



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5444

Introduced 2/5/2010, by Rep. Dennis M. Reboletti

SYNOPSIS AS INTRODUCED:

720 ILCS 5/36-1

from Ch. 38, par. 36-1

Amends the Criminal Code of 1961. In the seizure and forfeiture provisions concerning a vehicle that is seized for certain DUI violations of the owner of the vehicle, changes cross references to reflect changes in the DUI statute. Effective immediately.

LRB096 18104 RLC 33479 b

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, ~~29D-15.2~~, 24-1.2, 24-1.2-5, 24-1.5, ~~or~~
15 28-1, or 29D-15.2 of this Code, paragraph (a) of Section 12-4
16 of this Code, paragraph (a) of Section 12-15 or paragraphs (a),
17 (c) or (d) of Section 12-16 of this Code, or paragraph (a)(6)
18 or (a)(7) of Section 24-1 of this Code; (b) Section 21, 22, 23,
19 24 or 26 of the Cigarette Tax Act if the vessel, vehicle or
20 aircraft contains more than 10 cartons of such cigarettes; (c)
21 Section 28, 29 or 30 of the Cigarette Use Tax Act if the
22 vessel, vehicle or aircraft contains more than 10 cartons of
23 such cigarettes; (d) Section 44 of the Environmental Protection

1 Act; (e) 11-204.1 of the Illinois Vehicle Code; (f) the
2 offenses described in the following provisions of the Illinois
3 Vehicle Code: Section 11-501 subdivisions ~~(e-1)(1), (e-1)(2),~~
4 ~~(e-1)(3),~~ (d) (1) (A), (d) (1) (D), (d) (1) (G), ~~or~~ (d) (1) (H), or
5 (d) (1) (I); (g) an offense described in subsection (g) of
6 Section 6-303 of the Illinois Vehicle Code; or (h) an offense
7 described in subsection (e) of Section 6-101 of the Illinois
8 Vehicle Code; may be seized and delivered forthwith to the
9 sheriff of the 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 ~~(e-1)(1),~~
18 ~~(e-1)(2),~~ ~~(e-1)(3),~~ (d)(1)(A), ~~or~~ (d)(1)(D), (d)(1)(G),
19 (d)(1)(H), or (d)(1)(I) of Section 11-501 of the Illinois
20 Vehicle Code, or Section 9-3 of this Code makes a showing that
21 the seized vehicle is the only source of transportation and it
22 is determined that the financial hardship to the family as a
23 result of the seizure outweighs the benefit to the State from
24 the seizure, the vehicle may be forfeited to the spouse or
25 family member and the title to the vehicle shall be transferred
26 to the spouse or family member who is properly licensed and who

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

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

17 (Source: P.A. 96-313, eff. 1-1-10; 96-710, eff. 1-1-10; revised
18 10-9-09.)

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