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AN ACT concerning criminal law.

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

Section 5. The Cannabis Control Act is amended by changing
Section 12 as follows:

6 (720 ILCS 550/12) (from Ch. 56 1/2, par. 712)

Sec. 12. (a) The following are subject to forfeiture:

8 (1) all substances containing cannabis which have been 9 produced, manufactured, delivered, or possessed in 10 violation of this Act;

11 (2) all raw materials, products and equipment of any 12 kind which are produced, delivered, or possessed in 13 connection with any substance containing cannabis in 14 violation of this Act;

(3) all conveyances, including aircraft, vehicles or
vessels, which are used, or intended for use, to transport,
or in any manner to facilitate the transportation, sale,
receipt, possession, or concealment of property described
in paragraph (1) or (2) that constitutes a felony violation
of the Act, but:

(i) no conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this Section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this Act;

(ii) no conveyance is subject to forfeiture under
this Section by reason of any act or omission which the
owner proves to have been committed or omitted without
his knowledge or consent;

31 (iii) a forfeiture of a conveyance encumbered by a
 32 bona fide security interest is subject to the interest

1 2 of the secured party if he neither had knowledge of nor consented to the act or omission;

3 (4) all money, things of value, books, records, and
4 research products and materials including formulas,
5 microfilm, tapes, and data which are used, or intended for
6 use in a felony violation of this Act;

7 (5) everything of value furnished or intended to be 8 furnished by any person in exchange for a substance in 9 violation of this Act, all proceeds traceable to such an 10 exchange, and all moneys, negotiable instruments, and 11 securities used, or intended to be used, to commit or in 12 any manner to facilitate any felony violation of this Act.

(b) Property subject to forfeiture under this Act may be seized by the Director or any peace officer upon process or seizure warrant issued by any court having jurisdiction over the property. Seizure by the Director or any peace officer without process may be made:

(1) if the property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal proceeding or in an injunction or forfeiture proceeding based upon this Act or the Drug Asset Forfeiture Procedure Act;

(2) if there is probable cause to believe that the
property is directly or indirectly dangerous to health or
safety;

(3) if there is probable cause to believe that the
property is subject to forfeiture under this Act and the
property is seized under circumstances in which a
warrantless seizure or arrest would be reasonable; or

30 (4) in accordance with the Code of Criminal Procedure31 of 1963.

32 (c) In the event of seizure pursuant to subsection (b),
 33 forfeiture proceedings shall be instituted in accordance with
 34 the Drug Asset Forfeiture Procedure Act.

35 (d) Property taken or detained under this Section shall not36 be subject to replevin, but is deemed to be in the custody of

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1 the Director subject only to the order and judgments of the 2 court having jurisdiction over the circuit forfeiture proceedings and the decisions of the State's Attorney under the 3 Drug Asset Forfeiture Procedure Act. When property is seized 4 5 under this Act, the seizing agency shall promptly conduct an 6 inventory of the seized property, estimate the property's value, and shall forward a copy of the inventory of seized 7 property and the estimate of the property's value to the 8 9 Director. Upon receiving notice of seizure, the Director may:

10 11 (1) place the property under seal;

(2) remove the property to a place designated by him;

12 (3) keep the property in the possession of the seizing13 agency;

14 (4) remove the property to a storage area for 15 safekeeping or, if the property is a negotiable instrument 16 or money and is not needed for evidentiary purposes, 17 deposit it in an interest bearing account;

(5) place the property under constructive seizure by posting notice of pending forfeiture on it, by giving notice of pending forfeiture to its owners and interest holders, or by filing notice of pending forfeiture in any appropriate public record relating to the property; or

(6) provide for another agency or custodian, including
an owner, secured party, or lienholder, to take custody of
the property upon the terms and conditions set by the
Director.

(e) No disposition may be made of property under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court.

