

# SB1989



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB1989

Introduced 2/20/2009, by Sen. Michael Noland

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501  
720 ILCS 5/9-3

from Ch. 95 1/2, par. 11-501  
from Ch. 38, par. 9-3

Amends the Illinois Vehicle Code. Makes a technical change in the Section concerning driving under the influence of alcohol, other drugs, or intoxicating compounds. Amends the Criminal Code of 1961. Makes a technical change in the Section concerning involuntary manslaughter and reckless homicide.

LRB096 11382 RLC 21846 b

A BILL FOR

1 AN ACT concerning criminal offenses.

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

4 Section 5. The Illinois Vehicle Code is amended by changing  
5 Section 11-501 as follows:

6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

7 Sec. 11-501. Driving while under the influence of alcohol,  
8 other drug or drugs, intoxicating compound or compounds or any  
9 combination thereof.

10 (a) A person shall not drive or be ~~be~~ in actual physical  
11 control of any vehicle within this State while:

12 (1) the alcohol concentration in the person's blood or  
13 breath is 0.08 or more based on the definition of blood and  
14 breath units in Section 11-501.2;

15 (2) under the influence of alcohol;

16 (3) under the influence of any intoxicating compound or  
17 combination of intoxicating compounds to a degree that  
18 renders the person incapable of driving safely;

19 (4) under the influence of any other drug or  
20 combination of drugs to a degree that renders the person  
21 incapable of safely driving;

22 (5) under the combined influence of alcohol, other drug  
23 or drugs, or intoxicating compound or compounds to a degree

1 that renders the person incapable of safely driving; or

2 (6) there is any amount of a drug, substance, or  
3 compound in the person's breath, blood, or urine resulting  
4 from the unlawful use or consumption of cannabis listed in  
5 the Cannabis Control Act, a controlled substance listed in  
6 the Illinois Controlled Substances Act, an intoxicating  
7 compound listed in the Use of Intoxicating Compounds Act,  
8 or methamphetamine as listed in the Methamphetamine  
9 Control and Community Protection Act.

10 (b) The fact that any person charged with violating this  
11 Section is or has been legally entitled to use alcohol, other  
12 drug or drugs, or intoxicating compound or compounds, or any  
13 combination thereof, shall not constitute a defense against any  
14 charge of violating this Section.

15 (c) Penalties.

16 (1) Except as otherwise provided in this Section, any  
17 person convicted of violating subsection (a) of this  
18 Section is guilty of a Class A misdemeanor.

19 (2) A person who violates subsection (a) or a similar  
20 provision a second time shall be sentenced to a mandatory  
21 minimum term of either 5 days of imprisonment or 240 hours  
22 of community service in addition to any other criminal or  
23 administrative sanction.

24 (3) A person who violates subsection (a) is subject to  
25 6 months of imprisonment, an additional mandatory minimum  
26 fine of \$1,000, and 25 days of community service in a

1 program benefiting children if the person was transporting  
2 a person under the age of 16 at the time of the violation.

3 (4) A person who violates subsection (a) a first time,  
4 if the alcohol concentration in his or her blood, breath,  
5 or urine was 0.16 or more based on the definition of blood,  
6 breath, or urine units in Section 11-501.2, shall be  
7 subject, in addition to any other penalty that may be  
8 imposed, to a mandatory minimum of 100 hours of community  
9 service and a mandatory minimum fine of \$500.

10 (5) A person who violates subsection (a) a second time,  
11 if at the time of the second violation the alcohol  
12 concentration in his or her blood, breath, or urine was  
13 0.16 or more based on the definition of blood, breath, or  
14 urine units in Section 11-501.2, shall be subject, in  
15 addition to any other penalty that may be imposed, to a  
16 mandatory minimum of 2 days of imprisonment and a mandatory  
17 minimum fine of \$1,250.

18 (d) Aggravated driving under the influence of alcohol,  
19 other drug or drugs, or intoxicating compound or compounds, or  
20 any combination thereof.

