

FEB 5 1999

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Place On Calendar

HOUSE FILE 209
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 117)

Passed House, Date ^(P. 397) 2/22/99 Passed Senate, Date 3/22/99 ^(P. 700)
Vote: Ayes 78 Nays 16 Vote: Ayes 46 Nays 1
Approved 4/15/99

A BILL FOR

1 An Act relating to increasing the penalty for eluding or
2 attempting to elude an official law enforcement vehicle.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 209

H-1019

1 Amend the amendment, H-1010, to House File 209 as
2 follows:

3 1. Page 1, by striking lines 4 through 9 and
4 inserting the following::

5 "Sec. ____ . STUDY. The department of public safety
6 shall conduct a feasibility study that would require
7 that all law enforcement vehicles be equipped with
8 stop sticks and uniform flashing lights, warning
9 signals, and sirens. The factors to be considered in
10 the study shall include but are not limited to the
11 following:

12 1. The safety of law enforcement officers,
13 citizens, and the alleged offenders.

14 2. The enhancement of law enforcement
15 effectiveness when using stop sticks and uniform
16 lights and sirens.

17 3. The cost effectiveness when considering public
18 safety and a law enforcement agency budget."

19 2. By renumbering as necessary.

By SHOULTZ of Black Hawk

H-1019 FILED FEBRUARY 22, 1999

Adopted 2/22/99 (P. 396)

HF 209

1 Section 1. Section 321.279, Code 1999, 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 or audible signal to
10 stop ~~and in doing so exceeds the speed limit by twenty-five~~
11 ~~miles per hour or more.~~ The signal given by the peace officer
12 shall be by flashing red light or siren. For purposes of this
13 section, "peace officer" means those officers designated under
14 section 801.4, subsection 11, paragraphs "a," "b," "c," "g,"
15 and "h".

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

23 3. The driver of a motor vehicle commits an aggravated
24 misdemeanor a class "D" felony if, while participating in a
25 public offense, as defined in section 702.13, that is a
26 felony, the driver willfully fails to bring the motor vehicle
27 to a stop or otherwise eludes or attempts to elude a marked
28 official law enforcement vehicle that is driven by a uniformed
29 peace officer after being given a visual or audible signal as
30 provided in this section, and in doing so exceeds the speed
31 limit by twenty-five miles per hour or more, and if any of the
32 following occurs:

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

35 b. The driver is in violation of section 321J.2 or

1 124.401.

2 c. The offense results in bodily injury to a person other
3 than the driver.

4 d. The offense results in property damage, and the cost of
5 replacing, repairing, or restoring the property exceeds one
6 thousand dollars.

7 e. The driver commits five or more moving traffic
8 violations during the offense.

9 EXPLANATION

10 | This bill changes the penalty for the crime of eluding or
11 attempting to elude a pursuing law enforcement vehicle by
12 creating three levels of offenses. If a driver of a motor
13 vehicle is eluding a law enforcement vehicle, the driver
14 commits a serious misdemeanor. If a driver of a motor vehicle
15 is eluding a law enforcement vehicle at speeds in excess of 25
16 miles per hour over the speed limit, the bill changes the
17 criminal penalty for eluding or attempting to elude from a
18 serious to an aggravated misdemeanor. A driver of a motor
19 vehicle commits a class "D" felony if the driver eludes or
20 attempts to elude a pursuing law enforcement vehicle at speeds
21 in excess of 25 miles per hour over the speed limit, and if
22 any of the following occurs: the driver is participating in
23 the commission of a felony, the driver commits an operating
24 while intoxicated or a drug offense, a person other than the
25 driver incurs bodily injury, property damage occurs in excess
26 of \$1,000, or the driver commits five or more moving traffic
27 violations. The effect of the new class "D" felony
28 classification is a change in the criminal penalty for eluding
29 while participating in a felony from an aggravated misdemeanor
30 to a class "D" felony.

