

# HOUSE BILL No. 4648

March 19, 2009, Introduced by Rep. Johnson and referred to the Committee on Judiciary.

A bill to regulate motor vehicle pursuits by law enforcement agencies; and to prescribe certain powers and duties of certain local and state officers and agencies.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the  
2 "Flowers, Pierce, and Berry law".

3           Sec. 2. As used in this act:

4           (a) "Boxing in" means a deliberate offensive tactic by 2 or  
5 more pursuing motor vehicles to force a pursued vehicle in a  
6 specific direction, or to force the pursued vehicle to stop or  
7 reduce speed accomplished by the pursuing motor vehicles, while  
8 moving, maneuvering into a place in front of, behind, or beside the

1 pursued vehicle.

2 (b) "Collateral pursuit" means a deliberate offensive tactic  
3 by 1 or more pursuing motor vehicles driving on roads or streets  
4 that parallel the road or street on which the pursued vehicle is  
5 traveling.

6 (c) "Imminent peril" means that an immediate injury or loss of  
7 life is about to occur, or is near-at-hand, or is certain,  
8 immediate, and impending. Peril that is remote, uncertain, or  
9 contingent or is a mere possibility of injury or loss of life is  
10 not sufficient to create imminent peril.

11 (d) "Initiation" or "initiating" of a motor vehicle pursuit  
12 means that point in time when the traffic violator recognizes a  
13 peace officer is attempting to stop him or her and does not include  
14 intercepting or overtaking.

15 (e) "Intercepting" means the activation of emergency lights or  
16 siren, or both, at the discretion of the peace officer to notify a  
17 traffic violator of a peace officer's motor vehicle presence and to  
18 cause the traffic violator to stop as quickly and safely as  
19 possible.

20 (f) "Overtaking" means the active attempt by a peace officer  
21 to catch up to and stop a traffic violator before there is  
22 recognition by the traffic violator that the peace officer is  
23 attempting to stop him or her.

24 (g) "Paralleling" means a deliberate offensive tactic by 1 or  
25 more patrol motor vehicles to drive alongside the pursued vehicle  
26 that is in motion.

27 (h) "Peace officer" means a sheriff or sheriff's deputy, a

1 village or township marshal, an officer of the police department of  
2 any city, village, or township, an officer of the Michigan state  
3 police, or any other individual who is trained and certified  
4 pursuant to the commission on law enforcement standards act, 1965  
5 PA 203, MCL 28.601 to 28.616.

6 (i) "Pursue", "pursuit", or "motor vehicle pursuit" means an  
7 active attempt by a peace officer while operating a motor vehicle  
8 to apprehend a suspect who is also operating a motor vehicle, while  
9 the suspect is trying to avoid capture by using high speed driving  
10 or other evasive tactics, including, but not limited to, driving  
11 off a highway, making a sudden or unexpected movement, or driving  
12 on the wrong side of the roadway.

13 (j) "Ramming" means a deliberate act by the driver of a  
14 vehicle to forcibly strike another vehicle in an attempt to stop or  
15 disable the other vehicle.

16 Sec. 3. (1) A peace officer may pursue a vehicle if there is  
17 reason to believe, or if there is a determination that, imminent  
18 peril exists. The commission of a traffic infraction alone does not  
19 qualify as imminent peril under this subsection.

20 (2) A peace officer shall not engage in a pursuit that does  
21 not qualify under subsection (1).

22 Sec. 4. A peace officer shall not pursue a motor vehicle under  
23 any of the following circumstances:

24 (a) The peace officer is carrying in his or her vehicle a  
25 prisoner or any other person who is not an authorized ride-along.

26 (b) The peace officer is on a call that should take  
27 precedence.

1 (c) A peace officer's supervisor advises the peace officer not  
2 to pursue.

3 (d) The peace officer initiates or participates in the pursuit  
4 without having on an approved forward-facing emergency light or  
5 siren.

