



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1882

Introduced 1/10/2008, 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.

LRB095 14932 RLC 40877 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 (Text of Section after amendment by P.A. 95-467, 95-551,
8 and 95-587)

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

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

23 (b) (Blank).

1 (b-1) In cases involving reckless homicide, driving while
2 the driver is aware that he or she is fatigued constitutes
3 recklessness.

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

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

10 (c) (Blank).

11 (d) Sentence.

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

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

14 (e) (Blank).

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

22 (e-3) In cases involving reckless homicide in which (i) the
23 offense is committed upon a public thoroughfare where children
24 pass going to and from school when a school crossing guard is
25 performing official duties and (ii) the defendant causes the
26 deaths of 2 or more persons as part of a single course of

1 conduct, the penalty is a Class 2 felony, for which a person,
2 if sentenced to a term of imprisonment, shall be sentenced to a
3 term of not less than 6 years and not more than 28 years.

4 (e-5) (Blank).

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

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

26 (e-9) In cases involving reckless homicide in which the

1 defendant drove a vehicle and used an incline in a roadway,
2 such as a railroad crossing, bridge approach, or hill, to cause
3 the vehicle to become airborne, and caused the deaths of 2 or
4 more persons as part of a single course of conduct, the penalty
5 is a Class 2 felony.

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

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

21 (e-12) Except as otherwise provided in subsection (e-13),
22 in cases involving reckless homicide in which the defendant was
23 determined to have been knowingly fatigued as an element of the
24 offense, the penalty shall be a Class 2 felony, for which a
25 person, if sentenced to a term of imprisonment, shall be
26 sentenced to a term of not less than 3 years and not more than

1 14 years.

2 (e-13) In cases involving reckless homicide in which the
3 defendant was determined to have been knowingly fatigued as an
4 element of the offense, if the defendant kills 2 or more
5 individuals as part of a single course of conduct, the penalty
6 is a Class 2 felony, for which a person, if sentenced to a term
7 of imprisonment, shall be sentenced to a term of not less than
8 6 years and not more than 28 years.

9 (f) In cases involving involuntary manslaughter in which
10 the victim was a family or household member as defined in
11 paragraph (3) of Section 112A-3 of the Code of Criminal
12 Procedure of 1963, the penalty shall be a Class 2 felony, for
13 which a person if sentenced to a term of imprisonment, shall be
14 sentenced to a term of not less than 3 years and not more than
15 14 years.

16 (Source: P.A. 95-467, eff. 6-1-08; 95-551, eff. 6-1-08; 95-587,
17 eff. 6-1-08; 95-591, eff. 9-10-07; revised 10-30-07.)