

SB0064



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0064

Introduced 1/30/2009, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

720 ILCS 5/9-3

from Ch. 38, par. 9-3

Amends the Criminal Code of 1961. Provides that a person who causes a fatal accident by operating a motor vehicle, all-terrain vehicle, snowmobile, or watercraft while he or she is aware of being fatigued is guilty of reckless homicide. Provides that a person is fatigued if he or she has been without sleep for 24 consecutive hours. Provides that proof that the defendant fell asleep while driving or was driving after having been without sleep for a period in excess of 24 consecutive hours may give rise to an inference that the defendant was driving recklessly. Provides that, if a person commits reckless homicide and is determined to have been knowingly fatigued as an element of the offense, he or she is guilty of a Class 2 felony. Provides that the offender, if sentenced to imprisonment, shall be sentenced to a term of not less than 3 years and not more than 14 years if the offense resulted in the death of one person or not less than 6 years and not more than 28 years if the offense resulted in the deaths of 2 or more persons.

LRB096 02912 RLC 13335 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing
5 Section 9-3 as follows:

6 (720 ILCS 5/9-3) (from Ch. 38, par. 9-3)

7 Sec. 9-3. Involuntary Manslaughter and Reckless Homicide.

8 (a) A person who unintentionally kills an individual
9 without lawful justification commits involuntary manslaughter
10 if his acts whether lawful or unlawful which cause the death
11 are such as are likely to cause death or great bodily harm to
12 some individual, and he performs them recklessly, except in
13 cases in which the cause of the death consists of the driving
14 of a motor vehicle or operating a snowmobile, all-terrain
15 vehicle, or watercraft, in which case the person commits
16 reckless homicide. A person commits reckless homicide if he or
17 she unintentionally kills an individual while driving a vehicle
18 and using an incline in a roadway, such as a railroad crossing,
19 bridge approach, or hill, to cause the vehicle to become
20 airborne.

21 (b) (Blank).

22 (b-1) In cases involving reckless homicide, driving while
23 the driver is aware that he or she is fatigued constitutes

1 recklessness.

2 As used in this Section, "fatigued" means having been
3 without sleep for a period in excess of 24 consecutive hours.

4 (b-2) Proof that the defendant fell asleep while driving or
5 was driving after having been without sleep for a period in
6 excess of 24 consecutive hours may give rise to an inference
7 that the defendant was driving recklessly.

8 (c) (Blank).

9 (d) Sentence.

10 (1) Involuntary manslaughter is a Class 3 felony.

11 (2) Reckless homicide is a Class 3 felony.

12 (e) (Blank).

13 (e-2) Except as provided in subsection (e-3), in cases
14 involving reckless homicide in which the offense is committed
15 upon a public thoroughfare where children pass going to and
16 from school when a school crossing guard is performing official
17 duties, the penalty is a Class 2 felony, for which a person, if
18 sentenced to a term of imprisonment, shall be sentenced to a
19 term of not less than 3 years and not more than 14 years.

20 (e-3) In cases involving reckless homicide in which (i) the
21 offense is committed upon a public thoroughfare where children
22 pass going to and from school when a school crossing guard is
23 performing official duties and (ii) the defendant causes the
24 deaths of 2 or more persons as part of a single course of
25 conduct, the penalty is a Class 2 felony, for which a person,
26 if sentenced to a term of imprisonment, shall be sentenced to a

1 term of not less than 6 years and not more than 28 years.

2 (e-5) (Blank).

3 (e-7) Except as otherwise provided in subsection (e-8), in
4 cases involving reckless homicide in which the defendant: (1)
5 was driving in a construction or maintenance zone, as defined
6 in Section 11-605.1 of the Illinois Vehicle Code, or (2) was
7 operating a vehicle while failing or refusing to comply with
8 any lawful order or direction of any authorized police officer
9 or traffic control aide engaged in traffic control, the penalty
10 is a Class 2 felony, for which a person, if sentenced to a term
11 of imprisonment, shall be sentenced to a term of not less than
12 3 years and not more than 14 years.