21 (1) Every person convicted of committing a violation of  
22 this Section shall be guilty of aggravated driving under  
23 the influence of alcohol, other drug or drugs, or  
24 intoxicating compound or compounds, or any combination  
25 thereof if:

26 (A) the person committed a violation of subsection

1 (a) or a similar provision for the third or subsequent  
2 time;

3 (B) the person committed a violation of subsection  
4 (a) while driving a school bus with persons 18 years of  
5 age or younger on board;

6 (C) the person in committing a violation of  
7 subsection (a) was involved in a motor vehicle accident  
8 that resulted in great bodily harm or permanent  
9 disability or disfigurement to another, when the  
10 violation was a proximate cause of the injuries;

11 (D) the person committed a violation of subsection  
12 (a) for a second time and has been previously convicted  
13 of violating Section 9-3 of the Criminal Code of 1961  
14 or a similar provision of a law of another state  
15 relating to reckless homicide in which the person was  
16 determined to have been under the influence of alcohol,  
17 other drug or drugs, or intoxicating compound or  
18 compounds as an element of the offense or the person  
19 has previously been convicted under subparagraph (C)  
20 or subparagraph (F) of this paragraph (1);

21 (E) the person, in committing a violation of  
22 subsection (a) while driving at any speed in a school  
23 speed zone at a time when a speed limit of 20 miles per  
24 hour was in effect under subsection (a) of Section  
25 11-605 of this Code, was involved in a motor vehicle  
26 accident that resulted in bodily harm, other than great

1           bodily harm or permanent disability or disfigurement,  
2           to another person, when the violation of subsection (a)  
3           was a proximate cause of the bodily harm;

4           (F) the person, in committing a violation of  
5           subsection (a), was involved in a motor vehicle,  
6           snowmobile, all-terrain vehicle, or watercraft  
7           accident that resulted in the death of another person,  
8           when the violation of subsection (a) was a proximate  
9           cause of the death;

10          (G) the person committed a violation of subsection  
11          (a) during a period in which the defendant's driving  
12          privileges are revoked or suspended, where the  
13          revocation or suspension was for a violation of  
14          subsection (a) or a similar provision, Section  
15          11-501.1, paragraph (b) of Section 11-401, or for  
16          reckless homicide as defined in Section 9-3 of the  
17          Criminal Code of 1961;

18          (H) the person committed the violation while he or  
19          she did not possess a driver's license or permit or a  
20          restricted driving permit or a judicial driving permit  
21          or a monitoring device driving permit;

22          (I) the person committed the violation while he or  
23          she knew or should have known that the vehicle he or  
24          she was driving was not covered by a liability  
25          insurance policy;

26          (J) the person in committing a violation of

1 subsection (a) was involved in a motor vehicle accident  
2 that resulted in bodily harm, but not great bodily  
3 harm, to the child under the age of 16 being  
4 transported by the person, if the violation was the  
5 proximate cause of the injury; or

6 (K) the person in committing a second violation of  
7 subsection (a) or a similar provision was transporting  
8 a person under the age of 16.

9 (2) (A) Except as provided otherwise, a person  
10 convicted of aggravated driving under the influence of  
11 alcohol, other drug or drugs, or intoxicating compound or  
12 compounds, or any combination thereof is guilty of a Class  
13 4 felony.

14 (B) A third violation of this Section or a similar  
15 provision is a Class 2 felony. If at the time of the third  
16 violation the alcohol concentration in his or her blood,  
17 breath, or urine was 0.16 or more based on the definition  
18 of blood, breath, or urine units in Section 11-501.2, a  
19 mandatory minimum of 90 days of imprisonment and a  
20 mandatory minimum fine of \$2,500 shall be imposed in  
21 addition to any other criminal or administrative sanction.  
22 If at the time of the third violation, the defendant was  
23 transporting a person under the age of 16, a mandatory fine  
24 of \$25,000 and 25 days of community service in a program  
25 benefiting children shall be imposed in addition to any  
26 other criminal or administrative sanction.

1 (C) A fourth violation of this Section or a similar  
2 provision is a Class 2 felony, for which a sentence of  
3 probation or conditional discharge may not be imposed. If  
4 at the time of the violation, the alcohol concentration in  
5 the defendant's blood, breath, or urine was 0.16 or more  
6 based on the definition of blood, breath, or urine units in  
7 Section 11-501.2, a mandatory minimum fine of \$5,000 shall  
8 be imposed in addition to any other criminal or  
9 administrative sanction. If at the time of the fourth  
10 violation, the defendant was transporting a person under  
11 the age of 16 a mandatory fine of \$25,000 and 25 days of  
12 community service in a program benefiting children shall be  
13 imposed in addition to any other criminal or administrative  
14 sanction.