(f) When property is forfeited under this Act the Director shall sell all such property unless such property is required by law to be destroyed or is harmful to the public, and shall distribute the proceeds of the sale, together with any moneys forfeited or seized, in accordance with subsection (g). SB2869 Engrossed - 4 - LRB094 17675 RLC 52973 b

1 However, upon the application of the seizing agency or 2 prosecutor who was responsible for the investigation, arrest or 3 arrests and prosecution which lead to the forfeiture, the Director may return any item of forfeited property to the 4 5 seizing agency or prosecutor for official use in the 6 enforcement of laws relating to cannabis or controlled 7 substances, if the agency or prosecutor can demonstrate that 8 the item requested would be useful to the agency or prosecutor 9 in their enforcement efforts. When any forfeited conveyance, including an aircraft, vehicle, or vessel, is returned to the 10 11 seizing agency or prosecutor, the conveyance may be used immediately in the enforcement of the criminal laws of this 12 State. Upon disposal, all proceeds from the sale of the 13 conveyance must be used for drug enforcement purposes. When any 14 15 real property returned to the seizing agency is sold by the 16 agency or its unit of government, the proceeds of the sale 17 shall be delivered to the Director and distributed in accordance with subsection (g). 18

(g) All monies and the sale proceeds of all other property forfeited and seized under this Act shall be distributed as follows:

22 (1)65% shall be distributed to the metropolitan 23 enforcement group, local, municipal, county, or state law 24 enforcement agency or agencies which conducted or 25 participated in the investigation resulting in the forfeiture. The distribution shall bear a reasonable 26 27 relationship to the degree of direct participation of the 28 law enforcement agency in the effort resulting in the forfeiture, taking into account the total value of 29 the 30 property forfeited and the total law enforcement effort with respect to the violation of the law upon which the 31 forfeiture is based. Amounts distributed to the agency or 32 agencies shall be used for the enforcement of 33 laws governing cannabis and controlled substances or for 34 35 security cameras used for the prevention or detection of 36 violence, except that amounts distributed to the Secretary

1 of State shall be deposited into the Secretary of State 2 Evidence Fund to be used as provided in Section 2-115 of 3 the Illinois Vehicle Code.

(2) (i) 12.5% shall be distributed to the Office of the 4 5 State's Attorney of the county in which the prosecution resulting in the forfeiture was instituted, deposited 6 7 in a special fund in the county treasury and appropriated to the State's Attorney for use in the 8 9 enforcement of laws governing cannabis and controlled substances. In counties over 3,000,000 population, 25% 10 11 will be distributed to the Office of the State's 12 Attorney for use in the enforcement of laws governing cannabis and controlled substances. If the prosecution 13 is undertaken solely by the Attorney General, the 14 portion provided hereunder shall be distributed to the 15 16 Attorney General for use in the enforcement of laws 17 governing cannabis and controlled substances.

(ii) 12.5% shall be distributed to the Office of 18 19 State's Attorneys Appellate Prosecutor the and deposited in the Narcotics Profit Forfeiture Fund of 20 that Office to be used for additional expenses incurred 21 in the investigation, prosecution and appeal of cases 22 23 arising under laws governing cannabis and controlled substances. The Office of the State's Attorneys 24 Appellate Prosecutor shall not receive distribution 25 from cases brought in counties with over 3,000,000 26 27 population.

(3) 10% shall be retained by the Department of State
Police for expenses related to the administration and sale
of seized and forfeited property.

31 (Source: P.A. 89-404, eff. 8-20-95; 90-593, eff. 6-19-98.)

32 Section 10. The Illinois Controlled Substances Act is 33 amended by changing Section 505 as follows:

34 (720 ILCS 570/505) (from Ch. 56 1/2, par. 1505)

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Sec. 505. (a) The following are subject to forfeiture:

all substances which have been manufactured, 2 (1)distributed, dispensed, or possessed in violation of this 3 Act;

(2) all raw materials, products and equipment of any kind which are used, or intended for use in manufacturing, distributing, dispensing, administering or possessing any substance in violation of this Act;

(3) all conveyances, including aircraft, vehicles or 9 10 vessels, which are used, or intended for use, to transport, 11 or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described 12 13 in paragraphs (1) and (2), but:

(i) no conveyance used by any person as a common 14 carrier in the transaction of business as a common 15 16 carrier is subject to forfeiture under this Section 17 unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy 18 to a violation of this Act; 19

