



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB6274

by Rep. Mike Bost

SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.855 new
30 ILCS 105/6z-100 new
625 ILCS 5/11-501.01
625 ILCS 40/5-7
625 ILCS 45/5-16
720 ILCS 550/12

from Ch. 56 1/2, par. 712

Amends the State Finance Act. Creates the Residential Substance Abuse Treatment Fund. Provides that moneys in the Fund shall be used by the Department of Corrections, subject to appropriation, for expenses incurred in administering, operating, and maintaining a residential substance abuse treatment facility at the Murphysboro Correctional Center. Amends the Illinois Vehicle Code. Provides that upon a conviction or plea of guilty for operating a motor vehicle while under the influence of alcohol, drugs, or an intoxicating compound, a defendant shall pay a fee of \$100 to be deposited into the Residential Substance Abuse Treatment Fund. Makes a similar change to the Snowmobile Registration and Safety Act and the Boat Registration and Safety Act. Amends the Cannabis Control Act. Provides that moneys received from forfeiture by the State's Attorney may, at the State's Attorney's discretion, also be deposited into the Residential Substance Abuse Treatment Fund (currently moneys can be used only to make discretionary grants to local substance abuse treatment facilities and half-way houses). Effective immediately.

LRB098 21359 JWD 60052 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Finance Act is amended by adding
5 Sections 5.855 and 6z-100 as follows:

6 (30 ILCS 105/5.855 new)

7 Sec. 5.855. The Residential Substance Abuse Treatment
8 Fund.

9 (30 ILCS 105/6z-100 new)

10 Sec. 6z-100. Residential Substance Abuse Treatment Fund.
11 All moneys received from fees imposed under subsection (k) of
12 Section 11-501.01 of the Illinois Vehicle Code, subsection (h)
13 of Section 5-7 of the Snowmobile Registration and Safety Act,
14 and subsection (H) of Section 5-16 of the Boat Registration and
15 Safety Act, as well as any grants made under sub-paragraph (i)
16 of paragraph (2) of subsection (g) of Section 12 of the
17 Cannabis Control Act, shall be deposited into a special fund
18 known as the Residential Substance Abuse Treatment Fund, which
19 is hereby created in the State Treasury. Moneys in the Fund
20 shall be used by the Department of Corrections, subject to
21 appropriation, for expenses incurred in administering,
22 operating, and maintaining a residential substance abuse

1 treatment facility at the Murphysboro Correctional Center.

2 Section 10. The Illinois Vehicle Code is amended by
3 changing Section 11-501.01 as follows:

4 (625 ILCS 5/11-501.01)

5 Sec. 11-501.01. Additional administrative sanctions.

6 (a) After a finding of guilt and prior to any final
7 sentencing or an order for supervision, for an offense based
8 upon an arrest for a violation of Section 11-501 or a similar
9 provision of a local ordinance, individuals shall be required
10 to undergo a professional evaluation to determine if an
11 alcohol, drug, or intoxicating compound abuse problem exists
12 and the extent of the problem, and undergo the imposition of
13 treatment as appropriate. Programs conducting these
14 evaluations shall be licensed by the Department of Human
15 Services. The cost of any professional evaluation shall be paid
16 for by the individual required to undergo the professional
17 evaluation.

18 (b) Any person who is found guilty of or pleads guilty to
19 violating Section 11-501, including any person receiving a
20 disposition of court supervision for violating that Section,
21 may be required by the Court to attend a victim impact panel
22 offered by, or under contract with, a county State's Attorney's
23 office, a probation and court services department, Mothers
24 Against Drunk Driving, or the Alliance Against Intoxicated

1 Motorists. All costs generated by the victim impact panel shall
2 be paid from fees collected from the offender or as may be
3 determined by the court.

4 (c) Every person found guilty of violating Section 11-501,
5 whose operation of a motor vehicle while in violation of that
6 Section proximately caused any incident resulting in an
7 appropriate emergency response, shall be liable for the expense
8 of an emergency response as provided in subsection (i) of this
9 Section.

10 (d) The Secretary of State shall revoke the driving
11 privileges of any person convicted under Section 11-501 or a
12 similar provision of a local ordinance.

13 (e) The Secretary of State shall require the use of
14 ignition interlock devices on all vehicles owned by a person
15 who has been convicted of a second or subsequent offense of
16 Section 11-501 or a similar provision of a local ordinance. The
17 person must pay to the Secretary of State DUI Administration
18 Fund an amount not to exceed \$30 for each month that he or she
19 uses the device. The Secretary shall establish by rule and
20 regulation the procedures for certification and use of the
21 interlock system, the amount of the fee, and the procedures,
22 terms, and conditions relating to these fees.

