



Sen. Jennifer Bertino-Tarrant

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LRB099 03375 RLC 46433 a

1 AMENDMENT TO SENATE BILL 212

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 212 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; for public  
15 education in the community or schools in the prevention or  
16 detection of the abuse of drugs or alcohol; or for security  
17 cameras used for the prevention or detection of violence,  
18 except that amounts distributed to the Secretary of State  
19 shall be deposited into the Secretary of State Evidence  
20 Fund to be used as provided in Section 2-115 of the  
21 Illinois Vehicle Code.

22 (ii) Any local, municipal, or county law enforcement  
23 agency entitled to receive a monetary distribution of  
24 forfeiture proceeds may 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; for  
12 public education in the community or schools in the  
13 prevention or detection of the abuse of drugs or  
14 alcohol; or for security cameras used for the  
15 prevention or detection of violence or the  
16 establishment of a municipal police force, including  
17 the training of officers, construction of a police  
18 station, the purchase of law enforcement equipment, or  
19 vehicles.

20 (2) (i) 12.5% shall be distributed to the Office of the  
21 State's Attorney of the county in which the prosecution  
22 resulting in the forfeiture was instituted, deposited in a  
23 special fund in the county treasury and appropriated to the  
24 State's Attorney for use in the enforcement of laws  
25 governing cannabis and controlled substances; for public  
26 education in the community or schools in the prevention or



1        detection of the abuse of drugs or alcohol; or at the  
2        discretion of the State's Attorney, in addition to other  
3        authorized purposes, to make grants to local substance  
4        abuse treatment facilities and half-way houses. In  
5        counties over 3,000,000 population, 25% will be  
6        distributed to the Office of the State's Attorney for use  
7        in the enforcement of laws governing cannabis and  
8        controlled substances; for public education in the  
9        community or schools in the prevention or detection of the  
10       abuse of drugs or alcohol; or at the discretion of the  
11       State's Attorney, in addition to other authorized  
12       purposes, to make grants to local substance abuse treatment  
13       facilities and half-way houses. If the prosecution is  
14       undertaken solely by the Attorney General, the portion  
15       provided hereunder shall be distributed to the Attorney  
16       General for use in the enforcement of laws governing  
17       cannabis and controlled substances.

18       (ii) 12.5% shall be distributed to the Office of the  
19       State's Attorneys Appellate Prosecutor and deposited in  
20       the Narcotics Profit Forfeiture Fund of that Office to be  
21       used for additional expenses incurred in the  
22       investigation, prosecution and appeal of cases arising  
23       under laws governing cannabis and controlled substances or  
24       for public education in the community or schools in the  
25       prevention or detection of the abuse of drugs or alcohol.

26       The Office of the State's Attorneys Appellate Prosecutor

1 shall not receive distribution from cases brought in  
2 counties with over 3,000,000 population.

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

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

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

10 (720 ILCS 570/505) (from Ch. 56 1/2, par. 1505)

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

12 (1) all substances which have been manufactured,  
13 distributed, dispensed, or possessed in violation of this  
14 Act;

15 (2) all raw materials, products and equipment of any  
16 kind which are used, or intended for use in manufacturing,  
17 distributing, dispensing, administering or possessing any  
18 substance in violation of this Act;

19 (3) all conveyances, including aircraft, vehicles or  
20 vessels, which are used, or intended for use, to transport,  
21 or in any manner to facilitate the transportation, sale,  
22 receipt, possession, or concealment of property described  
23 in paragraphs (1) and (2), but:

24 (i) no conveyance used by any person as a common

1 carrier in the transaction of business as a common  
2 carrier is subject to forfeiture under this Section  
3 unless it appears that the owner or other person in  
4 charge of the conveyance is a consenting party or privy  
5 to a violation of this Act;

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

10 (iii) a forfeiture of a conveyance encumbered by a  
11 bona fide security interest is subject to the interest  
12 of the secured party if he or she neither had knowledge  
13 of nor consented to the act or omission;

14 (4) all money, things of value, books, records, and  
15 research products and materials including formulas,  
16 microfilm, tapes, and data which are used, or intended to  
17 be used in violation of this Act;