20 (ii) no conveyance is subject to forfeiture under 21 this Section by reason of any act or omission which the owner proves to have been committed or omitted without 22 23 his knowledge or consent;

(iii) a forfeiture of a conveyance encumbered by a 24 25 bona fide security interest is subject to the interest 26 of the secured party if he neither had knowledge of nor 27 consented to the act or omission;

28 (4) all money, things of value, books, records, and 29 research products and materials including formulas, 30 microfilm, tapes, and data which are used, or intended to be used in violation of this Act; 31

32 (5) everything of value furnished, or intended to be furnished, in exchange for a substance in violation of this 33 Act, all proceeds traceable to such an exchange, and all 34 35 moneys, negotiable instruments, and securities used, or intended to be used, to commit or in any manner to 36

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facilitate any violation of this Act;

(6) all real property, including any right, title, and 2 interest (including, but not limited to, any leasehold 3 interest or the beneficial interest in a land trust) in the 4 5 whole of any lot or tract of land and any appurtenances or 6 improvements, which is used or intended to be used, in any manner or part, to commit, or in any manner to facilitate 7 the commission of, any violation or act that constitutes a 8 9 violation of Section 401 or 405 of this Act or that is the proceeds of any violation or act that constitutes a 10 violation of Section 401 or 405 of this Act. 11

(b) Property subject to forfeiture under this Act may be seized by the Director or any peace officer upon process or seizure warrant issued by any court having jurisdiction over the property. Seizure by the Director or any peace officer without process may be made:

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(1) if the seizure is incident to inspection under an administrative inspection warrant;

19 (2) if the property subject to seizure has been the 20 subject of a prior judgment in favor of the State in a 21 criminal proceeding, or in an injunction or forfeiture 22 proceeding based upon this Act or the Drug Asset Forfeiture 23 Procedure Act;

24 (3) if there is probable cause to believe that the 25 property is directly or indirectly dangerous to health or 26 safety;

(4) if there is probable cause to believe that the property is subject to forfeiture under this Act and the property is seized under circumstances in which a warrantless seizure or arrest would be reasonable; or

31 (5) in accordance with the Code of Criminal Procedure32 of 1963.

33 (c) In the event of seizure pursuant to subsection (b), 34 forfeiture proceedings shall be instituted in accordance with 35 the Drug Asset Forfeiture Procedure Act.

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(d) Property taken or detained under this Section shall not

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1 be subject to replevin, but is deemed to be in the custody of 2 the Director subject only to the order and judgments of the 3 circuit court having jurisdiction over the forfeiture proceedings and the decisions of the State's Attorney under the 4 5 Drug Asset Forfeiture Procedure Act. When property is seized 6 under this Act, the seizing agency shall promptly conduct an inventory of the seized property and estimate the property's 7 value, and shall forward a copy of the inventory of seized 8 9 property and the estimate of the property's value to the 10 Director. Upon receiving notice of seizure, the Director may:

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(1) place the property under seal;

12 (2) remove the property to a place designated by the13 Director;

14 (3) keep the property in the possession of the seizing15 agency;

16 (4) remove the property to a storage area for 17 safekeeping or, if the property is a negotiable instrument 18 or money and is not needed for evidentiary purposes, 19 deposit it in an interest bearing account;

(5) place the property under constructive seizure by posting notice of pending forfeiture on it, by giving notice of pending forfeiture to its owners and interest holders, or by filing notice of pending forfeiture in any appropriate public record relating to the property; or

(6) provide for another agency or custodian, including
an owner, secured party, or lienholder, to take custody of
the property upon the terms and conditions set by the
Director.

29 (e) If the Department of Professional Regulation suspends 30 or revokes a registration, all controlled substances owned or 31 possessed by the registrant at the time of suspension or the 32 effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until 33 34 the time for taking an appeal has elapsed or until all appeals 35 have been concluded unless a court, upon application therefor, 36 orders the sale of perishable substances and the deposit of the SB2869 Engrossed - 9 - LRB094 17675 RLC 52973 b

proceeds of the sale with the court. Upon a revocation rule becoming final, all substances may be forfeited to the Department of Professional Regulation.