6 (e) The pursued vehicle does not represent an imminent peril  
7 from other than the traffic condition being created by the pursued  
8 vehicle as it flees.

9 Sec. 5. All of the following guidelines apply to a pursuit of  
10 a vehicle by a peace officer:

11 (a) The danger created by the flight of the suspect does not  
12 constitute justification for the pursuit.

13 (b) A peace officer shall continually question whether the  
14 seriousness of the offense committed or being committed justifies  
15 continuation of the pursuit.

16 (c) A peace officer shall consider the need for enhanced  
17 safety in residential or school areas.

18 (d) When approaching an intersection where signal lights or  
19 stop signs control the flow of traffic, a peace officer shall obey  
20 the signal light or stop sign at the intersection until the officer  
21 is certain that all traffic has yielded the right-of-way.

22 Sec. 6. (1) All of the following apply to a motor vehicle  
23 pursuit incident:

24 (a) A pursuit is limited to no more than 2 pursuit motor  
25 vehicles, excluding aircraft.

26 (b) A peace officer operating a motorcycle who initiates a  
27 pursuit shall withdraw when a peace officer's motor vehicle has

1 joined the pursuit. A peace officer operating a motorcycle who is  
2 relieved from the pursuit shall not proceed to the termination  
3 point of the pursuit, unless directed to do so by a supervisor.

4 (c) A peace officer in another motor vehicle that is not 1 of  
5 the 2 immediate pursuit motor vehicles shall stay clear of the  
6 pursuit. If authorized by a supervisor, a peace officer in another  
7 motor vehicle may trail at the posted speed limits while observing  
8 all traffic laws.

9 (d) Collateral pursuits are permitted only under the  
10 authorization of a supervisor, and the peace officer shall obey all  
11 traffic laws.

12 (e) A peace officer in support of a pursuit shall obey all  
13 traffic laws while proceeding to strategic positions.

14 (f) If a person is injured or injuries are suspected or likely  
15 as a result of a collision, the primary pursuit peace officer or  
16 supervisor shall identify all officers present and document their  
17 involvement.

18 (2) If a motor vehicle pursuit that began in 1 county or  
19 municipality crosses into the jurisdiction of another county or  
20 municipality for which the notice under section 7(1)(a) was not  
21 given, the peace officer shall give the notice required under  
22 section 7(1)(a) to the dispatcher in the other county or  
23 municipality. If the supervisor of the law enforcement agency in  
24 the other county or municipality directs the peace officer to  
25 terminate the pursuit, the peace officer shall comply with that  
26 order.

27 Sec. 7. During a motor vehicle pursuit, a peace officer shall

1 comply with all of the following procedures:

2 (a) The peace officer initiating the pursuit shall immediately  
3 notify the dispatcher that the officer is in a motor vehicle  
4 pursuit and shall report the following information:

5 (i) Known violation or reason for the pursuit.

6 (ii) Description of the pursued vehicle.

7 (iii) Location and direction of travel of the pursued vehicle.

8 (iv) Speed of the pursued vehicle.

9 (v) Number of known occupants in the pursued vehicle.

10 (vi) Type of weapons in the pursued vehicle, if known.

11 (b) Each peace officer in a pursuit is accountable for the  
12 operation of his or her motor vehicle.

13 (c) A peace officer joining an ongoing pursuit shall  
14 immediately notify the dispatcher that there are 2 peace officer  
15 motor vehicles involved in the pursuit.

16 (d) A peace officer shall receive authorization for  
17 participation in an ongoing pursuit. Authorization is never to be  
18 presumed. Authorization to join a pursuit requires an explicit  
19 verbal authorization by the supervisor via the motor vehicle radio.

20 (e) Maximum use of any law enforcement aircraft shall be made  
21 as quickly as possible.

22 (f) A peace officer involved in a pursuit shall not discharge  
23 his or her firearm while either the pursued vehicle or pursuit  
24 motor vehicle is in motion.