18 (5) everything of value furnished, or intended to be  
19 furnished, in exchange for a substance in violation of this  
20 Act, all proceeds traceable to such an exchange, and all  
21 moneys, negotiable instruments, and securities used, or  
22 intended to be used, to commit or in any manner to  
23 facilitate any violation of this Act;

24 (6) all real property, including any right, title, and  
25 interest (including, but not limited to, any leasehold  
26 interest or the beneficial interest in a land trust) in the

1 whole of any lot or tract of land and any appurtenances or  
2 improvements, which is used or intended to be used, in any  
3 manner or part, to commit, or in any manner to facilitate  
4 the commission of, any violation or act that constitutes a  
5 violation of Section 401 or 405 of this Act or that is the  
6 proceeds of any violation or act that constitutes a  
7 violation of Section 401 or 405 of this Act.

8 (b) Property subject to forfeiture under this Act may be  
9 seized by the Director or any peace officer upon process or  
10 seizure warrant issued by any court having jurisdiction over  
11 the property. Seizure by the Director or any peace officer  
12 without process may be made:

13 (1) if the seizure is incident to inspection under an  
14 administrative inspection warrant;

15 (2) if the property subject to seizure has been the  
16 subject of a prior judgment in favor of the State in a  
17 criminal proceeding, or in an injunction or forfeiture  
18 proceeding based upon this Act or the Drug Asset Forfeiture  
19 Procedure Act;

20 (3) if there is probable cause to believe that the  
21 property is directly or indirectly dangerous to health or  
22 safety;

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

1           (5) in accordance with the Code of Criminal Procedure  
2           of 1963.

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

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

22                 (1) place the property under seal;

23                 (2) remove the property to a place designated by the  
24          Director;

25                 (3) keep the property in the possession of the seizing  
26          agency;

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

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

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

14           (e) If the Department of Financial and Professional  
15 Regulation suspends or revokes a registration, all controlled  
16 substances owned or possessed by the registrant at the time of  
17 suspension or the effective date of the revocation order may be  
18 placed under seal by the Director. No disposition may be made  
19 of substances under seal until the time for taking an appeal  
20 has elapsed or until all appeals have been concluded unless a  
21 court, upon application therefor, orders the sale of perishable  
22 substances and the deposit of the proceeds of the sale with the  
23 court. Upon a suspension or revocation order becoming final,  
24 all substances may be forfeited to the Illinois State Police.

25           (f) When property is forfeited under this Act the Director  
26 shall sell all such property unless such property is required

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

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

25 (1) (i) 65% shall be distributed to the metropolitan  
26 enforcement group, local, municipal, county, or state law

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

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

25 (I) the receiving agency has entered into an  
26 intergovernmental agreement with the municipality to



1 provide police services;

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

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

7 (IV) the funds are used only for the enforcement of  
8 laws governing cannabis and controlled substances; for  
9 public education in the community or schools in the  
10 prevention or detection of the abuse of drugs or  
11 alcohol; or for security cameras used for the  
12 prevention or detection of violence or the  
13 establishment of a municipal police force, including  
14 the training of officers, construction of a police  
15 station, the purchase of law enforcement equipment, or  
16 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 cannabis and controlled substances; for public  
23 education in the community or schools in the prevention or  
24 detection of the abuse of drugs or alcohol;~~7~~ or at the  
25 discretion of the State's Attorney, in addition to other  
26 authorized purposes, to make grants to local substance

1 abuse treatment facilities and half-way houses. In  
2 counties over 3,000,000 population, 25% will be  
3 distributed to the Office of the State's Attorney for use  
4 in the enforcement of laws governing cannabis and  
5 controlled substances; for public education in the  
6 community or schools in the prevention or detection of the  
7 abuse of drugs or alcohol, or at the discretion of the  
8 State's Attorney, in addition to other authorized  
9 purposes, to make grants to local substance abuse treatment  
10 facilities and half-way houses. If the prosecution is  
11 undertaken solely by the Attorney General, the portion  
12 provided hereunder shall be distributed to the Attorney  
13 General for use in the enforcement of laws governing  
14 cannabis and controlled substances or for public education  
15 in the community or schools in the prevention or detection  
16 of the abuse of drugs or alcohol.

