

7.09A

Definition Of Aggravated Reckless Homicide

A person commits the offense of aggravated reckless homicide when he unintentionally causes the death of an individual by recklessly driving a motor vehicle in a manner likely to cause death or great bodily harm while under the influence of alcohol or any other drug or drugs.

Committee Note

720 ILCS 5/9-3(a), (e) (West 1992) (formerly Ill.Rev.Stat. ch. 38, §§9-3(a), (e) (1991)).

Give Instruction 7.10A.

Give Instruction 5.01, defining the word “recklessness.”

Give Instruction 7.09X, defining the phrase “under the influence of alcohol or any other drug or drugs.”

Use this instruction in cases in which the State alleges the defendant was under the influence of alcohol or other drugs. See Section 9-3(e). If the State does not allege the defendant was under the influence of alcohol or other drugs, use Instruction 7.09.

In *People v. Rushton*, 254 Ill.App.3d 156, 172, 626 N.E.2d 1378, 1391-92, 193 Ill.Dec. 827, 840-41 (2d Dist.1993), the court held that when the State charges a defendant with reckless homicide involving intoxication (thereby enhancing the offense from Class 3 to Class 2 felony), the jury should be instructed as to “the standard elements of reckless homicide plus an additional element of intoxication.” (*But see People v. Smith*, 149 Ill.2d 558, 599 N.E.2d 888, 174 Ill.Dec. 804 (1992) (holding that intoxication is not an element of reckless homicide).) Accordingly, the Committee has provided new instructions to be used when intoxication is a factor.