25 (g) A peace officer shall not attempt to stop a pursued  
26 vehicle by boxing in, ramming, or heading off, or driving parallel  
27 to, the pursued vehicle. A supervisor may authorize these actions

1 if, in his or her opinion, the action would bring about the  
2 successful termination of the pursuit and lessen the peace  
3 officer's, suspect's, or public's exposure to imminent peril.

4 (h) A peace officer shall not attempt to form a roadblock by  
5 slowing traffic in front of the pursued vehicle.

6 Sec. 8. A peace officer shall discontinue a motor vehicle  
7 pursuit under any of the following circumstances:

8 (a) There is a clear danger to the public or to the pursuing  
9 peace officer when taking into consideration all of the following  
10 factors:

11 (i) The seriousness of the original offense and its  
12 relationship to the continued risk to the public, peace officer, or  
13 the fleeing person.

14 (ii) The safety of the public in the area of the pursuit.

15 (iii) The volume of vehicle and pedestrian traffic.

16 (iv) The quality of road and weather conditions, speed of other  
17 vehicles, time of day, and location.

18 (v) The quality of radio communications and capabilities of  
19 the law enforcement motor vehicles involved.

20 (b) The peace officer is unable to see the pursued vehicle, or  
21 the distance between the pursued vehicle and the pursuing motor  
22 vehicle is so great that further pursuit is futile.

23 (c) The suspect is identified and may be apprehended at a  
24 later time.

25 (d) The supervisor directs the peace officer to terminate the  
26 pursuit. The termination of the pursuit does not prohibit the peace  
27 officer from continuing to follow the pursued vehicle while

1 observing all traffic laws.

2       Sec. 9. (1) A law enforcement dispatcher shall immediately  
3 notify a supervisor of a peace officer's motor vehicle pursuit. The  
4 supervisor shall assume command of the pursuit, including, if  
5 applicable, the termination of a pursuit.

6       (2) In allowing a pursuit to continue, a supervisor shall  
7 carefully consider the seriousness of the offense committed or  
8 being committed, the danger presented to a peace officer and the  
9 public, prevailing traffic conditions, pedestrian traffic, speed of  
10 the vehicles involved, and other relevant factors.

11       (3) A supervisor may allow a pursuit to continue only after  
12 the risks created by the pursuit have been carefully weighed  
13 against the need to continue the pursuit.

14       (4) A supervisor shall complete a written review and analysis  
15 of a pursuit within 15 days of the pursuit, which shall be made  
16 public at that time.

17       (5) All reviews and analyses of pursuits shall be examined for  
18 subject matter of benefit in training personnel for future  
19 operations. A supervisor's review shall answer at least the  
20 following questions in narrative form:

21       (a) What was the reason for the pursuit?

22       (b) What were the conditions of the pursuit, for example,  
23 traffic conditions, time of day, vehicle speeds, number of peace  
24 officers involved, and number of law enforcement motor vehicles  
25 involved?

26       (c) Were there any exceptions to the written policy? If so,  
27 what were they and why did they occur?



1 (d) Was any action taken against the pursued vehicle, for  
2 example, ramming or roadblock?

3 (e) If personnel or motor vehicles from other law enforcement  
4 agencies assisted in the pursuit, how many personnel and motor  
5 vehicles from those agencies responded, and what role did the  
6 assisting agencies have in the pursuit?

7 (f) Were there any violations of the law?

8 Sec. 10. (1) All traffic safety programs that use state funds  
9 shall include a section that examines the public safety risks of  
10 peace officer motor vehicle pursuits and the punishment that  
11 results from evading a peace officer.

12 (2) A law enforcement agency shall adopt guidelines and  
13 procedures regarding a motor vehicle pursuit by a peace officer  
14 that, at a minimum, comply with this act.

15 (3) When necessary to achieve public safety, a law enforcement  
16 agency may enhance its guidelines and procedures with respect to a  
17 pursuit of a motor vehicle by a peace officer beyond the  
18 requirements of this act.