17 (ii) 12.5% shall be distributed to the Office of the  
18 State's Attorneys Appellate Prosecutor and deposited in  
19 the Narcotics Profit Forfeiture Fund of that office to be  
20 used for additional expenses incurred in the  
21 investigation, prosecution and appeal of cases arising  
22 under laws governing cannabis and controlled substances or  
23 for public education in the community or schools in the  
24 prevention or detection of the abuse of drugs or alcohol.

25 The Office of the State's Attorneys Appellate Prosecutor  
26 shall not receive distribution from cases brought in

1 counties with over 3,000,000 population.

2 (3) 10% shall be retained by the Department of State  
3 Police for expenses related to the administration and sale  
4 of seized and forfeited property.

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

16 (Source: P.A. 97-253, eff. 1-1-12; 97-334, eff. 1-1-12; 97-544,  
17 eff. 1-1-12; 97-813, eff. 7-13-12; 97-985, eff. 1-1-13.)

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

20 (720 ILCS 646/85)

21 Sec. 85. Forfeiture.

22 (a) The following are subject to forfeiture:

23 (1) all substances containing methamphetamine which  
24 have been produced, manufactured, delivered, or possessed

1 in violation of this Act;

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

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

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

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

22 (iii) a forfeiture of a conveyance encumbered by a  
23 bona fide security interest is subject to the interest  
24 of the secured party if he or she neither had knowledge  
25 of nor consented to the act or omission;

26 (4) all money, things of value, books, records, and

1 research products and materials including formulas,  
2 microfilm, tapes, and data which are used, or intended for  
3 use in a felony violation of this Act;

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

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

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

24 (1) if the property subject to seizure has been the  
25 subject of a prior judgment in favor of the State in a  
26 criminal proceeding or in an injunction or forfeiture

1 proceeding based upon this Act or the Drug Asset Forfeiture  
2 Procedure Act;

3 (2) if there is probable cause to believe that the  
4 property is directly or indirectly dangerous to health or  
5 safety;

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

10 (4) in accordance with the Code of Criminal Procedure  
11 of 1963.

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

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

1 the seized property, estimate the property's value, and forward  
2 a copy of the inventory of seized property and the estimate of  
3 the property's value to the Director. Upon receiving notice of  
4 seizure, the Director may:

5 (1) place the property under seal;

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

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

25 (g) All moneys 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 methamphetamine, cannabis, and controlled  
15 substances; for public education in the community or  
16 schools in the prevention or detection of the abuse of  
17 drugs or alcohol; or for security cameras used for the  
18 prevention or detection of violence, except that amounts  
19 distributed to the Secretary of State shall be deposited  
20 into the Secretary of State Evidence Fund to be used as  
21 provided in 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 may 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; for  
12                   public education in the community or schools in the  
13                   prevention or detection of the abuse of drugs or  
14                   alcohol; or for security cameras used for the  
15                   prevention or detection of violence or the  
16                   establishment of a municipal police force, including  
17                   the training of officers, construction of a police  
18                   station, the purchase of law enforcement equipment, or  
19                   vehicles.

20                   (2) (i) 12.5% shall be distributed to the Office of the  
21                   State's Attorney of the county in which the prosecution  
22                   resulting in the forfeiture was instituted, deposited in a  
23                   special fund in the county treasury and appropriated to the  
24                   State's Attorney for use in the enforcement of laws  
25                   governing methamphetamine, cannabis, and controlled  
26                   substances; for public education in the community or

1        schools in the prevention or detection of the abuse of  
2        drugs or alcohol; or at the discretion of the State's  
3        Attorney, in addition to other authorized purposes, to make  
4        grants to local substance abuse treatment facilities and  
5        half-way houses. In counties with a population over  
6        3,000,000, 25% shall be distributed to the Office of the  
7        State's Attorney for use in the enforcement of laws  
8        governing methamphetamine, cannabis, and controlled  
9        substances; for public education in the community or  
10       schools in the prevention or detection of the abuse of  
11       drugs or alcohol; or at the discretion of the State's  
12       Attorney, in addition to other authorized purposes, to make  
13       grants to local substance abuse treatment facilities and  
14       half-way houses. If the prosecution is undertaken solely by  
15       the Attorney General, the portion provided hereunder shall  
16       be distributed to the Attorney General for use in the  
17       enforcement of laws governing methamphetamine, cannabis,  
18       and controlled substances or for public education in the  
19       community or schools in the prevention or detection of the  
20       abuse of drugs or alcohol.