15 (D) A fifth violation of this Section or a similar  
16 provision is a Class 1 felony, for which a sentence of  
17 probation or conditional discharge may not be imposed. If  
18 at the time of the violation, the alcohol concentration in  
19 the defendant's blood, breath, or urine was 0.16 or more  
20 based on the definition of blood, breath, or urine units in  
21 Section 11-501.2, a mandatory minimum fine of \$5,000 shall  
22 be imposed in addition to any other criminal or  
23 administrative sanction. If at the time of the fifth  
24 violation, the defendant was transporting a person under  
25 the age of 16, a mandatory fine of \$25,000, and 25 days of  
26 community service in a program benefiting children shall be



1 imposed in addition to any other criminal or administrative  
2 sanction.

3 (E) A sixth or subsequent violation of this Section or  
4 similar provision is a Class X felony. If at the time of  
5 the violation, the alcohol concentration in the  
6 defendant's blood, breath, or urine was 0.16 or more based  
7 on the definition of blood, breath, or urine units in  
8 Section 11-501.2, a mandatory minimum fine of \$5,000 shall  
9 be imposed in addition to any other criminal or  
10 administrative sanction. If at the time of the violation,  
11 the defendant was transporting a person under the age of  
12 16, a mandatory fine of \$25,000 and 25 days of community  
13 service in a program benefiting children shall be imposed  
14 in addition to any other criminal or administrative  
15 sanction.

16 (F) For a violation of subparagraph (C) of paragraph  
17 (1) of this subsection (d), the defendant, if sentenced to  
18 a term of imprisonment, shall be sentenced to not less than  
19 one year nor more than 12 years.

20 (G) A violation of subparagraph (F) of paragraph (1) of  
21 this subsection (d) is a Class 2 felony, for which the  
22 defendant, unless the court determines that extraordinary  
23 circumstances exist and require probation, shall be  
24 sentenced to: (i) a term of imprisonment of not less than 3  
25 years and not more than 14 years if the violation resulted  
26 in the death of one person; or (ii) a term of imprisonment

1 of not less than 6 years and not more than 28 years if the  
2 violation resulted in the deaths of 2 or more persons.

3 (H) For a violation of subparagraph (J) of paragraph  
4 (1) of this subsection (d), a mandatory fine of \$2,500, and  
5 25 days of community service in a program benefiting  
6 children shall be imposed in addition to any other criminal  
7 or administrative sanction.

8 (I) A violation of subparagraph (K) of paragraph (1) of  
9 this subsection (d), is a Class 2 felony and a mandatory  
10 fine of \$2,500, and 25 days of community service in a  
11 program benefiting children shall be imposed in addition to  
12 any other criminal or administrative sanction. If the child  
13 being transported suffered bodily harm, but not great  
14 bodily harm, in a motor vehicle accident, and the violation  
15 was the proximate cause of that injury, a mandatory fine of  
16 \$5,000 and 25 days of community service in a program  
17 benefiting children shall be imposed in addition to any  
18 other criminal or administrative sanction.

19 (3) Any person sentenced under this subsection (d) who  
20 receives a term of probation or conditional discharge must  
21 serve a minimum term of either 480 hours of community  
22 service or 10 days of imprisonment as a condition of the  
23 probation or conditional discharge in addition to any other  
24 criminal or administrative sanction.

25 (e) Any reference to a prior violation of subsection (a) or  
26 a similar provision includes any violation of a provision of a

1 local ordinance or a provision of a law of another state or an  
2 offense committed on a military installation that is similar to  
3 a violation of subsection (a) of this Section.

4 (f) The imposition of a mandatory term of imprisonment or  
5 assignment of community service for a violation of this Section  
6 shall not be suspended or reduced by the court.

7 (g) Any penalty imposed for driving with a license that has  
8 been revoked for a previous violation of subsection (a) of this  
9 Section shall be in addition to the penalty imposed for any  
10 subsequent violation of subsection (a).

11 (h) For any prosecution under this Section, a certified  
12 copy of the driving abstract of the defendant shall be admitted  
13 as proof of any prior conviction.

14 (Source: P.A. 94-110, eff. 1-1-06; 94-113, eff. 1-1-06; 94-114,  
15 eff. 1-1-06; 94-116, eff. 1-1-06; 94-329, eff. 1-1-06; 94-609,  
16 eff. 1-1-06; 94-963, eff. 6-28-06; 95-149, eff. 8-14-07;  
17 95-355, eff. 1-1-08; 95-400, eff. 1-1-09; 95-578, eff. 6-1-08;  
18 95-778, eff. 8-4-08; 95-876, eff. 8-21-08.)

