

JAN 31 2006
JUDICIARY

HOUSE FILE 2197
BY HUTTER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to eluding a law enforcement vehicle at high
2 speed by providing for imposition of a civil penalty against
3 the owner or the driver of a vehicle identified on film.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2197

1 Section 1. Section 321.279, Code 2005, is amended to read
2 as follows:

3 321.279 ELUDING OR ATTEMPTING TO ELUDE PURSUING LAW
4 ENFORCEMENT VEHICLE.

5 1. The driver of a motor vehicle commits a serious
6 misdemeanor if the driver willfully fails to bring the motor
7 vehicle to a stop or otherwise eludes or attempts to elude a
8 marked official law enforcement vehicle driven by a uniformed
9 peace officer after being given a visual and audible signal to
10 stop. The signal given by the peace officer shall be by
11 flashing red light, or by flashing red and blue lights, and
12 siren. ~~For purposes of this section, "peace officer" means~~
13 ~~those officers designated under section 801.47 subsection 117~~
14 ~~paragraphs "a", "b", "c", "g", and "h".~~

15 2. The driver of a motor vehicle commits an aggravated
16 misdemeanor if the driver willfully fails to bring the motor
17 vehicle to a stop or otherwise eludes or attempts to elude a
18 marked official law enforcement vehicle that is driven by a
19 uniformed peace officer after being given a visual and audible
20 signal as provided in this section and in doing so exceeds the
21 speed limit by twenty-five miles per hour or more.

22 3. The driver of a motor vehicle commits a class "D"
23 felony if the driver willfully fails to bring the motor
24 vehicle to a stop or otherwise eludes or attempts to elude a
25 marked official law enforcement vehicle that is driven by a
26 uniformed peace officer after being given a visual and audible
27 signal as provided in this section, and in doing so exceeds
28 the speed limit by twenty-five miles per hour or more, and if
29 any of the following occurs:

30 a. The driver is participating in a public offense, as
31 defined in section 702.13, that is a felony.

32 b. The driver is in violation of section 321J.2 or
33 124.401.

34 c. The offense results in bodily injury to a person other
35 than the driver.

1 4. a. If the driver of a motor vehicle willfully fails to
2 bring the motor vehicle to a stop or otherwise eludes or
3 attempts to elude a marked official law enforcement vehicle
4 that is driven by a uniformed peace officer after being given
5 a visual and audible signal as provided in this section, and
6 in doing so exceeds the speed limit by twenty-five miles per
7 hour or more, and the vehicle and the registration plate
8 number of the vehicle can be identified by a photograph or
9 video recording of the incident that was produced using camera
10 equipment carried in a law enforcement vehicle, the driver of
11 the vehicle involved in the violation may be assessed a civil
12 penalty of up to ten thousand dollars. If the driver of the
13 vehicle is unknown, the peace officer investigating the
14 incident shall contact the owner of the motor vehicle
15 identified by the photograph or video recording and request
16 that the owner supply information identifying the person who
17 was driving the vehicle at the time the violation occurred in
18 accordance with section 321.484. If, following the
19 investigation, the investigating peace officer is unable to
20 identify the driver of the vehicle, the owner of the vehicle
21 may be assessed a civil penalty of up to ten thousand dollars.
22 The assessment of a civil penalty under this subsection is in
23 addition to any criminal penalty that may be imposed upon
24 conviction of a person for a violation of this section.

25 b. A photograph or video recording produced by a peace
26 officer that identifies a vehicle used to elude or attempt to
27 elude a peace officer while exceeding the speed limit by
28 twenty-five miles per hour or more is a public record that
29 shall be made available for viewing electronically or during
30 the law enforcement agency's regular business hours.

31 c. All moneys collected from a civil penalty imposed by a
32 city or county or the state pursuant to this subsection shall
33 be retained by the city, county, or state, respectively. The
34 civil penalty shall be collected and distributed by the clerk
35 of the district court as provided in section 602.8105,

1 subsection 5.

2 5. For purposes of this section, the following definitions
3 apply:

4 a. "Owner" means a person who holds the legal title to a
5 motor vehicle; however, if the motor vehicle is the subject of
6 a security agreement with a right of possession in the debtor,
7 the debtor shall be deemed the owner for purposes of this
8 subsection, or if the motor vehicle is leased as defined in
9 section 321.493, the lessee shall be deemed the owner for
10 purposes of this section.

11 b. "Peace officer" means those officers designated under
12 section 801.4, subsection 11, paragraphs "a", "b", "c", "g",
13 and "h".

14 Sec. 2. Section 321.484, unnumbered paragraph 3, Code
15 Supplement 2005, is amended to read as follows:

16 If a peace officer as defined in section 801.4 has
17 reasonable cause to believe the driver of a motor vehicle has
18 violated section 321.261, 321.262, 321.264, 321.279, 321.341,
19 321.342, 321.343, 321.344, or 321.372, the officer may request
20 any owner of the motor vehicle to supply information
21 identifying the driver. When requested, the owner of the
22 vehicle shall identify the driver to the best of the owner's
23 ability. However, the owner of the vehicle is not required to
24 supply identification information to the officer if the owner
25 believes the information is self-incriminating.

26 Sec. 3. Section 602.8105, Code Supplement 2005, is amended
27 by adding the following new subsection:

28 NEW SUBSECTION. 5. The clerk of the district court shall
29 collect a civil penalty assessed against the driver or owner
30 of a motor vehicle pursuant to section 321.279, subsection 4.
31 Any moneys collected from the civil penalty shall be
32 distributed to the state or the city or county that brought
33 the civil action against the driver or owner under section
34 321.279, subsection 4.

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EXPLANATION

1 This bill allows the imposition of a civil penalty of up to
2 \$10,000 on the driver of a vehicle who eludes or attempts to
3 elude a law enforcement vehicle while exceeding the speed
4 limit by 25 miles per hour or more, if the vehicle can be
5 identified from a photograph or recording of the incident
6 produced by camera equipment carried in a law enforcement
7 vehicle. In addition, if the driver of the vehicle is
8 unknown, the owner of the vehicle depicted in the film is
9 subject to a civil penalty of up to \$10,000 if the owner fails
10 to identify the person who was driving the vehicle at the time
11 the violation occurred. The photograph or video recording is
12 a public record that shall be available for viewing
13 electronically or at the law enforcement agency.

14 The bill provides that the assessment of a civil penalty
15 against the driver or owner of a vehicle involved in a
16 violation that is recorded on film does not preclude the
17 imposition of a criminal penalty upon a driver convicted for
18 eluding or attempting to elude a peace officer. Moneys
19 collected from a civil penalty imposed for eluding a peace
20 officer are to be distributed by the clerk of court to the
21 state or the city or county responsible for the civil action
22 against the driver or owner of the vehicle.

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