(f) When property is forfeited under this Act the Director 4 5 shall sell all such property unless such property is required 6 by law to be destroyed or is harmful to the public, and shall distribute the proceeds of the sale, together with any moneys 7 8 forfeited or seized, in accordance with subsection (g). 9 However, upon the application of the seizing agency or 10 prosecutor who was responsible for the investigation, arrest or 11 arrests and prosecution which lead to the forfeiture, the 12 Director may return any item of forfeited property to the 13 prosecutor for official seizing agency or use in the enforcement of laws relating to cannabis or controlled 14 15 substances, if the agency or prosecutor can demonstrate that 16 the item requested would be useful to the agency or prosecutor 17 in their enforcement efforts. When any forfeited conveyance, including an aircraft, vehicle, or vessel, is returned to the 18 19 seizing agency or prosecutor, the conveyance may be used 20 immediately in the enforcement of the criminal laws of this State. Upon disposal, all proceeds from the sale of the 21 conveyance must be used for drug enforcement purposes. When any 22 23 real property returned to the seizing agency is sold by the agency or its unit of government, the proceeds of the sale 24 delivered to the Director and distributed in 25 shall be 26 accordance with subsection (q).

27 (g) All monies and the sale proceeds of all other property 28 forfeited and seized under this Act shall be distributed as 29 follows:

30 (1) 65% shall be distributed to the metropolitan 31 enforcement group, local, municipal, county, or state law agencies which conducted 32 enforcement agency or or in the investigation resulting 33 participated in the forfeiture. The distribution shall bear a reasonable 34 relationship to the degree of direct participation of the 35 law enforcement agency in the effort resulting in the 36

1 forfeiture, taking into account the total value of the 2 property forfeited and the total law enforcement effort 3 with respect to the violation of the law upon which the forfeiture is based. Amounts distributed to the agency or 4 5 agencies shall be used for the enforcement of laws governing cannabis and controlled substances or for 6 security cameras used for the prevention or detection of 7 violence, except that amounts distributed to the Secretary 8 9 of State shall be deposited into the Secretary of State 10 Evidence Fund to be used as provided in Section 2-115 of 11 the Illinois Vehicle Code.

12 (2) (i) 12.5% shall be distributed to the Office of the State's Attorney of the county in which the prosecution 13 resulting in the forfeiture was instituted, deposited in a 14 special fund in the county treasury and appropriated to the 15 16 State's Attorney for use in the enforcement of laws governing cannabis and controlled substances. In counties 17 over 3,000,000 population, 25% will be distributed to the 18 Office of the State's Attorney for use in the enforcement 19 20 of laws governing cannabis and controlled substances. If the prosecution is undertaken solely by the Attorney 21 the portion provided hereunder shall 22 General, be distributed to the Attorney General for use in the 23 enforcement of laws governing cannabis and controlled 24 25 substances.

(ii) 12.5% shall be distributed to the Office of the 26 27 State's Attorneys Appellate Prosecutor and deposited in 28 the Narcotics Profit Forfeiture Fund of that office to be 29 used for additional expenses incurred in the 30 investigation, prosecution and appeal of cases arising 31 under laws governing cannabis and controlled substances. 32 The Office of the State's Attorneys Appellate Prosecutor shall not receive distribution from cases brought in 33 counties with over 3,000,000 population. 34

35 (3) 10% shall be retained by the Department of State
 36 Police for expenses related to the administration and sale

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of seized and forfeited property.

(h) Species of plants from which controlled substances in 2 3 Schedules I and II may be derived which have been planted or cultivated in violation of this Act, or of which the owners or 4 5 cultivators are unknown, or which are wild growths, may be 6 seized and summarily forfeited to the State. The failure, upon 7 demand by the Director or any peace officer, of the person in occupancy or in control of land or premises upon which the 8 species of plants are growing or being stored, to produce 9 10 registration, or proof that he is the holder thereof, 11 constitutes authority for the seizure and forfeiture of the 12 plants.

13 (Source: P.A. 89-404, eff. 8-20-95; 90-593, eff. 6-19-98.)