31 A class "D" felony is punishable by confinement for no more
32 than five years and a fine of at least \$500 but not more than
33 \$7,500. An aggravated misdemeanor is punishable by
34 confinement for not more than two years and a fine of at least
35 \$500 but not more than \$5,000. A serious misdemeanor is

1 punishable by confinement for not more than one year or a fine
2 of at least \$250 but not more than \$1,500 or both fine and
3 imprisonment.

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**HOUSE FILE 209
FISCAL NOTE**

The estimate for House File 209 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 209 revises the penalties for eluding or attempting to elude a pursuing law enforcement officer. The Bill creates three levels of offenses:

1. A motor vehicle driver who eludes or attempts to elude a law enforcement officer commits a serious misdemeanor.
2. If the driver exceeds the speed limit by 25 miles per hour in attempting to elude a law enforcement officer, the offense is an aggravated misdemeanor.
3. If the driver exceeds the speed limit by 25 miles per hour and attempts to elude a law enforcement officer and if the driver is intoxicated, committing a drug offense, injures another person, causes property damage in excess of \$1,000, or commits five or more moving violations, the offense is a Class D felony.

ASSUMPTIONS

1. Charges, convictions, sentencing trends, and correctional policies will remain constant throughout the projection period.
2. The law will become effective July 1, 1999, and there will be a six-month lag as offenders are processed into the criminal justice system.
3. There will be 298 convictions per year.
4. Half of the offenses will result in aggravated misdemeanor convictions, and half will result in Class D convictions.
5. The marginal cost for adding one inmate to the prison system is \$12 per day.
6. The cost for a residential facility is \$55 per day. Offenders will spend four months in a residential facility.
7. Data is not available to estimate the average length of time these offenders will spend on probation or parole.
8. Data is not available for the average length of stay in jail to estimate the savings for counties.
9. Prosecution costs and defense costs are assumed to be the same. Costs will increase by \$150 for each case that is prosecuted as an aggravated misdemeanor instead of a serious misdemeanor. Costs will increase by \$400 for each case that is prosecuted as a Class D felony instead of a serious misdemeanor.

CORRECTIONAL IMPACT

House File 209 will increase admissions to the Department of Corrections programs and decrease admissions to county jails. The projected effects on

-2-

admissions are:

	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2004</u>
Jails	-33	-66	-66
Probation/Parole	30	60	60
CBC Facilities	5	10	10
Prisons	23	46	46

The average length of stay in jail or on probation/parole is not known. Therefore, the effect on the average daily jail and probation/parole populations cannot be estimated.

Community-Based Corrections residential facilities and prison populations will increase by:

	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2004</u>
CBC Facilities	2	3	3
Prisons	23	62	74

FISCAL IMPACT

House File 209 will result in increased costs as follows:

State General Fund Impact:

	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2004</u>
Public Defender	\$ 41,000	\$ 82,000	\$ 82,000
Probation/Parole	Unknown	Unknown	Unknown
CBC Facilities	34,000	67,000	67,000
Prisons	101,000	272,000	324,000
Total State	<u>\$176,000</u>	<u>\$272,000</u>	<u>\$473,000</u>

County Impact:

County Attorneys	\$ 41,000	\$ 82,000	\$ 82,000
Jails	Unknown	Unknown	Unknown

SOURCES

Criminal and Juvenile Justice Planning Division, Department of Human Rights
 Department of Corrections
 Department of Justice
 Office of the State Public Defender

(LSB 1500hv, CRS)

HOUSE FILE 209

H-1006

- 1 Amend House File 209 as follows:
- 2 1. Page 2, by striking lines 7 and 8.
By PARMENTER of Story

H-1006 FILED FEBRUARY 9, 1999

*Lost 2/22/99
(p. 395)*

HOUSE FILE 209

H-1007

- 1 Amend House File 209 as follows:
- 2 1. Page 1, by striking lines 10 and 11 and
- 3 inserting the following: "stop and in doing so
- 4 exceeds the speed limit by ~~twenty-five~~ fifteen miles
- 5 per hour or more. The signal given by the peace
- 6 officer".
- 7 2. By renumbering as necessary.
By SHOULTZ of Black Hawk