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 methamphetamine, cannabis, and

1           controlled substances or for public education in the  
2           community or schools in the prevention or detection of the  
3           abuse of drugs or alcohol. The Office of the State's  
4           Attorneys Appellate Prosecutor shall not receive  
5           distribution from cases brought in counties with a  
6           population over 3,000,000.

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 20. The Narcotics Profit Forfeiture Act is amended  
13          by changing Section 5 as follows:

14          (725 ILCS 175/5) (from Ch. 56 1/2, par. 1655)

15          Sec. 5. (a) A person who commits the offense of narcotics  
16          racketeering shall:

17                  (1) be guilty of a Class 1 felony; and

18                  (2) be subject to a fine of up to \$250,000.

19          A person who commits the offense of narcotics racketeering  
20          or who violates Section 3 of the Drug Paraphernalia Control Act  
21          shall forfeit to the State of Illinois: (A) any profits or  
22          proceeds and any property or property interest he has acquired  
23          or maintained in violation of this Act or Section 3 of the Drug  
24          Paraphernalia Control Act or has used to facilitate a violation

1 of this Act that the court determines, after a forfeiture  
2 hearing, under subsection (b) of this Section to have been  
3 acquired or maintained as a result of narcotics racketeering or  
4 violating Section 3 of the Drug Paraphernalia Control Act, or  
5 used to facilitate narcotics racketeering; and (B) any interest  
6 in, security of, claim against, or property or contractual  
7 right of any kind affording a source of influence over, any  
8 enterprise which he has established, operated, controlled,  
9 conducted, or participated in the conduct of, in violation of  
10 this Act or Section 3 of the Drug Paraphernalia Control Act,  
11 that the court determines, after a forfeiture hearing, under  
12 subsection (b) of this Section to have been acquired or  
13 maintained as a result of narcotics racketeering or violating  
14 Section 3 of the Drug Paraphernalia Control Act or used to  
15 facilitate narcotics racketeering.

16 (b) The court shall, upon petition by the Attorney General  
17 or State's Attorney, at any time subsequent to the filing of an  
18 information or return of an indictment, conduct a hearing to  
19 determine whether any property or property interest is subject  
20 to forfeiture under this Act. At the forfeiture hearing the  
21 people shall have the burden of establishing, by a  
22 preponderance of the evidence, that property or property  
23 interests are subject to forfeiture under this Act. There is a  
24 rebuttable presumption at such hearing that any property or  
25 property interest of a person charged by information or  
26 indictment with narcotics racketeering or who is convicted of a

1 violation of Section 3 of the Drug Paraphernalia Control Act is  
2 subject to forfeiture under this Section if the State  
3 establishes by a preponderance of the evidence that:

4 (1) such property or property interest was acquired by  
5 such person during the period of the violation of this Act  
6 or Section 3 of the Drug Paraphernalia Control Act or  
7 within a reasonable time after such period; and

8 (2) there was no likely source for such property or  
9 property interest other than the violation of this Act or  
10 Section 3 of the Drug Paraphernalia Control Act.

11 (c) In an action brought by the People of the State of  
12 Illinois under this Act, wherein any restraining order,  
13 injunction or prohibition or any other action in connection  
14 with any property or property interest subject to forfeiture  
15 under this Act is sought, the circuit court which shall preside  
16 over the trial of the person or persons charged with narcotics  
17 racketeering as defined in Section 4 of this Act or violating  
18 Section 3 of the Drug Paraphernalia Control Act shall first  
19 determine whether there is probable cause to believe that the  
20 person or persons so charged has committed the offense of  
21 narcotics racketeering as defined in Section 4 of this Act or a  
22 violation of Section 3 of the Drug Paraphernalia Control Act  
23 and whether the property or property interest is subject to  
24 forfeiture pursuant to this Act.