Section 15. The Methamphetamine Control and Community
Protection Act is amended by changing Section 85 as follows:

16 (720 ILCS 646/85)

17 Sec. 85. Forfeiture.

(a) The following are subject to forfeiture:

(1) all substances containing methamphetamine which
have been produced, manufactured, delivered, or possessed
in violation of this Act;

(2) all methamphetamine manufacturing materials which
have been produced, delivered, or possessed in connection
with any substance containing methamphetamine in violation
of this Act;

(3) all conveyances, including aircraft, vehicles or
vessels, which are used, or intended for use, to transport,
or in any manner to facilitate the transportation, sale,
receipt, possession, or concealment of property described
in paragraph (1) or (2) that constitutes a felony violation
of the Act, but:

(i) no conveyance used by any person as a common
 carrier in the transaction of business as a common
 carrier is subject to forfeiture under this Section

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unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this Act;

(ii) no conveyance is subject to forfeiture under this Section by reason of any act or omission which the owner proves to have been committed or omitted without his or her knowledge or consent;

8 (iii) a forfeiture of a conveyance encumbered by a 9 bona fide security interest is subject to the interest 10 of the secured party if he or she neither had knowledge 11 of nor consented to the act or omission;

(4) all money, things of value, books, records, and
research products and materials including formulas,
microfilm, tapes, and data which are used, or intended for
use in a felony violation of this Act;

16 (5) everything of value furnished or intended to be 17 furnished by any person in exchange for a substance in 18 violation of this Act, all proceeds traceable to such an 19 exchange, and all moneys, negotiable instruments, and 20 securities used, or intended to be used, to commit or in 21 any manner to facilitate any felony violation of this Act.

(6) all real property, including any right, title, and 22 interest (including, but not limited to, any leasehold 23 interest or the beneficial interest in a land trust) in the 24 whole of any lot or tract of land and any appurtenances or 25 improvements, which is used, or intended to be used, in any 26 27 manner or part, to commit, or in any manner to facilitate 28 the commission of, any violation or act that constitutes a 29 violation of this Act or that is the proceeds of any 30 violation or act that constitutes a violation of this Act.

(b) Property subject to forfeiture under this Act may be seized by the Director or any peace officer upon process or seizure warrant issued by any court having jurisdiction over the property. Seizure by the Director or any peace officer without process may be made:

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(1) if the property subject to seizure has been the

subject of a prior judgment in favor of the State in a criminal proceeding or in an injunction or forfeiture proceeding based upon this Act or the Drug Asset Forfeiture Procedure Act;

5 (2) if there is probable cause to believe that the 6 property is directly or indirectly dangerous to health or 7 safety;

8 (3) if there is probable cause to believe that the 9 property is subject to forfeiture under this Act and the 10 property is seized under circumstances in which a 11 warrantless seizure or arrest would be reasonable; or

12 (4) in accordance with the Code of Criminal Procedure13 of 1963.

(c) In the event of seizure pursuant to subsection (b),
forfeiture proceedings shall be instituted in accordance with
the Drug Asset Forfeiture Procedure Act.

(d) Property taken or detained under this Section is not 17 subject to replevin, but is deemed to be in the custody of the 18 19 Director subject only to the order and judgments of the circuit 20 court having jurisdiction over the forfeiture proceedings and the decisions of the State's Attorney under the Drug Asset 21 Forfeiture Procedure Act. When property is seized under this 22 23 Act, the seizing agency shall promptly conduct an inventory of the seized property, estimate the property's value, and forward 24 25 a copy of the inventory of seized property and the estimate of 26 the property's value to the Director. Upon receiving notice of 27 seizure, the Director may:

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(1) place the property under seal;

29 (2) remove the property to a place designated by him or30 her;

31 (3) keep the property in the possession of the seizing32 agency;

33 (4) remove the property to a storage area for 34 safekeeping or, if the property is a negotiable instrument 35 or money and is not needed for evidentiary purposes, 36 deposit it in an interest bearing account; 1 (5) place the property under constructive seizure by 2 posting notice of pending forfeiture on it, by giving 3 notice of pending forfeiture to its owners and interest 4 holders, or by filing notice of pending forfeiture in any 5 appropriate public record relating to the property; or

6 (6) provide for another agency or custodian, including 7 an owner, secured party, or lienholder, to take custody of 8 the property upon the terms and conditions set by the 9 Director.