H-1007 FILED FEBRUARY 9, 1999

*Lost 2/22/99
(p. 395)*

HOUSE FILE 209

H-1008

- 1 Amend House File 209 as follows:
- 2 1. Page 1, by striking lines 10 and 11 and
- 3 inserting the following: "stop and in doing so
- 4 exceeds the speed limit by ~~twenty-five~~ fifteen miles
- 5 per hour or more. The signal given by the peace
- 6 officer".
- 7 2. Page 1, by striking lines 16 through 22.
- 8 3. Page 1, lines 23 and 24, by striking the words
- 9 "~~an-aggravated-misdemeanor~~ a class "D" felony" and
- 10 inserting the following: "an aggravated misdemeanor".
- 11 4. By renumbering as necessary.
By SHOULTZ of Black Hawk

H-1008 FILED FEBRUARY 9, 1999

*Withdrawn
2/22/99 (p. 395)*

HOUSE FILE 209

H-1009

- 1 Amend House File 209 as follows:
- 2 1. Page 1, line 5, by striking the word "serious"
- 3 and inserting the following: "serious simple".
- 4 2. Page 1, by striking lines 10 and 11 and
- 5 inserting the following: "stop and in doing so
- 6 exceeds the speed limit by ~~twenty-five~~ fifteen miles
- 7 per hour or more. The signal given by the peace
- 8 officer".
- 9 3. Page 1, line 16, by striking the words "an
- 10 aggravated" and inserting the following: "a serious".
- 11 4. Page 1, lines 23 and 24, by striking the words
- 12 "~~an-aggravated-misdemeanor~~ a class "D" felony" and
- 13 inserting the following: "an aggravated misdemeanor".
- 4 5. By renumbering as necessary.
By SHOULTZ of Black Hawk

H-1009 FILED FEBRUARY 9, 1999

Lost 2/22/99 (p. 394)

HOUSE FILE 209

H-1010

1 Amend House File 209 as follows:

2 1. Page 2, by inserting after line 8 the
3 following:

4 "Sec. ____ . NEW SECTION. 321.279A PROMOTION OF
5 UNIFORM WARNING SIGNALS AND SIRENS -- RULEMAKING.

6 The department of public safety shall adopt rules
7 under chapter 17A promoting the implementation of
8 uniform flashing red lights, warning signals, and
9 siren equipment on all law enforcement vehicles."

By WEIGEL of Chickasaw

H-1010 FILED FEBRUARY 16, 1999

lost 2/22/99 (p. 396)

HOUSE FILE 209

H-1011

1 Amend House File 209 as follows:

2 1. Page 2, by inserting after line 8 the
3 following:

4 "Sec. ____ . NEW SECTION. 321.279A USE OF STOP
5 STICKS -- RULEMAKING.

6 The department of public safety shall adopt rules
7 under chapter 17A which require all law enforcement
8 vehicles to be equipped with stop sticks designed to
9 disable a motor vehicle which is eluding or attempting
10 to elude a law enforcement vehicle."

By WEIGEL of Chickasaw

H-1011 FILED FEBRUARY 16, 1999

Withdrawn

2/22/99 (p. 396)

HOUSE FILE 209

H-1012

1 Amend House File 209 as follows:

2 1. Page 1, line 9, by striking the word "or" and
3 inserting the following: "or and".

4 2. Page 1, line 12, by striking the word "or" and
5 inserting the following: "or and".

6 3. Page 1, line 20, by striking the word "or" and
7 inserting the following: "and".

8 4. Page 1, line 29, by striking the word "or" and
9 inserting the following: "or and".