25 In order to make such a determination, prior to entering  
26 any such order, the court shall conduct a hearing without a

1 jury, wherein the People shall establish that there is: (i)  
2 probable cause that the person or persons so charged have  
3 committed the offense of narcotics racketeering or violating  
4 Section 3 of the Drug Paraphernalia Control Act and (ii)  
5 probable cause that any property or property interest may be  
6 subject to forfeiture pursuant to this Act. Such hearing may be  
7 conducted simultaneously with a preliminary hearing, if the  
8 prosecution is commenced by information or complaint, or by  
9 motion of the People, at any stage in the proceedings. The  
10 court may accept a finding of probable cause at a preliminary  
11 hearing following the filing of an information charging the  
12 offense of narcotics racketeering as defined in Section 4 of  
13 this Act or the return of an indictment by a grand jury  
14 charging the offense of narcotics racketeering as defined in  
15 Section 4 of this Act or after a charge is filed for violating  
16 Section 3 of the Drug Paraphernalia Control Act as sufficient  
17 evidence of probable cause as provided in item (i) above.

18 Upon such a finding, the circuit court shall enter such  
19 restraining order, injunction or prohibition, or shall take  
20 such other action in connection with any such property or  
21 property interest subject to forfeiture under this Act, as is  
22 necessary to insure that such property is not removed from the  
23 jurisdiction of the court, concealed, destroyed or otherwise  
24 disposed of by the owner of that property or property interest  
25 prior to a forfeiture hearing under subsection (b) of this  
26 Section. The Attorney General or State's Attorney shall file a

1 certified copy of such restraining order, injunction or other  
2 prohibition with the recorder of deeds or registrar of titles  
3 of each county where any such property of the defendant may be  
4 located. No such injunction, restraining order or other  
5 prohibition shall affect the rights of any bona fide purchaser,  
6 mortgagee, judgment creditor or other lien holder arising prior  
7 to the date of such filing.

8 The court may, at any time, upon verified petition by the  
9 defendant, conduct a hearing to release all or portions of any  
10 such property or interest which the court previously determined  
11 to be subject to forfeiture or subject to any restraining  
12 order, injunction, or prohibition or other action. The court  
13 may release such property to the defendant for good cause shown  
14 and within the sound discretion of the court.

15 (d) Prosecution under this Act may be commenced by the  
16 Attorney General or a State's Attorney.

17 (e) Upon an order of forfeiture being entered pursuant to  
18 subsection (b) of this Section, the court shall authorize the  
19 Attorney General to seize any property or property interest  
20 declared forfeited under this Act and under such terms and  
21 conditions as the court shall deem proper. Any property or  
22 property interest that has been the subject of an entered  
23 restraining order, injunction or prohibition or any other  
24 action filed under subsection (c) shall be forfeited unless the  
25 claimant can show by a preponderance of the evidence that the  
26 property or property interest has not been acquired or



1 maintained as a result of narcotics racketeering or has not  
2 been used to facilitate narcotics racketeering.

3 (f) The Attorney General or his designee is authorized to  
4 sell all property forfeited and seized pursuant to this Act,  
5 unless such property is required by law to be destroyed or is  
6 harmful to the public, and, after the deduction of all  
7 requisite expenses of administration and sale, shall  
8 distribute the proceeds of such sale, along with any moneys  
9 forfeited or seized, in accordance with subsection (g) or (h),  
10 whichever is applicable.

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

14 (1) An amount equal to 50% shall be distributed to the  
15 unit of local government whose officers or employees  
16 conducted the investigation into narcotics racketeering  
17 and caused the arrest or arrests and prosecution leading to  
18 the forfeiture. Amounts distributed to units of local  
19 government shall be used for enforcement of laws governing  
20 narcotics activity or for public education in the community  
21 or schools in the prevention or detection of the abuse of  
22 drugs or alcohol. In the event, however, that the  
23 investigation, arrest or arrests and prosecution leading  
24 to the forfeiture were undertaken solely by a State agency,  
25 the portion provided hereunder shall be paid into the Drug  
26 Traffic Prevention Fund in the State treasury to be used

1 for enforcement of laws governing narcotics activity.