10 (e) No disposition may be made of property under seal until 11 the time for taking an appeal has elapsed or until all appeals 12 have been concluded unless a court, upon application therefor, 13 orders the sale of perishable substances and the deposit of the 14 proceeds of the sale with the court.

(f) When property is forfeited under this Act, the Director 15 16 shall sell the property unless the property is required by law 17 to be destroyed or is harmful to the public, and shall distribute the proceeds of the sale, together with any moneys 18 19 forfeited or seized, in accordance with subsection (q). 20 However, upon the application of the seizing agency or 21 prosecutor who was responsible for the investigation, arrest or arrests and prosecution which lead to the forfeiture, the 22 23 Director may return any item of forfeited property to the seizing agency or prosecutor for official 24 use in the 25 enforcement of laws relating to methamphetamine, cannabis, or 26 if controlled substances, the agency or prosecutor 27 demonstrates that the item requested would be useful to the 28 agency or prosecutor in their enforcement efforts. When any forfeited conveyance, including an aircraft, vehicle, or 29 30 vessel, is returned to the seizing agency or prosecutor, the 31 conveyance may be used immediately in the enforcement of the criminal laws of this State. Upon disposal, all proceeds from 32 the sale of the conveyance must be used for drug enforcement 33 34 purposes. When any real property returned to the seizing agency is sold by the agency or its unit of government, the proceeds 35 of the sale shall be delivered to the Director and distributed 36

1 in accordance with subsection (g).

2 (g) All moneys and the sale proceeds of all other property 3 forfeited and seized under this Act shall be distributed as 4 follows:

5 (1) 65% shall be distributed to the metropolitan 6 enforcement group, local, municipal, county, or State law 7 enforcement agency or agencies which conducted or participated in the investigation resulting 8 in the 9 forfeiture. The distribution shall bear a reasonable 10 relationship to the degree of direct participation of the 11 law enforcement agency in the effort resulting in the forfeiture, taking into account the total value of the 12 property forfeited and the total law enforcement effort 13 with respect to the violation of the law upon which the 14 forfeiture is based. Amounts distributed to the agency or 15 16 agencies shall be used for the enforcement of laws 17 governing methamphetamine, cannabis, and controlled substances or for security cameras used for the prevention 18 or detection of violence, except that amounts distributed 19 20 to the Secretary of State shall be deposited into the Secretary of State Evidence Fund to be used as provided in 21 Section 2-115 of the Illinois Vehicle Code. 22

(2) (i) 12.5% shall be distributed to the Office of the 23 State's Attorney of the county in which the prosecution 24 25 resulting in the forfeiture was instituted, deposited in a special fund in the county treasury and appropriated to the 26 27 State's Attorney for use in the enforcement of laws 28 methamphetamine, cannabis, and controlled governing substances. In counties with a population over 3,000,000, 29 30 25% shall be distributed to the Office of the State's 31 Attorney for use in the enforcement of laws governing 32 methamphetamine, cannabis, and controlled substances. If the prosecution is undertaken solely by the Attorney 33 General, the portion provided hereunder shall 34 be distributed to the Attorney General for use 35 in the enforcement of laws governing methamphetamine, cannabis, 36

1 and controlled substances.

2 (ii) 12.5% shall be distributed to the Office of the 3 State's Attorneys Appellate Prosecutor and deposited in the Narcotics Profit Forfeiture Fund of that Office to be 4 for additional expenses incurred in 5 used the investigation, prosecution and appeal of cases arising 6 7 under laws governing methamphetamine, cannabis, and controlled substances. The Office of the State's Attorneys 8 Appellate Prosecutor shall not receive distribution from 9 cases brought in counties with a population over 3,000,000. 10

(3) 10% shall be retained by the Department of State
Police for expenses related to the administration and sale
of seized and forfeited property.

14 (Source: P.A. 94-556, eff. 9-11-05.)

Section 99. Effective date. This Act takes effect upon becoming law.