By WEIGEL of Chickasaw

H-1012 FILED FEBRUARY 16, 1999

Adapted

2/22/99 p. 394

5-30-99 *file*

(As Amended and Passed by the House, February 22, 1999)

HOUSE FILE **209**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 117)

Passed House, Date ^(P 1012) 4/1/99 Passed Senate, Date ^(A700) 3/22/99
Vote: Ayes 91 Nays 5 Vote: Ayes 46 Nays 1
Approved April 15, 1999

A BILL FOR

1 An Act relating to increasing the penalty for eluding or
2 attempting to elude an official law enforcement vehicle.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 209

S-3102

1 Amend House File 209 as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 2, by striking lines 4 through 8.
By LARRY MCKIBBEN

S-3102 FILED MARCH 18, 1999

adopted 3/22/99
(P. 678)

SENATE AMENDMENT TO HOUSE FILE 209

H-1148

1 Amend House File 209 as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 2, by striking lines 4 through 8.
RECEIVED FROM THE SENATE

H-1148 FILED MARCH 22, 1999

House Concurred 3/31/99 (P. 1012)

1 Section 1. Section 321.279, Code 1999, 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 or and audible signal
10 to stop ~~and in doing so exceeds the speed limit by twenty-five~~
11 ~~miles per hour or more.~~ The signal given by the peace officer
12 shall be by flashing red light or and siren. For purposes of
13 this section, "peace officer" means those officers designated
14 under section 801.4, subsection 11, paragraphs "a," "b," "c,"
15 "g," and "h".

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

23 3. The driver of a motor vehicle commits an aggravated
24 misdemeanor a class "D" felony if ~~while participating in a~~
25 ~~public offense, as defined in section 702.13, that is a~~
26 ~~felony,~~ the driver willfully fails to bring the motor vehicle
27 to a stop or otherwise eludes or attempts to elude a marked
28 official law enforcement vehicle that is driven by a uniformed
29 peace officer after being given a visual or and audible signal
30 as provided in this section, and in doing so exceeds the speed
31 limit by twenty-five miles per hour or more, and if any of the
32 following occurs:

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

35 b. The driver is in violation of section 321J.2 or

1 124.401.

2 c. The offense results in bodily injury to a person other
3 than the driver.

4 d. The offense results in property damage, and the cost of
5 replacing, repairing, or restoring the property exceeds one
6 thousand dollars.

7 e. The driver commits five or more moving traffic
8 violations during the offense.

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AN ACT
RELATING TO INCREASING THE PENALTY FOR ELUDING OR ATTEMPTING TO
ELUDE AN OFFICIAL LAW ENFORCEMENT VEHICLE.

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

Section 1. Section 321.279, Code 1999, is amended to read
as follows:

321.279 ELUDING OR ATTEMPTING TO ELUDE PURSUING LAW
ENFORCEMENT VEHICLE.

1. The driver of a motor vehicle commits a serious
misdemeanor if the driver willfully fails to bring the motor
vehicle to a stop or otherwise eludes or attempts to elude a
marked official law enforcement vehicle driven by a uniformed
peace officer after being given a visual or and audible signal
to stop ~~and in doing so exceeds the speed limit by twenty-five
miles per hour or more.~~ The signal given by the peace officer
shall be by flashing red light or and siren. For purposes of
this section, "peace officer" means those officers designated
under section 801.4, subsection 11, paragraphs "a," "b," "c,"
"g," and "h".

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

3. The driver of a motor vehicle commits ~~an aggravated
misdemeanor a class "D" felony if, while participating in a
public offense, as defined in section 702.13, that is a
felony,~~ the driver willfully fails to bring the motor vehicle
to a stop or otherwise eludes or attempts to elude a marked

official law enforcement vehicle that is driven by a uniformed
peace officer after being given a visual or and audible signal
as provided in this section, and in doing so exceeds the speed
limit by twenty-five miles per hour or more, and if any of the
following occurs:

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

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

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

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 209, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 15, 1999

THOMAS J. VILSACK
Governor

HF 209