

# HB4013



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB4013

Introduced 2/26/2009, by Rep. Rich Brauer

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/36-1

from Ch. 38, par. 36-1

Amends the Criminal Code of 1961. Provides that any vessel, vehicle, or aircraft used with the knowledge and consent of the owner in the commission of, or in the attempt to commit, theft if the theft is of precious metal or of scrap metal is subject to seizure and forfeiture.

LRB096 07598 RLC 17694 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 36-1 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, 16-1 if  
13 the theft is of precious metal or of scrap metal, 18-2, 19-1,  
14 19-2, 19-3, 20-1, 20-2, 20.5-6, 24-1.2, 24-1.2-5, 24-1.5, or  
15 28-1 of this Code, paragraph (a) of Section 12-4 of this Code,  
16 paragraph (a) of Section 12-15 or paragraphs (a), (c) or (d) of  
17 Section 12-16 of this Code, or paragraph (a)(6) or (a)(7) of  
18 Section 24-1 of this Code; (b) Section 21, 22, 23, 24 or 26 of  
19 the Cigarette Tax Act if the vessel, vehicle or aircraft  
20 contains more than 10 cartons of such cigarettes; (c) Section  
21 28, 29 or 30 of the Cigarette Use Tax Act if the vessel,  
22 vehicle or aircraft contains more than 10 cartons of such  
23 cigarettes; (d) Section 44 of the Environmental Protection Act;

1 (e) 11-204.1 of the Illinois Vehicle Code; (f) the offenses  
2 described in the following provisions of the Illinois Vehicle  
3 Code: Section 11-501 subdivisions (c-1)(1), (c-1)(2),  
4 (c-1)(3), (d)(1)(A), (d)(1)(D), (d)(1)(G), or (d)(1)(H); (g)  
5 an offense described in subsection (g) of Section 6-303 of the  
6 Illinois Vehicle Code; or (h) an offense described in  
7 subsection (e) of Section 6-101 of the Illinois Vehicle Code;  
8 may be seized and delivered forthwith to the sheriff of the  
9 county of seizure.

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

26 In addition, any mobile or portable equipment used in the

1 commission of an act which is in violation of Section 7g of the  
2 Metropolitan Water Reclamation District Act shall be subject to  
3 seizure and forfeiture under the same procedures provided in  
4 this Article for the seizure and forfeiture of vessels,  
5 vehicles and aircraft, and any such equipment shall be deemed a  
6 vessel, vehicle or aircraft for purposes of this Article.

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

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

1 or family transportation purposes. A written declaration of  
2 forfeiture of a vehicle under this Section shall be sufficient  
3 cause for the title to be transferred to the spouse or family  
4 member. The provisions of this paragraph shall apply only to  
5 one forfeiture per vehicle. If the vehicle is the subject of a  
6 subsequent forfeiture proceeding by virtue of a subsequent  
7 conviction of either spouse or the family member, the spouse or  
8 family member to whom the vehicle was forfeited under the first  
9 forfeiture proceeding may not utilize the provisions of this  
10 paragraph in another forfeiture proceeding. If the owner of the  
11 vehicle seized owns more than one vehicle, the procedure set  
12 out in this paragraph may be used for only one vehicle.

13 Property declared contraband under Section 40 of the  
14 Illinois Streetgang Terrorism Omnibus Prevention Act may be  
15 seized and forfeited under this Article.

16 (Source: P.A. 93-187, eff. 7-11-03; 94-329, eff. 1-1-06;  
17 94-1017, eff. 7-7-06.)