or pedestrian traffic;

(2) Either failing to stop for traffic lights or stop signs or operating the motor vehicle without lighted lights during a time in which lighted lights are required.

COMMENT

As used in the bill:

1. "Police officer" means every officer authorized to direct or regulate traffic, or to make arrests for violations of traffic regulations (sec. 2921.331(D) by reference to sec. 4511.01(Z)--not in the bill).

2. "Serious physical harm to persons" means any of the following (sec. 2901.01(A)(5)--not in the bill):

(a) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;

(b) Any physical harm that carries a substantial risk of death;

(c) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;

(d) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;

(e) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.

3. "Serious physical harm to property" means any physical harm to property that does either of the following (sec. 2901.01(A)(6)--not in the bill):

(a) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort, or money to repair or replace;

(b) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use or enjoyment for an extended period of time.

4. "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use. (Sec. 2901.01(A)(4)--not in the bill.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
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