

By Senator Posey

24-404-07

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A bill to be entitled

An act relating to fleeing or attempting to elude a law enforcement officer; amending s. 316.1935, F.S.; providing that an owner of a motor vehicle commits a misdemeanor of the first degree if the owner allows another to use the owner's vehicle to elude or flee from a law enforcement officer under certain circumstances; providing criminal penalties; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 316.1935, Florida Statutes, is amended to read:

316.1935 Fleeing or attempting to elude a law enforcement officer; aggravated fleeing or eluding; motor vehicle owner culpability.--

(1) It is unlawful for the operator of any vehicle, having knowledge that he or she has been ordered to stop such vehicle by a duly authorized law enforcement officer, willfully to refuse or fail to stop the vehicle in compliance with such order or, having stopped in knowing compliance with such order, willfully to flee in an attempt to elude the officer, and a person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who willfully flees or attempts to elude a law enforcement officer in an authorized law enforcement patrol vehicle, with agency insignia and other jurisdictional markings prominently displayed on the vehicle,

1 with siren and lights activated commits a felony of the third  
2 degree, punishable as provided in s. 775.082, s. 775.083, or  
3 s. 775.084.

4 (3) Any person who willfully flees or attempts to  
5 elude a law enforcement officer in an authorized law  
6 enforcement patrol vehicle, with agency insignia and other  
7 jurisdictional markings prominently displayed on the vehicle,  
8 with siren and lights activated, and during the course of the  
9 fleeing or attempted eluding:

10 (a) Drives at high speed, or in any manner which  
11 demonstrates a wanton disregard for the safety of persons or  
12 property, commits a felony of the second degree, punishable as  
13 provided in s. 775.082, s. 775.083, or s. 775.084.

14 (b) Drives at high speed, or in any manner which  
15 demonstrates a wanton disregard for the safety of persons or  
16 property, and causes serious bodily injury or death to another  
17 person, including any law enforcement officer involved in  
18 pursuing or otherwise attempting to effect a stop of the  
19 person's vehicle, commits a felony of the first degree,  
20 punishable as provided in s. 775.082, s. 775.083, or s.  
21 775.084. Notwithstanding any other provision of law, the court  
22 shall sentence any person convicted of committing the offense  
23 described in this paragraph to a mandatory minimum sentence of  
24 3 years imprisonment. ~~Nothing in~~ This paragraph does not shall  
25 prevent a court from imposing a greater sentence of  
26 incarceration as authorized by law.

27 (4) Any person who, in the course of unlawfully  
28 leaving or attempting to leave the scene of a crash in  
29 violation of s. 316.027 or s. 316.061, having knowledge of an  
30 order to stop by a duly authorized law enforcement officer,  
31 willfully refuses or fails to stop in compliance with such an

1 order, or having stopped in knowing compliance with such  
2 order, willfully flees in an attempt to elude such officer  
3 and, as a result of such fleeing or eluding:

4 (a) Causes injury to another person or causes damage  
5 to any property belonging to another person, commits  
6 aggravated fleeing or eluding, a felony of the second degree,  
7 punishable as provided in s. 775.082, s. 775.083, or s.  
8 775.084.

9 (b) Causes serious bodily injury or death to another  
10 person, including any law enforcement officer involved in  
11 pursuing or otherwise attempting to effect a stop of the  
12 person's vehicle, commits aggravated fleeing or eluding with  
13 serious bodily injury or death, a felony of the first degree,  
14 punishable as provided in s. 775.082, s. 775.083, or s.  
15 775.084.

16  
17 The felony of aggravated fleeing or eluding and the felony of  
18 aggravated fleeing or eluding with serious bodily injury or  
19 death constitute separate offenses for which a person may be  
20 charged, in addition to the offenses under ss. 316.027 and  
21 316.061, relating to unlawfully leaving the scene of a crash,  
22 which the person had been in the course of committing or  
23 attempting to commit when the order to stop was given.

24 Notwithstanding any other provision of law, the court shall  
25 sentence any person convicted of committing aggravated fleeing  
26 or eluding with serious bodily injury or death to a mandatory  
27 minimum sentence of 3 years imprisonment. ~~Nothing in~~ This  
28 subsection does not shall prevent a court from imposing a  
29 greater sentence of incarceration as authorized by law.

30 (5) If the owner of a motor vehicle knowingly allows  
31 another person to operate the vehicle in violation of

1 subsection (1), subsection (2), subsection (3), or subsection  
2 (4) and if the owner knows that the vehicle was previously  
3 used during a violation of subsection (1), subsection (2),  
4 subsection (3), or subsection (4), the owner commits a  
5 misdemeanor of the first degree, punishable as provided in s.  
6 775.082 or s. 775.083.

7 ~~(6)(5)~~ The court shall revoke, for a period not less  
8 than 1 year nor exceeding 5 years, the driver's license of any  
9 operator of a motor vehicle convicted of a violation of  
10 subsection (1), subsection (2), subsection (3), or subsection  
11 (4).

12 ~~(7)(6)~~ Notwithstanding s. 948.01, ~~a~~ ~~no~~ court may not  
13 suspend, defer, or withhold adjudication of guilt or  
14 imposition of sentence for any violation of this section. A  
15 person convicted and sentenced to a mandatory minimum term of  
16 incarceration under paragraph (3)(b) or paragraph (4)(b) is  
17 not eligible for statutory gain-time under s. 944.275 or any  
18 form of discretionary early release, other than pardon or  
19 executive clemency or conditional medical release under s.  
20 947.149, prior to serving the mandatory minimum sentence.

21 ~~(8)(7)~~ Any motor vehicle involved in a violation of  
22 this section is deemed to be contraband, which may be seized  
23 by a law enforcement agency and is subject to forfeiture  
24 pursuant to ss. 932.701-932.704. Any vehicle not required to  
25 be titled under the laws of this state is presumed to be the  
26 property of the person in possession of the vehicle.

27 Section 2. This act shall take effect July 1, 2007.  
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SENATE SUMMARY

Provides that the owner of a motor vehicle commits a misdemeanor of the first degree if the owner allows another person to use the vehicle to elude or flee from a law enforcement officer under certain circumstances.