2 (2) An amount equal to 12.5% shall be distributed to  
3 the county in which the prosecution resulting in the  
4 forfeiture was instituted, deposited in a special fund in  
5 the county treasury and appropriated to the State's  
6 Attorney for use in the enforcement of laws governing  
7 narcotics activity or for public education in the community  
8 or schools in the prevention or detection of the abuse of  
9 drugs or alcohol.

10 An amount equal to 12.5% shall be distributed to the  
11 Office of the State's Attorneys Appellate Prosecutor and  
12 deposited in the Narcotics Profit Forfeiture Fund, which is  
13 hereby created in the State treasury, to be used by the  
14 Office of the State's Attorneys Appellate Prosecutor for  
15 additional expenses incurred in prosecuting appeals  
16 arising under this Act. Any amounts remaining in the Fund  
17 after all additional expenses have been paid shall be used  
18 by the Office to reduce the participating county  
19 contributions to the Office on a pro-rated basis as  
20 determined by the board of governors of the Office of the  
21 State's Attorneys Appellate Prosecutor based on the  
22 populations of the participating counties.

23 (3) An amount equal to 25% shall be paid into the Drug  
24 Traffic Prevention Fund in the State treasury to be used by  
25 the Department of State Police for funding Metropolitan  
26 Enforcement Groups created pursuant to the

1 Intergovernmental Drug Laws Enforcement Act. Any amounts  
2 remaining in the Fund after full funding of Metropolitan  
3 Enforcement Groups shall be used for enforcement, by the  
4 State or any unit of local government, of laws governing  
5 narcotics activity or for public education in the community  
6 or schools in the prevention or detection of the abuse of  
7 drugs or alcohol.

8 (h) Where the investigation or indictment for the offense  
9 of narcotics racketeering or a violation of Section 3 of the  
10 Drug Paraphernalia Control Act has occurred under the  
11 provisions of the Statewide Grand Jury Act, all monies and the  
12 sale proceeds of all other property shall be distributed as  
13 follows:

14 (1) 60% 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 on 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 public

1       education in the community or schools in the prevention or  
2       detection of the abuse of drugs or alcohol.

3           (2) 25% shall be distributed by the Attorney General as  
4       grants to drug education, treatment and prevention  
5       programs licensed or approved by the Department of Human  
6       Services. In making these grants, the Attorney General  
7       shall take into account the plans and service priorities  
8       of, and the needs identified by, the Department of Human  
9       Services.

10          (3) 15% shall be distributed to the Attorney General  
11       and the State's Attorney, if any, participating in the  
12       prosecution resulting in the forfeiture. The distribution  
13       shall bear a reasonable relationship to the degree of  
14       direct participation in the prosecution of the offense,  
15       taking into account the total value of the property  
16       forfeited and the total amount of time spent in preparing  
17       and presenting the case, the complexity of the case and  
18       other similar factors. Amounts distributed to the Attorney  
19       General under this paragraph shall be retained in a fund  
20       held by the State Treasurer as ex-officio custodian to be  
21       designated as the Statewide Grand Jury Prosecution Fund and  
22       paid out upon the direction of the Attorney General for  
23       expenses incurred in criminal prosecutions arising under  
24       the Statewide Grand Jury Act. Amounts distributed to a  
25       State's Attorney shall be deposited in a special fund in  
26       the county treasury and appropriated to the State's

1 Attorney for use in the enforcement of laws governing  
2 narcotics activity or for public education in the community  
3 or schools in the prevention or detection of the abuse of  
4 drugs or alcohol.

5 (i) All monies deposited pursuant to this Act in the Drug  
6 Traffic Prevention Fund established under Section 5-9-1.2 of  
7 the Unified Code of Corrections are appropriated, on a  
8 continuing basis, to the Department of State Police to be used  
9 for funding Metropolitan Enforcement Groups created pursuant  
10 to the Intergovernmental Drug Laws Enforcement Act or otherwise  
11 for the enforcement of laws governing narcotics activity or for  
12 public education in the community or schools in the prevention  
13 or detection of the abuse of drugs or alcohol.

14 (Source: P.A. 89-507, eff. 7-1-97.)".