23 (f) In addition to any other penalties and liabilities, a
24 person who is found guilty of or pleads guilty to violating
25 Section 11-501, including any person placed on court
26 supervision for violating Section 11-501, shall be assessed

1 \$750, payable to the circuit clerk, who shall distribute the
2 money as follows: \$350 to the law enforcement agency that made
3 the arrest, and \$400 shall be forwarded to the State Treasurer
4 for deposit into the General Revenue Fund. If the person has
5 been previously convicted of violating Section 11-501 or a
6 similar provision of a local ordinance, the fine shall be
7 \$1,000, and the circuit clerk shall distribute \$200 to the law
8 enforcement agency that made the arrest and \$800 to the State
9 Treasurer for deposit into the General Revenue Fund. In the
10 event that more than one agency is responsible for the arrest,
11 the amount payable to law enforcement agencies shall be shared
12 equally. Any moneys received by a law enforcement agency under
13 this subsection (f) shall be used for enforcement and
14 prevention of driving while under the influence of alcohol,
15 other drug or drugs, intoxicating compound or compounds or any
16 combination thereof, as defined by Section 11-501 of this Code,
17 including but not limited to the purchase of law enforcement
18 equipment and commodities that will assist in the prevention of
19 alcohol related criminal violence throughout the State; police
20 officer training and education in areas related to alcohol
21 related crime, including but not limited to DUI training; and
22 police officer salaries, including but not limited to salaries
23 for hire back funding for safety checkpoints, saturation
24 patrols, and liquor store sting operations. Any moneys received
25 by the Department of State Police under this subsection (f)
26 shall be deposited into the State Police DUI Fund and shall be

1 used to purchase law enforcement equipment that will assist in
2 the prevention of alcohol related criminal violence throughout
3 the State.

4 (g) The Secretary of State Police DUI Fund is created as a
5 special fund in the State treasury. All moneys received by the
6 Secretary of State Police under subsection (f) of this Section
7 shall be deposited into the Secretary of State Police DUI Fund
8 and, subject to appropriation, shall be used for enforcement
9 and prevention of driving while under the influence of alcohol,
10 other drug or drugs, intoxicating compound or compounds or any
11 combination thereof, as defined by Section 11-501 of this Code,
12 including but not limited to the purchase of law enforcement
13 equipment and commodities to assist in the prevention of
14 alcohol related criminal violence throughout the State; police
15 officer training and education in areas related to alcohol
16 related crime, including but not limited to DUI training; and
17 police officer salaries, including but not limited to salaries
18 for hire back funding for safety checkpoints, saturation
19 patrols, and liquor store sting operations.

20 (h) Whenever an individual is sentenced for an offense
21 based upon an arrest for a violation of Section 11-501 or a
22 similar provision of a local ordinance, and the professional
23 evaluation recommends remedial or rehabilitative treatment or
24 education, neither the treatment nor the education shall be the
25 sole disposition and either or both may be imposed only in
26 conjunction with another disposition. The court shall monitor

1 compliance with any remedial education or treatment
2 recommendations contained in the professional evaluation.
3 Programs conducting alcohol or other drug evaluation or
4 remedial education must be licensed by the Department of Human
5 Services. If the individual is not a resident of Illinois,
6 however, the court may accept an alcohol or other drug
7 evaluation or remedial education program in the individual's
8 state of residence. Programs providing treatment must be
9 licensed under existing applicable alcoholism and drug
10 treatment licensure standards.

11 (i) In addition to any other fine or penalty required by
12 law, an individual convicted of a violation of Section 11-501,
13 Section 5-7 of the Snowmobile Registration and Safety Act,
14 Section 5-16 of the Boat Registration and Safety Act, or a
15 similar provision, whose operation of a motor vehicle,
16 snowmobile, or watercraft while in violation of Section 11-501,
17 Section 5-7 of the Snowmobile Registration and Safety Act,
18 Section 5-16 of the Boat Registration and Safety Act, or a
19 similar provision proximately caused an incident resulting in
20 an appropriate emergency response, shall be required to make
21 restitution to a public agency for the costs of that emergency
22 response. The restitution may not exceed \$1,000 per public
23 agency for each emergency response. As used in this subsection
24 (i), "emergency response" means any incident requiring a
25 response by a police officer, a firefighter carried on the
26 rolls of a regularly constituted fire department, or an

1 ambulance. With respect to funds designated for the Department
2 of State Police, the moneys shall be remitted by the circuit
3 court clerk to the State Police within one month after receipt
4 for deposit into the State Police DUI Fund. With respect to
5 funds designated for the Department of Natural Resources, the
6 Department of Natural Resources shall deposit the moneys into
7 the Conservation Police Operations Assistance Fund.

