



Rep. Renée Kosel

Filed: 3/15/2012

09700HB4937ham001

LRB097 17464 RLC 67486 a

1 AMENDMENT TO HOUSE BILL 4937

2 AMENDMENT NO. _____. Amend House Bill 4937 by replacing
3 everything after the enacting clause with the following:

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

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

7 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;

15 (3) all conveyances, including aircraft, vehicles or
16 vessels, which are used, or intended for use, to transport,

1 or in any manner to facilitate the transportation, sale,
2 receipt, possession, or concealment of property described
3 in paragraph (1) or (2) that constitutes a felony violation
4 of the Act, but:

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

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

15 (iii) a forfeiture of a conveyance encumbered by a
16 bona fide security interest is subject to the interest
17 of the secured party if he neither had knowledge of nor
18 consented to the act or omission;

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

23 (5) everything of value furnished or intended to be
24 furnished by any person in exchange for a substance in
25 violation of this Act, all proceeds traceable to such an
26 exchange, and all moneys, negotiable instruments, and

1 securities used, or intended to be used, to commit or in
2 any manner to facilitate any felony violation of this Act;

3 (6) all real property, including any right, title, and
4 interest including, but not limited to, any leasehold
5 interest or the beneficial interest to a land trust, in the
6 whole of any lot or tract of land and any appurtenances or
7 improvements, that is used or intended to be used to
8 facilitate the manufacture, distribution, sale, receipt,
9 or concealment of property described in paragraph (1) or
10 (2) of this subsection (a) that constitutes a felony
11 violation of more than 2,000 grams of a substance
12 containing cannabis or that is the proceeds of any felony
13 violation of this Act.

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

19 (1) 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 (2) if there is probable cause to believe that the
25 property is directly or indirectly dangerous to health or
26 safety;

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

5 (4) in accordance with the Code of Criminal Procedure
6 of 1963.

7 (c) In the event of seizure pursuant to subsection (b),
8 notice shall be given forthwith to all known interest holders
9 that forfeiture proceedings, including a preliminary review,
10 shall be instituted in accordance with the Drug Asset
11 Forfeiture Procedure Act and such proceedings shall thereafter
12 be instituted in accordance with that Act. Upon a showing of
13 good cause, the notice required for a preliminary review under
14 this Section may be postponed.

15 (c-1) In the event the State's Attorney is of the opinion
16 that real property is subject to forfeiture under this Act,
17 forfeiture proceedings shall be instituted in accordance with
18 the Drug Asset Forfeiture Procedure Act. The exemptions from
19 forfeiture provisions of Section 8 of the Drug Asset Forfeiture
20 Procedure Act are applicable.

21 (d) Property taken or detained under this Section shall not
22 be subject to replevin, but is deemed to be in the custody of
23 the Director subject only to the order and judgments of the
24 circuit court having jurisdiction over the forfeiture
25 proceedings and the decisions of the State's Attorney under the
26 Drug Asset Forfeiture Procedure Act. When property is seized

1 under this Act, the seizing agency shall promptly conduct an
2 inventory of the seized property, estimate the property's
3 value, and shall forward a copy of the inventory of seized
4 property and the estimate of the property's value to the
5 Director. Upon receiving notice of seizure, the Director may:

6 (1) place the property under seal;

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

8 (3) keep the property in the possession of the seizing
9 agency;

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

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

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

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

1 proceeds of the sale with the court.

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

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

1 follows:

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

20 (ii) Any local, municipal, or county law enforcement
21 agency entitled to receive a monetary distribution of
22 forfeiture proceeds shall share those forfeiture proceeds
23 pursuant to the terms of an intergovernmental agreement
24 with a municipality that has a population in excess of
25 20,000 if:

26 (I) the receiving agency has entered into an

1 intergovernmental agreement with the municipality to
2 provide police services;

3 (II) the intergovernmental agreement for police
4 services provides for consideration in an amount of not
5 less than \$1,000,000 per year;

6 (III) the seizure took place within the
7 geographical limits of the municipality; and

8 (IV) the funds are used only for the enforcement of
9 laws governing cannabis and controlled substances or
10 for security cameras used for the prevention or
11 detection of violence or the establishment of a
12 municipal police force, including the training of
13 officers, construction of a police station, the
14 purchase of law enforcement equipment, or vehicles.