19 Section 10. The Criminal Code of 1961 is amended by  
20 changing Section 9-3 as follows:

21 (720 ILCS 5/9-3) (from Ch. 38, par. 9-3)

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

23 (a) A person who ~~who~~ unintentionally kills an individual  
24 without lawful justification commits involuntary manslaughter

1 if his acts whether lawful or unlawful which cause the death  
2 are such as are likely to cause death or great bodily harm to  
3 some individual, and he performs them recklessly, except in  
4 cases in which the cause of the death consists of the driving  
5 of a motor vehicle or operating a snowmobile, all-terrain  
6 vehicle, or watercraft, in which case the person commits  
7 reckless homicide. A person commits reckless homicide if he or  
8 she unintentionally kills an individual while driving a vehicle  
9 and using an incline in a roadway, such as a railroad crossing,  
10 bridge approach, or hill, to cause the vehicle to become  
11 airborne.

12 (b) (Blank).

13 (c) (Blank).

14 (d) Sentence.

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

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

17 (e) (Blank).

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

25 (e-3) In cases involving reckless homicide in which (i) the  
26 offense is committed upon a public thoroughfare where children

1 pass going to and from school when a school crossing guard is  
2 performing official duties and (ii) the defendant causes the  
3 deaths of 2 or more persons as part of a single course of  
4 conduct, the penalty is a Class 2 felony, for which a person,  
5 if sentenced to a term of imprisonment, shall be sentenced to a  
6 term of not less than 6 years and not more than 28 years.

7 (e-5) (Blank).

8 (e-7) Except as otherwise provided in subsection (e-8), in  
9 cases involving reckless homicide in which the defendant: (1)  
10 was driving in a construction or maintenance zone, as defined  
11 in Section 11-605.1 of the Illinois Vehicle Code, or (2) was  
12 operating a vehicle while failing or refusing to comply with  
13 any lawful order or direction of any authorized police officer  
14 or traffic control aide engaged in traffic control, the penalty  
15 is a Class 2 felony, for which a person, if sentenced to a term  
16 of imprisonment, shall be sentenced to a term of not less than  
17 3 years and not more than 14 years.

18 (e-8) In cases involving reckless homicide in which the  
19 defendant caused the deaths of 2 or more persons as part of a  
20 single course of conduct and: (1) was driving in a construction  
21 or maintenance zone, as defined in Section 11-605.1 of the  
22 Illinois Vehicle Code, or (2) was operating a vehicle while  
23 failing or refusing to comply with any lawful order or  
24 direction of any authorized police officer or traffic control  
25 aide engaged in traffic control, the penalty is a Class 2  
26 felony, for which a person, if sentenced to a term of

1 imprisonment, shall be sentenced to a term of not less than 6  
2 years and not more than 28 years.

3 (e-9) In cases involving reckless homicide in which the  
4 defendant drove a vehicle and used an incline in a roadway,  
5 such as a railroad crossing, bridge approach, or hill, to cause  
6 the vehicle to become airborne, and caused the deaths of 2 or  
7 more persons as part of a single course of conduct, the penalty  
8 is a Class 2 felony.

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

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

24 (e-12) Except as otherwise provided in subsection (e-13),  
25 in cases involving reckless homicide in which the offense was  
26 committed as result of a violation of subsection (c) of Section

1 11-907 of the Illinois Vehicle Code, the penalty is a Class 2  
2 felony, for which a person, if sentenced to a term of  
3 imprisonment, shall be sentenced to a term of not less than 3  
4 years and not more than 14 years.

5 (e-13) In cases involving reckless homicide in which the  
6 offense was committed as result of a violation of subsection  
7 (c) of Section 11-907 of the Illinois Vehicle Code and the  
8 defendant caused the deaths of 2 or more persons as part of a  
9 single course of conduct, the penalty is a Class 2 felony, for  
10 which a person, if sentenced to a term of imprisonment, shall  
11 be sentenced to a term of not less than 6 years and not more  
12 than 28 years.

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

23 (f) In cases involving involuntary manslaughter in which  
24 the victim was a family or household member as defined in  
25 paragraph (3) of Section 112A-3 of the Code of Criminal  
26 Procedure of 1963, the penalty shall be a Class 2 felony, for

1 which a person if sentenced to a term of imprisonment, shall be  
2 sentenced to a term of not less than 3 years and not more than  
3 14 years.

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