

HOUSE No. 1455

By Miss Garry of Dracut, petition of Colleen M. Garry for legislation to establish a penalty for eluding a pursuing law enforcement officer's motor vehicle. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO FLEEING A PURSUING LAW ENFORCEMENT OFFICER'S MOTOR VEHICLE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 268 of the General Laws, as appearing in the 2000
2 Official Edition, is hereby amended by adding the following
3 section:—

4 Section 41. (a) Any person who, while operating a motor vehicle
5 and with the intent to evade, willfully flees or otherwise attempt to
6 elude a pursuing law enforcement officer's motor vehicle, and the
7 law enforcement officer's motor vehicle is exhibiting at least one
8 flashing, rotating, or oscillating blue light as specified in section 7E
9 of chapter 90 of the General Laws, and the person either sees or rea-
10 sonable should have seen such light; the law enforcement officer's
11 motor vehicle is sounding a siren as may be reasonably necessary;
12 the law enforcement officer's motor vehicle is distinctively marked;
13 and the law enforcement officer's motor vehicle is operated by a law
14 enforcement officer who is wearing a distinctive uniform, shall be
15 punished by imprisonment in a jail or house of correction for not
16 more than two and one half years or by a fine of not more than
17 \$1,000, or by both fine and imprisonment.

18 (b) Any person who flees or attempts to elude a pursuing law
19 enforcement officer in violation of paragraph (a) and who drives his
20 vehicle in a willful or wanton disregard for the safety of persons or
21 property, shall be punished by imprisonment in the state prison for
22 not more than five years or imprisonment in a jail or house of cor-
23 rection for not more than two and one half years or by a fine of not
24 more that \$10,000, or by both such fine and imprisonment.

25 For purposes of this paragraph, “willful or wanton disregard for
26 the safety of persons or property” shall include, but not be limited to,
27 driving while fleeing or attempting to elude a pursuing law enforce-
28 ment officer during which time either three or more violations of
29 traffic law or damage to property occurs.

30 (c) Any person who flees or attempts to elude a pursuing law
31 enforcement officer in violation of paragraph (a) and who proximi-
32 tely causes death or serious bodily injury to any person, shall be
33 punished by imprisonment in the state prison for not more than ten
34 years or imprisonment in a jail or house of correction for not more
35 than two and one half years or by a fine of not more than \$10,000, or
36 by both such fine and imprisonment. For purposes of this paragraph
37 “serious bodily injury” shall mean a serious impairment of physical
38 condition, including, but not limited to the following: loss of con-
39 sciousness, concussion; bone fracture; protracted loss or impairment
40 of function of any bodily member or organ; a wound requiring
41 extensive suturing; and serious disfigurement.