15 (2) (i) 12.5% shall be distributed to the Office of the
16 State's Attorney of the county in which the prosecution
17 resulting in the forfeiture was instituted, deposited in a
18 special fund in the county treasury and appropriated to the
19 State's Attorney for use in the enforcement of laws
20 governing cannabis and controlled substances, or at the
21 discretion of the State's Attorney, in addition to other
22 authorized purposes, to make grants to local substance
23 abuse treatment facilities and half-way houses. In
24 counties over 3,000,000 population, 25% will be
25 distributed to the Office of the State's Attorney for use
26 in the enforcement of laws governing cannabis and

1 controlled substances, or at the discretion of the State's
2 Attorney, in addition to other authorized purposes, to make
3 grants to local substance abuse treatment facilities and
4 half-way houses. If the prosecution is undertaken solely by
5 the Attorney General, the portion provided hereunder shall
6 be distributed to the Attorney General for use in the
7 enforcement of laws governing cannabis and controlled
8 substances.

9 (ii) 12.5% shall be distributed to the Office of the
10 State's Attorneys Appellate Prosecutor and deposited in
11 the Narcotics Profit Forfeiture Fund of that Office to be
12 used for additional expenses incurred in the
13 investigation, prosecution and appeal of cases arising
14 under laws governing cannabis and controlled substances.
15 The Office of the State's Attorneys Appellate Prosecutor
16 shall not receive distribution from cases brought in
17 counties with over 3,000,000 population.

18 (3) 10% shall be retained by the Department of State
19 Police for expenses related to the administration and sale
20 of seized and forfeited property.

21 (Source: P.A. 97-253, eff. 1-1-12; 97-544, eff. 1-1-12; revised
22 9-14-11.)

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

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

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

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

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

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

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

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

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

1 of the secured party if he or she neither had knowledge
2 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 to
6 be used in violation of this Act;

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

13 (6) all real property, including any right, title, and
14 interest (including, but not limited to, any leasehold
15 interest or the beneficial interest in a land trust) in the
16 whole of any lot or tract of land and any appurtenances or
17 improvements, which is used or intended to be used, in any
18 manner or part, to commit, or in any manner to facilitate
19 the commission of, any violation or act that constitutes a
20 violation of Section 401 or 405 of this Act or that is the
21 proceeds of any violation or act that constitutes a
22 violation of Section 401 or 405 of this Act.

23 (b) Property subject to forfeiture under this Act may be
24 seized by the Director or any peace officer upon process or
25 seizure warrant issued by any court having jurisdiction over
26 the property. Seizure by the Director or any peace officer

1 without process may be made:

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

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

9 (3) if there is probable cause to believe that the
10 property is directly or indirectly dangerous to health or
11 safety;

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

16 (5) in accordance with the Code of Criminal Procedure
17 of 1963.

18 (c) In the event of seizure pursuant to subsection (b),
19 notice shall be given forthwith to all known interest holders
20 that forfeiture proceedings, including a preliminary review,
21 shall be instituted in accordance with the Drug Asset
22 Forfeiture Procedure Act and such proceedings shall thereafter
23 be instituted in accordance with that Act. Upon a showing of
24 good cause, the notice required for a preliminary review under
25 this Section may be postponed.