13 (e-8) In cases involving reckless homicide in which the
14 defendant caused the deaths of 2 or more persons as part of a
15 single course of conduct and: (1) was driving in a construction
16 or maintenance zone, as defined in Section 11-605.1 of the
17 Illinois Vehicle Code, or (2) was operating a vehicle while
18 failing or refusing to comply with any lawful order or
19 direction of any authorized police officer or traffic control
20 aide engaged in traffic control, the penalty is a Class 2
21 felony, for which a person, if sentenced to a term of
22 imprisonment, shall be sentenced to a term of not less than 6
23 years and not more than 28 years.

24 (e-9) In cases involving reckless homicide in which the
25 defendant drove a vehicle and used an incline in a roadway,
26 such as a railroad crossing, bridge approach, or hill, to cause

1 the vehicle to become airborne, and caused the deaths of 2 or
2 more persons as part of a single course of conduct, the penalty
3 is a Class 2 felony.

4 (e-10) In cases involving involuntary manslaughter or
5 reckless homicide resulting in the death of a peace officer
6 killed in the performance of his or her duties as a peace
7 officer, the penalty is a Class 2 felony.

8 (e-11) In cases involving reckless homicide in which the
9 defendant unintentionally kills an individual while driving in
10 a posted school zone, as defined in Section 11-605 of the
11 Illinois Vehicle Code, while children are present or in a
12 construction or maintenance zone, as defined in Section
13 11-605.1 of the Illinois Vehicle Code, when construction or
14 maintenance workers are present the trier of fact may infer
15 that the defendant's actions were performed recklessly where he
16 or she was also either driving at a speed of more than 20 miles
17 per hour in excess of the posted speed limit or violating
18 Section 11-501 of the Illinois Vehicle Code.

19 (e-12) Except as otherwise provided in subsection (e-13),
20 in cases involving reckless homicide in which the offense was
21 committed as result of a violation of subsection (c) of Section
22 11-907 of the Illinois Vehicle Code, the penalty is a Class 2
23 felony, for which a person, if sentenced to a term of
24 imprisonment, shall be sentenced to a term of not less than 3
25 years and not more than 14 years.

26 (e-13) In cases involving reckless homicide in which the

1 offense was committed as result of a violation of subsection
2 (c) of Section 11-907 of the Illinois Vehicle Code and the
3 defendant caused the deaths of 2 or more persons as part of a
4 single course of conduct, the penalty is a Class 2 felony, for
5 which a person, if sentenced to a term of imprisonment, shall
6 be sentenced to a term of not less than 6 years and not more
7 than 28 years.

8 (e-14) ~~(e-12)~~ In cases involving reckless homicide in which
9 the defendant unintentionally kills an individual, the trier of
10 fact may infer that the defendant's actions were performed
11 recklessly where he or she was also violating subsection (c) of
12 Section 11-907 of the Illinois Vehicle Code. The penalty for a
13 reckless homicide in which the driver also violated subsection
14 (c) of Section 11-907 of the Illinois Vehicle Code is a Class 2
15 felony, for which a person, if sentenced to a term of
16 imprisonment, shall be sentenced to a term of not less than 3
17 years and not more than 14 years.

18 (e-15) Except as otherwise provided in subsection (e-16),
19 in cases involving reckless homicide in which the defendant was
20 determined to have been knowingly fatigued as an element of the
21 offense, the penalty shall be a Class 2 felony, for which a
22 person, if sentenced to a term of imprisonment, shall be
23 sentenced to a term of not less than 3 years and not more than
24 14 years.

25 (e-16) In cases involving reckless homicide in which the
26 defendant was determined to have been knowingly fatigued as an

1 element of the offense, if the defendant kills 2 or more
2 individuals as part of a single course of conduct, the penalty
3 is a Class 2 felony, for which a person, if sentenced to a term
4 of imprisonment, shall be sentenced to a term of not less than
5 6 years and not more than 28 years.

6 (f) In cases involving involuntary manslaughter in which
7 the victim was a family or household member as defined in
8 paragraph (3) of Section 112A-3 of the Code of Criminal
9 Procedure of 1963, the penalty shall be a Class 2 felony, for
10 which a person if sentenced to a term of imprisonment, shall be
11 sentenced to a term of not less than 3 years and not more than
12 14 years.

13 (Source: P.A. 95-467, eff. 6-1-08; 95-551, eff. 6-1-08; 95-587,
14 eff. 6-1-08; 95-591, eff. 9-10-07; 95-803, eff. 1-1-09; 95-876,
15 eff. 8-21-08; 95-884, eff. 1-1-09; revised 12-9-08.)