



Judiciary II - Criminal Law Committee

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09500HB5592ham001

LRB095 16686 RLC 48306 a

1 AMENDMENT TO HOUSE BILL 5592

2 AMENDMENT NO. _____. Amend House Bill 5592 on page 1, by
3 replacing lines 4 and 5 with the following:

4 "Section 5. The Criminal Code of 1961 is amended by
5 changing Sections 36-1 and 36-2 as follows:

6 (720 ILCS 5/36-1) (from Ch. 38, par. 36-1)

7 Sec. 36-1. Seizure. Any vessel, vehicle or aircraft used
8 with the knowledge and consent of the owner in the commission
9 of, or in the attempt to commit as defined in Section 8-4 of
10 this Code, an offense prohibited by (a) Section 9-1, 9-3, 10-2,
11 11-6, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-4.1, 12-4.2,
12 12-4.2-5, 12-4.3, 12-4.6, 12-7.3, 12-7.4, 12-13, 12-14, 18-2,
13 19-1, 19-2, 19-3, 20-1, 20-2, 20.5-6, 24-1.2, 24-1.2-5, 24-1.5,
14 or 28-1 of this Code, paragraph (a) of Section 12-4 of this
15 Code, paragraph (a) of Section 12-15 or paragraphs (a), (c) or
16 (d) of Section 12-16 of this Code, or paragraph (a)(6) or

1 (a) (7) of Section 24-1 of this Code; (b) Section 21, 22, 23, 24
2 or 26 of the Cigarette Tax Act if the vessel, vehicle or
3 aircraft contains more than 10 cartons of such cigarettes; (c)
4 Section 28, 29 or 30 of the Cigarette Use Tax Act if the
5 vessel, vehicle or aircraft contains more than 10 cartons of
6 such cigarettes; (d) Section 44 of the Environmental Protection
7 Act; (e) 11-204.1 of the Illinois Vehicle Code; (f) the
8 offenses described in the following provisions of the Illinois
9 Vehicle Code: Section 11-501 subdivisions (c-1) (1), (c-1) (2),
10 (c-1) (3), (d) (1) (A), (d) (1) (D), (d) (1) (G), or (d) (1) (H); (g)
11 an offense described in subsection (g) of Section 6-303 of the
12 Illinois Vehicle Code; ~~or~~ (h) an offense described in
13 subsection (e) of Section 6-101 of the Illinois Vehicle Code;
14 (i) an offense of driving while license suspended as described
15 in subsection (a) of Section 6-303 of the Illinois Vehicle Code
16 if the license of the driver of the vehicle is suspended for a
17 violation of Section 11-501.8 of the Illinois Vehicle Code; or
18 (j) an offense of driving while license suspended or revoked
19 based on a violation of paragraph (6) of subsection (a) of
20 Section 6-206 of the Illinois Vehicle Code may be seized and
21 delivered within 30 days after the seizure ~~forthwith~~ to the
22 sheriff of the county of seizure. The delivery may be by either
23 actual or constructive delivery.

24 Any peace officer employed by a law enforcement agency of
25 this State may request the issuance of a warrant authorizing
26 the seizure of any motor vehicle in the same manner as provided

1 for a search warrant. If the court determines that there is
2 probable cause to believe that the motor vehicle to be seized
3 is subject to forfeiture, the court shall issue a warrant
4 authorizing the seizure of such motor vehicle.

5 Within 15 days after such delivery the sheriff shall give
6 notice of seizure to each person according to the following
7 method: Upon each such person whose right, title or interest is
8 of record in the office of the Secretary of State, the
9 Secretary of Transportation, the Administrator of the Federal
10 Aviation Agency, or any other Department of this State, or any
11 other state of the United States if such vessel, vehicle or
12 aircraft is required to be so registered, as the case may be,
13 by mailing a copy of the notice by certified mail to the
14 address as given upon the records of the Secretary of State,
15 the Department of Aeronautics, Department of Public Works and
16 Buildings or any other Department of this State or the United
17 States if such vessel, vehicle or aircraft is required to be so
18 registered. Within that 15 day period the sheriff shall also
19 notify the State's Attorney of the county of seizure about the
20 seizure.

21 In addition, any mobile or portable equipment used in the
22 commission of an act which is in violation of Section 7g of the
23 Metropolitan Water Reclamation District Act shall be subject to
24 seizure and forfeiture under the same procedures provided in
25 this Article for the seizure and forfeiture of vessels,
26 vehicles and aircraft, and any such equipment shall be deemed a

1 vessel, vehicle or aircraft for purposes of this Article.

2 When a person discharges a firearm at another individual
3 from a vehicle with the knowledge and consent of the owner of
4 the vehicle and with the intent to cause death or great bodily
5 harm to that individual and as a result causes death or great
6 bodily harm to that individual, the vehicle shall be subject to
7 seizure and forfeiture under the same procedures provided in
8 this Article for the seizure and forfeiture of vehicles used in
9 violations of clauses (a), (b), (c), or (d) of this Section.

10 If the spouse of the owner of a vehicle seized for an
11 offense described in subsection (g) of Section 6-303 of the
12 Illinois Vehicle Code, a violation of subdivision (c-1)(1),
13 (c-1)(2), (c-1)(3), (d)(1)(A), or (d)(1)(D) of Section 11-501
14 of the Illinois Vehicle Code, or Section 9-3 of this Code makes
15 a showing that the seized vehicle is the only source of
16 transportation and it is determined that the financial hardship
17 to the family as a result of the seizure outweighs the benefit
18 to the State from the seizure, the vehicle may be forfeited to
19 the spouse or family member and the title to the vehicle shall
20 be transferred to the spouse or family member who is properly
21 licensed and who requires the use of the vehicle for employment
22 or family transportation purposes. A written declaration of
23 forfeiture of a vehicle under this Section shall be sufficient
24 cause for the title to be transferred to the spouse or family
25 member. The provisions of this paragraph shall apply only to
26 one forfeiture per vehicle. If the vehicle is the subject of a

1 subsequent forfeiture proceeding by virtue of a subsequent
2 conviction of either spouse or the family member, the spouse or
3 family member to whom the vehicle was forfeited under the first
4 forfeiture proceeding may not utilize the provisions of this
5 paragraph in another forfeiture proceeding. If the owner of the
6 vehicle seized owns more than one vehicle, the procedure set
7 out in this paragraph may be used for only one vehicle.

8 Property declared contraband under Section 40 of the
9 Illinois Streetgang Terrorism Omnibus Prevention Act may be
10 seized and forfeited under this Article.

11 (Source: P.A. 93-187, eff. 7-11-03; 94-329, eff. 1-1-06;
12 94-1017, eff. 7-7-06.); and

13 on page 1, line 21, by replacing "forthwith" with "within 45
14 days forthwith"; and

15 on page 2, line 5, by replacing "20" with "30 ~~20~~"; and

16 on page 3, by inserting immediately below line 8 the following:

17 "(b-1) When a vehicle, vessel, or aircraft is ordered sold
18 at public auction under this Article, the Director of State
19 Police shall sell such vehicle, vessel, or aircraft and shall
20 distribute the proceeds of the sale in accordance with
21 subsection (c) of this Section."; and

22 on page 3, lines 10 and 11, by replacing "of all liens and

1 deductions" with "~~of all liens and~~"; and

2 on page 3, line 12, by replacing "sheriff" with "law
3 enforcement agency ~~sheriff~~".