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

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
4 proceedings and the decisions of the State's Attorney under the
5 Drug Asset Forfeiture Procedure Act. When property is seized
6 under this Act, the seizing agency shall promptly conduct an
7 inventory of the seized property and estimate the property's
8 value, and shall forward a copy of the inventory of seized
9 property and the estimate of the property's value to the
10 Director. Upon receiving notice of seizure, the Director may:

11 (1) place the property under seal;

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

14 (3) keep the property in the possession of the seizing
15 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;

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

25 (6) provide for another agency or custodian, including
26 an owner, secured party, or lienholder, to take custody of

1 the property upon the terms and conditions set by the
2 Director.

3 (e) If the Department of Financial and Professional
4 Regulation suspends or revokes a registration, all controlled
5 substances owned or possessed by the registrant at the time of
6 suspension or the effective date of the revocation order may be
7 placed under seal by the Director. No disposition may be made
8 of substances under seal until the time for taking an appeal
9 has elapsed or until all appeals have been concluded unless a
10 court, upon application therefor, orders the sale of perishable
11 substances and the deposit of the proceeds of the sale with the
12 court. Upon a suspension or revocation order becoming final,
13 all substances may be forfeited to the Illinois State Police.

14 (f) When property is forfeited under this Act the Director
15 shall sell all such property unless such property is required
16 by law to be destroyed or is harmful to the public, and shall
17 distribute the proceeds of the sale, together with any moneys
18 forfeited or seized, in accordance with subsection (g).
19 However, upon the application of the seizing agency or
20 prosecutor who was responsible for the investigation, arrest or
21 arrests and prosecution which lead to the forfeiture, the
22 Director may return any item of forfeited property to the
23 seizing agency or prosecutor for official use in the
24 enforcement of laws relating to cannabis or controlled
25 substances, if the agency or prosecutor can demonstrate that
26 the item requested would be useful to the agency or prosecutor

1 in their enforcement efforts. When any forfeited conveyance,
2 including an aircraft, vehicle, or vessel, is returned to the
3 seizing agency or prosecutor, the conveyance may be used
4 immediately in the enforcement of the criminal laws of this
5 State. Upon disposal, all proceeds from the sale of the
6 conveyance must be used for drug enforcement purposes. When any
7 real property returned to the seizing agency is sold by the
8 agency or its unit of government, the proceeds of the sale
9 shall be delivered to the Director and distributed in
10 accordance with subsection (g).

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

14 (1) (i) 65% shall be distributed to the metropolitan
15 enforcement group, local, municipal, county, or state law
16 enforcement agency or agencies which conducted or
17 participated in the investigation resulting in the
18 forfeiture. The distribution shall bear a reasonable
19 relationship to the degree of direct participation of the
20 law enforcement agency in the effort resulting in the
21 forfeiture, taking into account the total value of the
22 property forfeited and the total law enforcement effort
23 with respect to the violation of the law upon which the
24 forfeiture is based. Amounts distributed to the agency or
25 agencies shall be used for the enforcement of laws
26 governing cannabis and controlled substances or for

1 security cameras used for the prevention or detection of
2 violence, except that amounts distributed to the Secretary
3 of State shall be deposited into the Secretary of State
4 Evidence Fund to be used as provided in Section 2-115 of
5 the Illinois Vehicle Code.

6 (ii) Any local, municipal, or county law enforcement
7 agency entitled to receive a monetary distribution of
8 forfeiture proceeds shall share those forfeiture proceeds
9 pursuant to the terms of an intergovernmental agreement
10 with a municipality that has a population in excess of
11 20,000 if:

12 (I) the receiving agency has entered into an
13 intergovernmental agreement with the municipality to
14 provide police services;

15 (II) the intergovernmental agreement for police
16 services provides for consideration in an amount of not
17 less than \$1,000,000 per year;

18 (III) the seizure took place within the
19 geographical limits of the municipality; and

20 (IV) the funds are used only for the enforcement of
21 laws governing cannabis and controlled substances or
22 for security cameras used for the prevention or
23 detection of violence or the establishment of a
24 municipal police force, including the training of
25 officers, construction of a police station, the
26 purchase of law enforcement equipment, or vehicles.