8 (j) A person that is subject to a chemical test or tests of
9 blood under subsection (a) of Section 11-501.1 or subdivision
10 (c)(2) of Section 11-501.2 of this Code, whether or not that
11 person consents to testing, shall be liable for the expense up
12 to \$500 for blood withdrawal by a physician authorized to
13 practice medicine, a licensed physician assistant, a licensed
14 advanced practice nurse, a registered nurse, a trained
15 phlebotomist, a certified paramedic, or a qualified person
16 other than a police officer approved by the Department of State
17 Police to withdraw blood, who responds, whether at a law
18 enforcement facility or a health care facility, to a police
19 department request for the drawing of blood based upon refusal
20 of the person to submit to a lawfully requested breath test or
21 probable cause exists to believe the test would disclose the
22 ingestion, consumption, or use of drugs or intoxicating
23 compounds if:

24 (1) the person is found guilty of violating Section
25 11-501 of this Code or a similar provision of a local
26 ordinance; or

1 (2) the person pleads guilty to or stipulates to facts
2 supporting a violation of Section 11-503 of this Code or a
3 similar provision of a local ordinance when the plea or
4 stipulation was the result of a plea agreement in which the
5 person was originally charged with violating Section
6 11-501 of this Code or a similar local ordinance.

7 (k) In addition to any other fine or penalty required by
8 law, an individual who is convicted of, or who pleads guilty
9 to, a violation of Section 11-501 of this Code or a similar
10 provision of a local ordinance shall pay to the circuit clerk a
11 fee of \$100 to be deposited into the Residential Substance
12 Abuse Treatment Fund.

13 (Source: P.A. 97-931, eff. 1-1-13; 97-1050, eff. 1-1-13;
14 98-292, eff. 1-1-14; 98-463, eff. 8-16-13.)

15 Section 15. The Snowmobile Registration and Safety Act is
16 amended by changing Section 5-7 as follows:

17 (625 ILCS 40/5-7)

18 Sec. 5-7. Operating a snowmobile while under the influence
19 of alcohol or other drug or drugs, intoxicating compound or
20 compounds, or a combination of them; criminal penalties;
21 suspension of operating privileges.

22 (a) A person may not operate or be in actual physical
23 control of a snowmobile within this State while:

24 1. The alcohol concentration in that person's blood or

1 breath is a concentration at which driving a motor vehicle
2 is prohibited under subdivision (1) of subsection (a) of
3 Section 11-501 of the Illinois Vehicle Code;

4 2. The person is under the influence of alcohol;

5 3. The person is under the influence of any other drug
6 or combination of drugs to a degree that renders that
7 person incapable of safely operating a snowmobile;

8 3.1. The person is under the influence of any
9 intoxicating compound or combination of intoxicating
10 compounds to a degree that renders the person incapable of
11 safely operating a snowmobile;

12 4. The person is under the combined influence of
13 alcohol and any other drug or drugs or intoxicating
14 compound or compounds to a degree that renders that person
15 incapable of safely operating a snowmobile; or

16 5. There is any amount of a drug, substance, or
17 compound in that person's breath, blood, or urine resulting
18 from the unlawful use or consumption of cannabis listed in
19 the Cannabis Control Act, controlled substance listed in
20 the Illinois Controlled Substances Act, or intoxicating
21 compound listed in the use of Intoxicating Compounds Act.

22 (b) The fact that a person charged with violating this
23 Section is or has been legally entitled to use alcohol, other
24 drug or drugs, any intoxicating compound or compounds, or any
25 combination of them does not constitute a defense against a
26 charge of violating this Section.

1 (c) Every person convicted of violating this Section or a
2 similar provision of a local ordinance is guilty of a Class A
3 misdemeanor, except as otherwise provided in this Section.

4 (c-1) As used in this Section, "first time offender" means
5 any person who has not had a previous conviction or been
6 assigned supervision for violating this Section or a similar
7 provision of a local ordinance, or any person who has not had a
8 suspension imposed under subsection (e) of Section 5-7.1.

9 (c-2) For purposes of this Section, the following are
10 equivalent to a conviction:

11 (1) a forfeiture of bail or collateral deposited to
12 secure a defendant's appearance in court when forfeiture
13 has not been vacated; or

14 (2) the failure of a defendant to appear for trial.

