

**House File 2338 - Introduced**

HOUSE FILE 2338  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 524)

**A BILL FOR**

1 An Act relating to eluding or attempting to elude a pursuing  
2 law enforcement vehicle and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.279, Code 2020, is amended to read  
2 as follows:

3 **321.279 Eluding or attempting to elude pursuing law**  
4 **enforcement vehicle.**

5 1. a. 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  
10 to 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 801.4, subsection 11](#),  
14 paragraphs "a", "b", "c", "f", "g", and "h".

15 b. The driver of a motor vehicle who commits a second or  
16 subsequent violation under this subsection is, upon conviction,  
17 guilty of an aggravated misdemeanor.

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

25 b. The driver of a motor vehicle who commits a violation  
26 under this section and who has previously committed a violation  
27 under this section or subsection 3 is, upon conviction, guilty  
28 of a class "D" felony.

29 3. a. The driver of a motor vehicle commits a class "D"  
30 felony if the driver willfully fails to bring the motor vehicle  
31 to a stop or otherwise eludes or attempts to elude a marked  
32 official law enforcement vehicle that is driven by a uniformed  
33 peace officer after being given a visual and audible signal as  
34 provided in [this section](#), and in doing so exceeds the speed  
35 limit by twenty-five miles per hour or more, and if any of the

1 following occurs:

2 ~~a.~~ (1) The driver is participating in a public offense, as  
3 defined in [section 702.13](#), that is a felony.

4 ~~b.~~ (2) The driver is in violation of [section 321J.2](#) or  
5 [124.401](#).

6 (3) The driver is in violation of section 124.401.

7 ~~c.~~ (4) The offense results in bodily injury to a person  
8 other than the driver.

9 b. The driver of a motor vehicle who commits a second or  
10 subsequent violation under this subsection is, upon conviction,  
11 guilty of a class "C" felony.

12 Sec. 2. Section 321J.2, subsection 3, paragraph b,  
13 subparagraph (2), Code 2020, is amended by adding the following  
14 new subparagraph division:

15 NEW SUBPARAGRAPH DIVISION. (f) If the offense was committed  
16 in violation of section 321.279, subsection 3, paragraph "a",  
17 subparagraph (2).

18 Sec. 3. Section 907.3, subsection 1, paragraph a,  
19 subparagraph (6), Code 2020, is amended by adding the following  
20 new subparagraph division:

21 NEW SUBPARAGRAPH DIVISION. (f) If the offense was committed  
22 in violation of section 321.279, subsection 3, paragraph "a",  
23 subparagraph (2).

24 Sec. 4. Section 907.3, subsection 2, paragraph a,  
25 subparagraph (2), Code 2020, is amended by adding the following  
26 new subparagraph division:

27 NEW SUBPARAGRAPH DIVISION. (f) The offense is a violation  
28 of section 321.279, subsection 3, paragraph "a", subparagraph  
29 (2).

30 EXPLANATION

31 The inclusion of this explanation does not constitute agreement with  
32 the explanation's substance by the members of the general assembly.

33 This bill relates to the criminal offense of eluding or  
34 attempting to elude a pursuing law enforcement vehicle.

35 Under current law, a driver of a motor vehicle who commits

1 a violation of Code section 321.279(1) by willfully failing  
2 to bring a motor vehicle to a stop or otherwise eluding or  
3 attempting to elude a marked official law enforcement vehicle,  
4 is, upon conviction, guilty of a serious misdemeanor. A driver  
5 of a motor vehicle who commits a violation of Code section  
6 321.279(2) by willfully failing to bring a motor vehicle to  
7 a stop or otherwise eluding or attempting to elude a marked  
8 official law enforcement vehicle and in doing so exceeds the  
9 speed limit by 25 miles per hour or more, is, upon conviction,  
10 guilty of an aggravated misdemeanor. A driver of a motor  
11 vehicle who commits a violation of Code section 321.279(3) is,  
12 upon conviction, guilty of a class "D" felony. A driver of a  
13 motor vehicle violates Code section 321.279(3) by willfully  
14 failing to bring a motor vehicle to a stop or otherwise eluding  
15 or attempting to elude a marked official law enforcement  
16 vehicle and in doing so exceeds the speed limit by 25 miles  
17 per hour or more, and any of the following occur: the driver  
18 participates in a public offense, as defined in Code section  
19 702.13, that is a felony; the driver violates Code section  
20 321J.2 (operating while under the influence) or Code section  
21 124.401 (controlled substance violations); or the offense  
22 results in bodily injury to a person other than the driver.

23 The bill provides enhanced penalties for all violations of  
24 Code section 321.279. Under the bill, a driver of a motor  
25 vehicle who commits a second or subsequent violation of Code  
26 section 321.279(1) is, upon conviction, guilty of an aggravated  
27 misdemeanor. A driver of a motor vehicle who commits a  
28 violation of Code section 321.279(2) who has previously  
29 committed a violation of Code section 321.279(2) or (3) is,  
30 upon conviction, guilty of a class "D" felony. A driver of a  
31 motor vehicle who commits a second or subsequent violation of  
32 Code section 321.279(3) is, upon conviction, guilty of a class  
33 "C" felony.

34 The bill prohibits the court from ordering a deferred  
35 sentence or a deferred judgment for the driver of a motor

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1 vehicle convicted of eluding or attempting to elude a pursuing  
2 law enforcement vehicle while exceeding the speed limit by  
3 25 miles per hour or more while in violation of Code section  
4 321J.2.