1 (2) (i) 12.5% shall be distributed to the Office of the
2 State's Attorney of the county in which the prosecution
3 resulting in the forfeiture was instituted, deposited in a
4 special fund in the county treasury and appropriated to the
5 State's Attorney for use in the enforcement of laws
6 governing cannabis and controlled substances, or at the
7 discretion of the State's Attorney, in addition to other
8 authorized purposes, to make grants to local substance
9 abuse treatment facilities and half-way houses. In
10 counties over 3,000,000 population, 25% will be
11 distributed to the Office of the State's Attorney for use
12 in the enforcement of laws governing cannabis and
13 controlled substances, or at the discretion of the State's
14 Attorney, in addition to other authorized purposes, to make
15 grants to local substance abuse treatment facilities and
16 half-way houses. If the prosecution is undertaken solely by
17 the Attorney General, the portion provided hereunder shall
18 be distributed to the Attorney General for use in the
19 enforcement of laws governing cannabis and controlled
20 substances.

21 (ii) 12.5% shall be distributed to the Office of the
22 State's Attorneys Appellate Prosecutor and deposited in
23 the Narcotics Profit Forfeiture Fund of that office to be
24 used for additional expenses incurred in the
25 investigation, prosecution and appeal of cases arising
26 under laws governing cannabis and controlled substances.

1 The Office of the State's Attorneys Appellate Prosecutor
2 shall not receive distribution from cases brought in
3 counties with over 3,000,000 population.

4 (3) 10% shall be retained by the Department of State
5 Police for expenses related to the administration and sale
6 of seized and forfeited property.

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

18 (Source: P.A. 94-1004, eff. 7-3-06; 97-253, eff. 1-1-12;
19 97-334, eff. 1-1-12; 97-544, eff. 1-1-12; revised 9-14-11.)

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

22 (720 ILCS 646/85)

23 Sec. 85. Forfeiture.

24 (a) The following are subject to forfeiture:

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

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

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

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

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

24 (iii) a forfeiture of a conveyance encumbered by a
25 bona fide security interest is subject to the interest
26 of the secured party if he or she neither had knowledge

1 of nor consented to the act or omission;

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

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

12 (6) all real property, including any right, title, and
13 interest (including, but not limited to, any leasehold
14 interest or the beneficial interest in a land trust) in the
15 whole of any lot or tract of land and any appurtenances or
16 improvements, which is used, or intended to be used, in any
17 manner or part, to commit, or in any manner to facilitate
18 the commission of, any violation or act that constitutes a
19 violation of this Act or that is the proceeds of any
20 violation or act that constitutes a violation of this Act.

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

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

1 subject of a prior judgment in favor of the State in a
2 criminal proceeding or in an injunction or forfeiture
3 proceeding based upon this Act or the Drug Asset Forfeiture
4 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 Procedure
13 of 1963.

14 (c) In the event of seizure pursuant to subsection (b),
15 notice shall be given forthwith to all known interest holders
16 that forfeiture proceedings, including a preliminary review,
17 shall be instituted in accordance with the Drug Asset
18 Forfeiture Procedure Act and such proceedings shall thereafter
19 be instituted in accordance with that Act. Upon a showing of
20 good cause, the notice required for a preliminary review under
21 this Section may be postponed.

22 (d) Property taken or detained under this Section is not
23 subject to replevin, but is deemed to be in the custody of the
24 Director subject only to the order and judgments of the circuit
25 court having jurisdiction over the forfeiture proceedings and
26 the decisions of the State's Attorney under the Drug Asset

1 Forfeiture Procedure Act. When property is seized under this
2 Act, the seizing agency shall promptly conduct an inventory of
3 the seized property, estimate the property's value, and forward
4 a copy of the inventory of seized property and the estimate of
5 the property's value to the Director. Upon receiving notice of
6 seizure, the Director may:

7 (1) place the property under seal;

8 (2) remove the property to a place designated by him or
9 her;

10 (3) keep the property in the possession of the seizing
11 agency;

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

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

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

25 (e) No disposition may be made of property under seal until
26 the time for taking an appeal has elapsed or until all appeals

1 have been concluded unless a court, upon application therefor,
2 orders the sale of perishable substances and the deposit of the
3 proceeds of the sale with the court.