15 (d) Every person convicted of violating this Section is
16 guilty of a Class 4 felony if:

17 1. The person has a previous conviction under this
18 Section;

19 2. The offense results in personal injury where a
20 person other than the operator suffers great bodily harm or
21 permanent disability or disfigurement, when the violation
22 was a proximate cause of the injuries. A person guilty of a
23 Class 4 felony under this paragraph 2, if sentenced to a
24 term of imprisonment, shall be sentenced to not less than
25 one year nor more than 12 years; or

26 3. The offense occurred during a period in which the

1 person's privileges to operate a snowmobile are revoked or
2 suspended, and the revocation or suspension was for a
3 violation of this Section or was imposed under Section
4 5-7.1.

5 (e) Every person convicted of violating this Section is
6 guilty of a Class 2 felony if the offense results in the death
7 of a person. A person guilty of a Class 2 felony under this
8 subsection (e), if sentenced to a term of imprisonment, shall
9 be sentenced to a term of not less than 3 years and not more
10 than 14 years.

11 (e-1) Every person convicted of violating this Section or a
12 similar provision of a local ordinance who had a child under
13 the age of 16 on board the snowmobile at the time of offense
14 shall be subject to a mandatory minimum fine of \$500 and shall
15 be subject to a mandatory minimum of 5 days of community
16 service in a program benefiting children. The assignment under
17 this subsection shall not be subject to suspension nor shall
18 the person be eligible for probation in order to reduce the
19 assignment.

20 (e-2) Every person found guilty of violating this Section,
21 whose operation of a snowmobile while in violation of this
22 Section proximately caused any incident resulting in an
23 appropriate emergency response, shall be liable for the expense
24 of an emergency response as provided in subsection (i) of
25 Section 11-501.01 of the Illinois Vehicle Code.

26 (e-3) In addition to any other penalties and liabilities, a

1 person who is found guilty of violating this Section, including
2 any person placed on court supervision, shall be fined \$100,
3 payable to the circuit clerk, who shall distribute the money to
4 the law enforcement agency that made the arrest. In the event
5 that more than one agency is responsible for the arrest, the
6 \$100 shall be shared equally. Any moneys received by a law
7 enforcement agency under this subsection (e-3) shall be used to
8 purchase law enforcement equipment or to provide law
9 enforcement training that will assist in the prevention of
10 alcohol related criminal violence throughout the State. Law
11 enforcement equipment shall include, but is not limited to,
12 in-car video cameras, radar and laser speed detection devices,
13 and alcohol breath testers.

14 (f) In addition to any criminal penalties imposed, the
15 Department of Natural Resources shall suspend the snowmobile
16 operation privileges of a person convicted or found guilty of a
17 misdemeanor under this Section for a period of one year, except
18 that first-time offenders are exempt from this mandatory one
19 year suspension.

20 (g) In addition to any criminal penalties imposed, the
21 Department of Natural Resources shall suspend for a period of 5
22 years the snowmobile operation privileges of any person
23 convicted or found guilty of a felony under this Section.

24 (h) In addition to any other fine or penalty required by
25 law, an individual who is convicted of, or who pleads guilty
26 to, a violation of this Section or a similar provision of a

1 local ordinance shall pay to the circuit clerk a fee of \$100 to
2 be deposited into the Residential Substance Abuse Treatment
3 Fund.

4 (Source: P.A. 95-149, eff. 8-14-07; 96-1000, eff. 7-2-10.)

5 Section 20. The Boat Registration and Safety Act is amended
6 by changing Section 5-16 as follows:

7 (625 ILCS 45/5-16)

8 Sec. 5-16. Operating a watercraft under the influence of
9 alcohol, other drug or drugs, intoxicating compound or
10 compounds, or combination thereof.

11 (A) 1. A person shall not operate or be in actual physical
12 control of any watercraft within this State while:

13 (a) The alcohol concentration in such person's
14 blood or breath is a concentration at which driving a
15 motor vehicle is prohibited under subdivision (1) of
16 subsection (a) of Section 11-501 of the Illinois
17 Vehicle Code;

18 (b) Under the influence of alcohol;

19 (c) Under the influence of any other drug or
20 combination of drugs to a degree which renders such
21 person incapable of safely operating any watercraft;

22 (c-1) Under the influence of any intoxicating
23 compound or combination of intoxicating compounds to a
24 degree that renders the person incapable of safely

1 operating any watercraft;

2 (d) Under the combined influence of alcohol and any
3 other drug or drugs to a degree which renders such
4 person incapable of safely operating a watercraft; or

5 (e) There is any amount of a drug, substance, or
6 compound in the person's blood or urine resulting from
7 the unlawful use or consumption of cannabis listed in
8 the Cannabis Control Act, a controlled substance
9 listed in the Illinois Controlled Substances Act, or an
10 intoxicating compound listed in the Use of
11 Intoxicating Compounds Act.

