

SB3029



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3029

Introduced 2/4/2010, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

720 ILCS 5/36-1

from Ch. 38, par. 36-1

Amends the Criminal Code of 1961. In relation to the provisions concerning forfeiture of vehicles for various DUI offenses, describes the offenses instead of cross referencing the clauses of the DUI statute.

LRB096 17084 RLC 32406 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, ~~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) (1) driving
2 under the influence of alcohol or other drug or drugs,
3 intoxicating compound or compounds or any combination thereof
4 under Section 11-501 of the Illinois Vehicle Code during a
5 period in which his or her driving privileges are revoked or
6 suspended where the revocation or suspension was for driving
7 under the influence of alcohol or other drug or drugs,
8 intoxicating compound or compounds or any combination thereof,
9 Section 11-501.1, paragraph (b) of Section 11-401, or for
10 reckless homicide as defined in Section 9-3 of the Criminal
11 Code of 1961; (2) driving while under the influence of alcohol,
12 other drug or drugs, intoxicating compound or compounds or any
13 combination thereof and has been previously convicted of
14 reckless homicide or a similar provision of a law of another
15 state relating to reckless homicide in which the person was
16 determined to have been under the influence of alcohol, other
17 drug or drugs, or intoxicating compound or compounds as an
18 element of the offense or the person has previously been
19 convicted of committing a violation of driving under the
20 influence of alcohol or other drug or drugs, intoxicating
21 compound or compounds or any combination thereof and was
22 involved in a motor vehicle accident that resulted in death,
23 great bodily harm, or permanent disability or disfigurement to
24 another, when the violation was a proximate cause of the death
25 or injuries; (3) the person committed a violation of driving
26 under the influence of alcohol or other drug or drugs,

1 intoxicating compound or compounds or any combination thereof
2 under Section 11-501 of the Illinois Vehicle Code or a similar
3 provision for the third or subsequent time; or (4) the person
4 committed the violation while he or she did not possess a
5 driver's license or permit or a restricted driving permit or a
6 judicial driving permit or a monitoring device driving permit
7 ~~the offenses described in the following provisions of the~~
8 ~~Illinois Vehicle Code: Section 11-501 subdivisions (c-1)(1),~~
9 ~~(c-1)(2), (c-1)(3), (d)(1)(A), (d)(1)(D), (d)(1)(G), or~~
10 ~~(d)(1)(H);~~ (g) an offense described in subsection (g) of
11 Section 6-303 of the Illinois Vehicle Code; or (h) an offense
12 described in subsection (e) of Section 6-101 of the Illinois
13 Vehicle Code; may be seized and delivered forthwith to the
14 sheriff of the county of seizure.

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

1 States if such vessel, vehicle or aircraft is required to be so
2 registered. Within that 15 day period the sheriff shall also
3 notify the State's Attorney of the county of seizure about the
4 seizure.

5 In addition, any mobile or portable equipment used in the
6 commission of an act which is in violation of Section 7g of the
7 Metropolitan Water Reclamation District Act shall be subject to
8 seizure and forfeiture under the same procedures provided in
9 this Article for the seizure and forfeiture of vessels,
10 vehicles and aircraft, and any such equipment shall be deemed a
11 vessel, vehicle or aircraft for purposes of this Article.

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

20 If the spouse of the owner of a vehicle seized for an
21 offense described in subsection (g) of Section 6-303 of the
22 Illinois Vehicle Code, a violation of subdivision (c-1)(1),
23 (c-1)(2), (c-1)(3), (d)(1)(A), or (d)(1)(D) of Section 11-501
24 of the Illinois Vehicle Code, or Section 9-3 of this Code makes
25 a showing that the seized vehicle is the only source of
26 transportation and it is determined that the financial hardship

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

18 Property declared contraband under Section 40 of the
19 Illinois Streetgang Terrorism Omnibus Prevention Act may be
20 seized and forfeited under this Article.

21 (Source: P.A. 96-313, eff. 1-1-10; 96-710, eff. 1-1-10; revised
22 10-9-09.)