4 (f) When property is forfeited under this Act, the Director
5 shall sell the property unless the property is required by law
6 to be destroyed or is harmful to the public, and shall
7 distribute the proceeds of the sale, together with any moneys
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 seizing agency or prosecutor for official use in the
14 enforcement of laws relating to methamphetamine, cannabis, or
15 controlled substances, if the agency or prosecutor
16 demonstrates that the item requested would be useful to the
17 agency or prosecutor in their enforcement efforts. When any
18 forfeited conveyance, including an aircraft, vehicle, or
19 vessel, is returned to the seizing agency or prosecutor, the
20 conveyance may be used immediately in the enforcement of the
21 criminal laws of this State. Upon disposal, all proceeds from
22 the sale of the conveyance must be used for drug enforcement
23 purposes. When any real property returned to the seizing agency
24 is sold by the agency or its unit of government, the proceeds
25 of the sale shall be delivered to the Director and distributed
26 in accordance with subsection (g).

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

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

22 (ii) Any local, municipal, or county law enforcement
23 agency entitled to receive a monetary distribution of
24 forfeiture proceeds shall share those forfeiture proceeds
25 pursuant to the terms of an intergovernmental agreement
26 with a municipality that has a population in excess of

1 20,000 if:

2 (I) the receiving agency has entered into an
3 intergovernmental agreement with the municipality to
4 provide police services;

5 (II) the intergovernmental agreement for police
6 services provides for consideration in an amount of not
7 less than \$1,000,000 per year;

8 (III) the seizure took place within the
9 geographical limits of the municipality; and

10 (IV) the funds are used only for the enforcement of
11 laws governing cannabis and controlled substances or
12 for security cameras used for the prevention or
13 detection of violence or the establishment of a
14 municipal police force, including the training of
15 officers, construction of a police station, the
16 purchase of law enforcement equipment, or vehicles.

17 (2) (i) 12.5% shall be distributed to the Office of the
18 State's Attorney of the county in which the prosecution
19 resulting in the forfeiture was instituted, deposited in a
20 special fund in the county treasury and appropriated to the
21 State's Attorney for use in the enforcement of laws
22 governing methamphetamine, cannabis, and controlled
23 substances, or at the discretion of the State's Attorney,
24 in addition to other authorized purposes, to make grants to
25 local substance abuse treatment facilities and half-way
26 houses. In counties with a population over 3,000,000, 25%

1 shall be distributed to the Office of the State's Attorney
2 for use in the enforcement of laws governing
3 methamphetamine, cannabis, and controlled substances, or
4 at the discretion of the State's Attorney, in addition to
5 other authorized purposes, to make grants to local
6 substance abuse treatment facilities and half-way houses.
7 If the prosecution is undertaken solely by the Attorney
8 General, the portion provided hereunder shall be
9 distributed to the Attorney General for use in the
10 enforcement of laws governing methamphetamine, cannabis,
11 and controlled substances.

12 (ii) 12.5% shall be distributed to the Office of the
13 State's Attorneys Appellate Prosecutor and deposited in
14 the Narcotics Profit Forfeiture Fund of that Office to be
15 used for additional expenses incurred in the
16 investigation, prosecution and appeal of cases arising
17 under laws governing methamphetamine, cannabis, and
18 controlled substances. The Office of the State's Attorneys
19 Appellate Prosecutor shall not receive distribution from
20 cases brought in counties with a population over 3,000,000.

21 (3) 10% shall be retained by the Department of State
22 Police for expenses related to the administration and sale
23 of seized and forfeited property.

24 (Source: P.A. 97-253, eff. 1-1-12; 97-544, eff. 1-1-12; revised
25 9-14-11.)".