12 2. The fact that any person charged with violating this
13 Section is or has been legally entitled to use alcohol,
14 other drug or drugs, any intoxicating compound or
15 compounds, or any combination of them, shall not constitute
16 a defense against any charge of violating this Section.

17 3. Every person convicted of violating this Section
18 shall be guilty of a Class A misdemeanor, except as
19 otherwise provided in this Section.

20 4. Every person convicted of violating this Section
21 shall be guilty of a Class 4 felony if:

22 (a) He has a previous conviction under this
23 Section;

24 (b) The offense results in personal injury where a
25 person other than the operator suffers great bodily
26 harm or permanent disability or disfigurement, when

1 the violation was a proximate cause of the injuries. A
2 person guilty of a Class 4 felony under this
3 subparagraph (b), if sentenced to a term of
4 imprisonment, shall be sentenced to a term of not less
5 than one year nor more than 12 years; or

6 (c) The offense occurred during a period in which
7 his or her privileges to operate a watercraft are
8 revoked or suspended, and the revocation or suspension
9 was for a violation of this Section or was imposed
10 under subsection (B).

11 5. Every person convicted of violating this Section
12 shall be guilty of a Class 2 felony if the offense results
13 in the death of a person. A person guilty of a Class 2
14 felony under this paragraph 5, if sentenced to a term of
15 imprisonment, shall be sentenced to a term of not less than
16 3 years and not more than 14 years.

17 5.1. A person convicted of violating this Section or a
18 similar provision of a local ordinance who had a child
19 under the age of 16 aboard the watercraft at the time of
20 offense is subject to a mandatory minimum fine of \$500 and
21 to a mandatory minimum of 5 days of community service in a
22 program benefiting children. The assignment under this
23 paragraph 5.1 is not subject to suspension and the person
24 is not eligible for probation in order to reduce the
25 assignment.

26 5.2. A person found guilty of violating this Section,

1 if his or her operation of a watercraft while in violation
2 of this Section proximately caused any incident resulting
3 in an appropriate emergency response, is liable for the
4 expense of an emergency response as provided in subsection
5 (m) of Section 11-501 of the Illinois Vehicle Code.

6 5.3. In addition to any other penalties and
7 liabilities, a person who is found guilty of violating this
8 Section, including any person placed on court supervision,
9 shall be fined \$100, payable to the circuit clerk, who
10 shall distribute the money to the law enforcement agency
11 that made the arrest. In the event that more than one
12 agency is responsible for the arrest, the \$100 shall be
13 shared equally. Any moneys received by a law enforcement
14 agency under this paragraph 5.3 shall be used to purchase
15 law enforcement equipment or to provide law enforcement
16 training that will assist in the prevention of alcohol
17 related criminal violence throughout the State. Law
18 enforcement equipment shall include, but is not limited to,
19 in-car video cameras, radar and laser speed detection
20 devices, and alcohol breath testers.

21 6. (a) In addition to any criminal penalties imposed,
22 the Department of Natural Resources shall suspend the
23 watercraft operation privileges of any person
24 convicted or found guilty of a misdemeanor under this
25 Section, a similar provision of a local ordinance, or
26 Title 46 of the U.S. Code of Federal Regulations for a

1 period of one year, except that a first time offender
2 is exempt from this mandatory one year suspension.

3 As used in this subdivision (A)6(a), "first time
4 offender" means any person who has not had a previous
5 conviction or been assigned supervision for violating
6 this Section, a similar provision of a local ordinance
7 or, Title 46 of the U.S. Code of Federal Regulations,
8 or any person who has not had a suspension imposed
9 under subdivision (B)3.1 of Section 5-16.

10 (b) In addition to any criminal penalties imposed,
11 the Department of Natural Resources shall suspend the
12 watercraft operation privileges of any person
13 convicted of a felony under this Section, a similar
14 provision of a local ordinance, or Title 46 of the U.S.
15 Code of Federal Regulations for a period of 3 years.

16 (B) 1. Any person who operates or is in actual physical
17 control of any watercraft upon the waters of this State
18 shall be deemed to have given consent to a chemical test or
19 tests of blood, breath or urine for the purpose of
20 determining the content of alcohol, other drug or drugs,
21 intoxicating compound or compounds, or combination thereof
22 in the person's blood if arrested for any offense of
23 subsection (A) above. The chemical test or tests shall be
24 administered at the direction of the arresting officer. The
25 law enforcement agency employing the officer shall
26 designate which of the tests shall be administered. A urine

1 test may be administered even after a blood or breath test
2 or both has been administered.

3 1.1. For the purposes of this Section, an Illinois Law
4 Enforcement officer of this State who is investigating the
5 person for any offense defined in Section 5-16 may travel
6 into an adjoining state, where the person has been
7 transported for medical care to complete an investigation,
8 and may request that the person submit to the test or tests
9 set forth in this Section. The requirements of this Section
10 that the person be arrested are inapplicable, but the
11 officer shall issue the person a uniform citation for an
12 offense as defined in Section 5-16 or a similar provision
13 of a local ordinance prior to requesting that the person
14 submit to the test or tests. The issuance of the uniform
15 citation shall not constitute an arrest, but shall be for
16 the purpose of notifying the person that he or she is
17 subject to the provisions of this Section and of the
18 officer's belief in the existence of probable cause to
19 arrest. Upon returning to this State, the officer shall
20 file the uniform citation with the circuit clerk of the
21 county where the offense was committed and shall seek the
22 issuance of an arrest warrant or a summons for the person.

23 1.2. Notwithstanding any ability to refuse under this
24 Act to submit to these tests or any ability to revoke the
25 implied consent to these tests, if a law enforcement
26 officer has probable cause to believe that a watercraft

1 operated by or under actual physical control of a person
2 under the influence of alcohol, other drug or drugs,
3 intoxicating compound or compounds, or any combination of
4 them has caused the death of or personal injury to another,
5 that person shall submit, upon the request of a law
6 enforcement officer, to a chemical test or tests of his or
7 her blood, breath, or urine for the purpose of determining
8 the alcohol content or the presence of any other drug,
9 intoxicating compound, or combination of them. For the
10 purposes of this Section, a personal injury includes severe
11 bleeding wounds, distorted extremities, and injuries that
12 require the injured party to be carried from the scene for
13 immediate professional attention in either a doctor's
14 office or a medical facility.

15 2. Any person who is dead, unconscious or who is
16 otherwise in a condition rendering such person incapable of
17 refusal, shall be deemed not to have withdrawn the consent
18 provided above, and the test may be administered.

19 3. A person requested to submit to a chemical test as
20 provided above shall be verbally advised by the law
21 enforcement officer requesting the test that a refusal to
22 submit to the test will result in suspension of such
23 person's privilege to operate a watercraft for a minimum of
24 2 years. Following this warning, if a person under arrest
25 refuses upon the request of a law enforcement officer to
26 submit to a test designated by the officer, no test shall

1 be given, but the law enforcement officer shall file with
2 the clerk of the circuit court for the county in which the
3 arrest was made, and with the Department of Natural
4 Resources, a sworn statement naming the person refusing to
5 take and complete the chemical test or tests requested
6 under the provisions of this Section. Such sworn statement
7 shall identify the arrested person, such person's current
8 residence address and shall specify that a refusal by such
9 person to take the chemical test or tests was made. Such
10 sworn statement shall include a statement that the
11 arresting officer had reasonable cause to believe the
12 person was operating or was in actual physical control of
13 the watercraft within this State while under the influence
14 of alcohol, other drug or drugs, intoxicating compound or
15 compounds, or combination thereof and that such chemical
16 test or tests were made as an incident to and following the
17 lawful arrest for an offense as defined in this Section or
18 a similar provision of a local ordinance, and that the
19 person after being arrested for an offense arising out of
20 acts alleged to have been committed while so operating a
21 watercraft refused to submit to and complete a chemical
22 test or tests as requested by the law enforcement officer.

23 3.1. The law enforcement officer submitting the sworn
24 statement as provided in paragraph 3 of this subsection (B)
25 shall serve immediate written notice upon the person
26 refusing the chemical test or tests that the person's

1 privilege to operate a watercraft within this State will be
2 suspended for a period of 2 years unless, within 28 days
3 from the date of the notice, the person requests in writing
4 a hearing on the suspension.

5 If the person desires a hearing, such person shall file
6 a complaint in the circuit court for and in the county in
7 which such person was arrested for such hearing. Such
8 hearing shall proceed in the court in the same manner as
9 other civil proceedings, shall cover only the issues of
10 whether the person was placed under arrest for an offense
11 as defined in this Section or a similar provision of a
12 local ordinance as evidenced by the issuance of a uniform
13 citation; whether the arresting officer had reasonable
14 grounds to believe that such person was operating a
15 watercraft while under the influence of alcohol, other drug
16 or drugs, intoxicating compound or compounds, or
17 combination thereof; and whether such person refused to
18 submit and complete the chemical test or tests upon the
19 request of the law enforcement officer. Whether the person
20 was informed that such person's privilege to operate a
21 watercraft would be suspended if such person refused to
22 submit to the chemical test or tests shall not be an issue.

23 If the person fails to request in writing a hearing
24 within 28 days from the date of notice, or if a hearing is
25 held and the court finds against the person on the issues
26 before the court, the clerk shall immediately notify the

1 Department of Natural Resources, and the Department shall
2 suspend the watercraft operation privileges of the person
3 for at least 2 years.

4 3.2. If the person submits to a test that discloses an
5 alcohol concentration of 0.08 or more, or any amount of a
6 drug, substance or intoxicating compound in the person's
7 breath, blood, or urine resulting from the unlawful use of
8 cannabis listed in the Cannabis Control Act, a controlled
9 substance listed in the Illinois Controlled Substances
10 Act, or an intoxicating compound listed in the Use of
11 Intoxicating Compounds Act, the law enforcement officer
12 shall immediately submit a sworn report to the circuit
13 clerk of venue and the Department of Natural Resources,
14 certifying that the test or tests were requested under
15 paragraph 1 of this subsection (B) and the person submitted
16 to testing that disclosed an alcohol concentration of 0.08
17 or more.

18 In cases where the blood alcohol concentration of 0.08
19 or greater or any amount of drug, substance or compound
20 resulting from the unlawful use of cannabis, a controlled
21 substance or an intoxicating compound is established by a
22 subsequent analysis of blood or urine collected at the time
23 of arrest, the arresting officer or arresting agency shall
24 immediately submit a sworn report to the circuit clerk of
25 venue and the Department of Natural Resources upon receipt
26 of the test results.

1 4. A person must submit to each chemical test offered
2 by the law enforcement officer in order to comply with the
3 implied consent provisions of this Section.

4 5. The provisions of Section 11-501.2 of the Illinois
5 Vehicle Code, as amended, concerning the certification and
6 use of chemical tests apply to the use of such tests under
7 this Section.

8 (C) Upon the trial of any civil or criminal action or
9 proceeding arising out of acts alleged to have been committed
10 by any person while operating a watercraft while under the
11 influence of alcohol, the concentration of alcohol in the
12 person's blood or breath at the time alleged as shown by
13 analysis of a person's blood, urine, breath, or other bodily
14 substance shall give rise to the presumptions specified in
15 subdivisions 1, 2, and 3 of subsection (b) of Section 11-501.2
16 of the Illinois Vehicle Code. The foregoing provisions of this
17 subsection (C) shall not be construed as limiting the
18 introduction of any other relevant evidence bearing upon the
19 question whether the person was under the influence of alcohol.

20 (D) If a person under arrest refuses to submit to a
21 chemical test under the provisions of this Section, evidence of
22 refusal shall be admissible in any civil or criminal action or
23 proceeding arising out of acts alleged to have been committed
24 while the person under the influence of alcohol, other drug or
25 drugs, intoxicating compound or compounds, or combination of
26 them was operating a watercraft.

1 (E) The owner of any watercraft or any person given
2 supervisory authority over a watercraft, may not knowingly
3 permit a watercraft to be operated by any person under the
4 influence of alcohol, other drug or drugs, intoxicating
5 compound or compounds, or combination thereof.

6 (F) Whenever any person is convicted or found guilty of a
7 violation of this Section, including any person placed on court
8 supervision, the court shall notify the Office of Law
9 Enforcement of the Department of Natural Resources, to provide
10 the Department with the records essential for the performance
11 of the Department's duties to monitor and enforce any order of
12 suspension or revocation concerning the privilege to operate a
13 watercraft.

14 (G) No person who has been arrested and charged for
15 violating paragraph 1 of subsection (A) of this Section shall
16 operate any watercraft within this State for a period of 24
17 hours after such arrest.

18 (H) In addition to any other fine or penalty required by
19 law, an individual who is convicted of, or who pleads guilty
20 to, a violation of this Section or a similar provision of a
21 local ordinance shall pay to the circuit clerk a fee of \$100 to
22 be deposited into the Residential Substance Abuse Treatment
23 Fund.

24 (Source: P.A. 94-214, eff. 1-1-06; 95-149, eff. 8-14-07.)

25 Section 25. The Cannabis Control Act is amended by changing

1 Section 12 as follows:

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

3 Sec. 12. (a) The following are subject to forfeiture:

4 (1) all substances containing cannabis which have been
5 produced, manufactured, delivered, or possessed in
6 violation of this Act;

7 (2) all raw materials, products and equipment of any
8 kind which are produced, delivered, or possessed in
9 connection with any substance containing cannabis in
10 violation of this Act;

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

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

23 (ii) no conveyance is subject to forfeiture under
24 this Section by reason of any act or omission which the
25 owner proves to have been committed or omitted without

1 his knowledge or consent;

2 (iii) a forfeiture of a conveyance encumbered by a
3 bona fide security interest is subject to the interest
4 of the secured party if he neither had knowledge of nor
5 consented to the act or omission;

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

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

16 (6) all real property, including any right, title, and
17 interest including, but not limited to, any leasehold
18 interest or the beneficial interest to a land trust, in the
19 whole of any lot or tract of land and any appurtenances or
20 improvements, that is used or intended to be used to
21 facilitate the manufacture, distribution, sale, receipt,
22 or concealment of property described in paragraph (1) or
23 (2) of this subsection (a) that constitutes a felony
24 violation of more than 2,000 grams of a substance
25 containing cannabis or that is the proceeds of any felony
26 violation of this Act.

1 (b) Property subject to forfeiture under this Act may be
2 seized by the Director or any peace officer upon process or
3 seizure warrant issued by any court having jurisdiction over
4 the property. Seizure by the Director or any peace officer
5 without process may be made:

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

11 (2) if there is probable cause to believe that the
12 property is directly or indirectly dangerous to health or
13 safety;

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

18 (4) in accordance with the Code of Criminal Procedure
19 of 1963.

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

1 this Section may be postponed.

2 (c-1) In the event the State's Attorney is of the opinion
3 that real property is subject to forfeiture under this Act,
4 forfeiture proceedings shall be instituted in accordance with
5 the Drug Asset Forfeiture Procedure Act. The exemptions from
6 forfeiture provisions of Section 8 of the Drug Asset Forfeiture
7 Procedure Act are applicable.

8 (d) Property taken or detained under this Section shall not
9 be subject to replevin, but is deemed to be in the custody of
10 the Director subject only to the order and judgments of the
11 circuit court having jurisdiction over the forfeiture
12 proceedings and the decisions of the State's Attorney under the
13 Drug Asset Forfeiture Procedure Act. When property is seized
14 under this Act, the seizing agency shall promptly conduct an
15 inventory of the seized property, estimate the property's
16 value, and shall forward a copy of the inventory of seized
17 property and the estimate of the property's value to the
18 Director. Upon receiving notice of seizure, the Director may:

- 19 (1) place the property under seal;
- 20 (2) remove the property to a place designated by him;
- 21 (3) keep the property in the possession of the seizing
22 agency;
- 23 (4) remove the property to a storage area for
24 safekeeping or, if the property is a negotiable instrument
25 or money and is not needed for evidentiary purposes,
26 deposit it in an interest bearing account;

1 (5) place the property under constructive seizure by
2 posting notice of pending forfeiture on it, by giving
3 notice of pending forfeiture to its owners and interest
4 holders, or by filing notice of pending forfeiture in any
5 appropriate public record relating to the property; or

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

10 (e) No disposition may be made of property under seal until
11 the time for taking an appeal has elapsed or until all appeals
12 have been concluded unless a court, upon application therefor,
13 orders the sale of perishable substances and the deposit of the
14 proceeds of the sale with the court.

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

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

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

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

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

7 (ii) Any local, municipal, or county law enforcement
8 agency entitled to receive a monetary distribution of
9 forfeiture proceeds may share those forfeiture proceeds
10 pursuant to the terms of an intergovernmental agreement
11 with a municipality that has a population in excess of
12 20,000 if:

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

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

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

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

1 purchase of law enforcement equipment, or vehicles.

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

24 (ii) 12.5% shall be distributed to the Office of the
25 State's Attorneys Appellate Prosecutor and deposited in
26 the Narcotics Profit Forfeiture Fund of that Office to be

1 used for additional expenses incurred in the
2 investigation, prosecution and appeal of cases arising
3 under laws governing cannabis and controlled substances.
4 The Office of the State's Attorneys Appellate Prosecutor
5 shall not receive distribution from cases brought in
6 counties with over 3,000,000 population.

7 (3) 10% shall be retained by the Department of State
8 Police for expenses related to the administration and sale
9 of seized and forfeited property.

10 (Source: P.A. 97-253, eff. 1-1-12; 97-544, eff. 1-1-12; 97-813,
11 eff. 7-13-12; 97-985, eff. 1-1-13.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.