

AN ACT

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District of
Columbia
Official Code

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Traffic Act, 1925, to establish the crime of fleeing from a law enforcement officer in a motor vehicle, and to establish penalties for the commission of the crime.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Fleeing Law Enforcement Prohibition Amendment Act of 2004”.

Sec. 2. The District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.01 *et seq.*), is amended as follows:

(a) Section 6(f) (D.C. Official Code § 50-2201.03(f)) is amended as follows:

Amend
§ 50-2201.03

(1) Strike the word “provided” and insert the phrase “otherwise provided in this act or” in its place.

(2) Strike the phrase “upon information” and insert the phrase “upon information or indictment” in its place.

(b) A new section 10b is added to read as follows:

“Sec. 10b. Fleeing from a law enforcement officer in a motor vehicle.

“(a) For the purposes of this section, the term:

“(1) “Law enforcement officer” means a sworn member of the Metropolitan Police Department or a sworn member of any other police force operating in the District of Columbia.

“(2) “Signal” means a communication made by hand, voice, or the use of emergency lights, sirens, or other visual or aural devices.

“(b)(1) An operator of a motor vehicle who knowingly fails or refuses to bring the motor vehicle to an immediate stop, or who flees or attempts to elude a law enforcement officer, following a law enforcement officer’s signal to bring the motor vehicle to a stop, shall be fined not more than \$1,000, or imprisoned for not more than 180 days, or both.

“(2) An operator of a motor vehicle who violates paragraph (1) of this subsection and while doing so drives the motor vehicle in a manner that would constitute reckless driving under section 9(b), or causes property damage or bodily injury, shall be fined not more than

\$5,000, or imprisoned for not more than 5 years, or both.

“(c) It is an affirmative defense under this section if the defendant can show, by a preponderance of the evidence, that the failure to stop immediately was based upon a reasonable belief that the defendant’s personal safety is at risk. In determining whether the defendant has met this burden, the court may consider the following factors:

“(1) The time and location of the event;

“(2) Whether the law enforcement officer was in a vehicle clearly identifiable by its markings, or if unmarked, was occupied by a law enforcement officer in uniform or displaying a badge or other sign of authority;

“(3) The defendant’s conduct while being followed by the law enforcement officer;

“(4) Whether the defendant stopped at the first available reasonably lighted or populated area; and

“(5) Any other factor the court considers relevant.

“(d)(1) The Mayor or his designee, pursuant to section 13, may suspend the operating permit of a person convicted under subsection (b)(1) of this section for a period of not more than 180 days and may suspend the operating permit of a person convicted under subsection (b)(2) of this section for a period of not more than 1 year.

“(2) A suspension of an operator’s permit under paragraph (1) of this subsection for a person who has been sentenced to a term of imprisonment for a violation of subsection (b)(1) or (2) of this section shall begin following the person’s release from incarceration.

“(e) Prosecution for violations under this section shall be conducted in the name of the District of Columbia by the Attorney General for the District of Columbia, or his or her assistants, in the Superior Court of the District of Columbia.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take place following approval by the Mayor (or in the event of a veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional Review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

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December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia