

1 AN ACT in relation to criminal law.

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

4 Section 2. The Cannabis Control Act is amended by
5 changing 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
9 been produced, manufactured, delivered, or possessed in
10 violation of this Act;

11 (2) all raw materials, products and equipment of
12 any 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
16 or vessels, which are used, or intended for use, to
17 transport, or in any manner to facilitate the
18 transportation, sale, receipt, possession, or concealment
19 of property described in paragraph (1) or (2) that
20 constitutes a felony violation of the Act, but:

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

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

31 (iii) a forfeiture of a conveyance encumbered

1 by a bona fide security interest is subject to the
2 interest of the secured party if he neither had
3 knowledge of nor consented to the act or omission;

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

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

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

20 (1) if the property subject to seizure has been the
21 subject of a prior judgment in favor of the State in a
22 criminal proceeding or in an injunction or forfeiture
23 proceeding based upon this Act or the Drug Asset
24 Forfeiture Procedure Act;

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

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

32 (4) in accordance with the Code of Criminal
33 Procedure of 1963.

34 (c) In the event of seizure pursuant to subsection (b),

1 forfeiture proceedings shall be instituted in accordance with
2 the Drug Asset Forfeiture Procedure Act.

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

15 (1) place the property under seal;

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

18 (3) keep the property in the possession of the
19 seizing agency;

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

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

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

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

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

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

23 (g) Except otherwise provided in subsection (g-5), all
24 monies and the sale proceeds of all other property forfeited
25 and seized under this Act shall be distributed as follows:

26 (1) 65% shall be distributed to the metropolitan
27 enforcement group, local, municipal, county, or state law
28 enforcement agency or agencies which conducted or
29 participated in the investigation resulting in the
30 forfeiture. The distribution shall bear a reasonable
31 relationship to the degree of direct participation of the
32 law enforcement agency in the effort resulting in the
33 forfeiture, taking into account the total value of the
34 property forfeited and the total law enforcement effort

1 with respect to the violation of the law upon which the
2 forfeiture is based. Amounts distributed to the agency
3 or agencies shall be used for the enforcement of laws
4 governing cannabis and controlled substances, except that
5 amounts distributed to the Secretary of State shall be
6 deposited into the Secretary of State Evidence Fund to be
7 used as provided in Section 2-115 of the Illinois Vehicle
8 Code.

9 (2)(i) 12.5% shall be distributed to the Office of
10 the State's Attorney of the county in which the
11 prosecution resulting in the forfeiture was
12 instituted, deposited in a special fund in the
13 county treasury and appropriated to the State's
14 Attorney for use in the enforcement of laws
15 governing cannabis and controlled substances. In
16 counties over 3,000,000 population, 25% will be
17 distributed to the Office of the State's Attorney
18 for use in the enforcement of laws governing
19 cannabis and controlled substances. If the
20 prosecution is undertaken solely by the Attorney
21 General, the portion provided hereunder shall be
22 distributed to the Attorney General for use in the
23 enforcement of laws governing cannabis and
24 controlled substances.

25 (ii) 12.5% shall be distributed to the Office
26 of the State's Attorneys Appellate Prosecutor and
27 deposited in the Narcotics Profit Forfeiture Fund of
28 that Office to be used for additional expenses
29 incurred in the investigation, prosecution and
30 appeal of cases arising under laws governing
31 cannabis and controlled substances. The Office of
32 the State's Attorneys Appellate Prosecutor shall not
33 receive distribution from cases brought in counties
34 with over 3,000,000 population.

1 (3) 10% shall be retained by the Department of
2 State Police for expenses related to the administration
3 and sale of seized and forfeited property.

4 (g-5) All moneys and the sale proceeds of all other
5 property forfeited and seized as a direct result of
6 enforcement efforts of the Illinois Conservation Police may
7 be used by the Department of Natural Resources Office of Law
8 Enforcement for use in enforcing laws regulating controlled
9 substances and cannabis on Department of Natural Resources
10 regulated lands and waterways.

11 (Source: P.A. 89-404, eff. 8-20-95; 90-593, eff. 6-19-98.)

12 Section 3. The Illinois Controlled Substances Act is
13 amended by changing Section 505 as follows:

14 (720 ILCS 570/505) (from Ch. 56 1/2, par. 1505)

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

16 (1) all substances which have been manufactured,
17 distributed, dispensed, or possessed in violation of this
18 Act;

19 (2) all raw materials, products and equipment of
20 any kind which are used, or intended for use in
21 manufacturing, distributing, dispensing, administering or
22 possessing any substance in violation of this Act;

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

28 (i) no conveyance used by any person as a
29 common carrier in the transaction of business as a
30 common carrier is subject to forfeiture under this
31 Section unless it appears that the owner or other
32 person in charge of the conveyance is a consenting

1 party or privy to a violation of this Act;

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

6 (iii) a forfeiture of a conveyance encumbered
7 by a bona fide security interest is subject to the
8 interest of the secured party if he neither had
9 knowledge of nor consented to the act or omission;

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

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

20 (6) all real property, including any right, title,
21 and interest (including, but not limited to, any
22 leasehold interest or the beneficial interest in a land
23 trust) in the whole of any lot or tract of land and any
24 appurtenances or improvements, which is used or intended
25 to be used, in any manner or part, to commit, or in any
26 manner to facilitate the commission of, any violation or
27 act that constitutes a violation of Section 401 or 405 of
28 this Act or that is the proceeds of any violation or act
29 that constitutes a violation of Section 401 or 405 of
30 this Act.

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

1 without process may be made:

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

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

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

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

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

18 (c) In the event of seizure pursuant to subsection (b),
19 forfeiture proceedings shall be instituted in accordance with
20 the Drug Asset Forfeiture Procedure Act.

21 (d) Property taken or detained under this Section shall
22 not be subject to replevin, but is deemed to be in the
23 custody of the Director subject only to the order and
24 judgments of the circuit court having jurisdiction over the
25 forfeiture proceedings and the decisions of the State's
26 Attorney under the Drug Asset Forfeiture Procedure Act. When
27 property is seized under this Act, the seizing agency shall
28 promptly conduct an inventory of the seized property and
29 estimate the property's value, and shall forward a copy of
30 the inventory of seized property and the estimate of the
31 property's value to the Director. Upon receiving notice of
32 seizure, the Director may:

33 (1) place the property under seal;

34 (2) remove the property to a place designated by

1 the Director;

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

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

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

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

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

29 (f) When property is forfeited under this Act the
30 Director shall sell all such property unless such property is
31 required by law to be destroyed or is harmful to the public,
32 and shall distribute the proceeds of the sale, together with
33 any moneys forfeited or seized, in accordance with
34 subsections subsection (g) and (g-5). However, upon the

1 application of the seizing agency or prosecutor who was
2 responsible for the investigation, arrest or arrests and
3 prosecution which lead to the forfeiture, the Director may
4 return any item of forfeited property to the seizing agency
5 or prosecutor for official use in the enforcement of laws
6 relating to cannabis or controlled substances, if the agency
7 or prosecutor can demonstrate that the item requested would
8 be useful to the agency or prosecutor in their enforcement
9 efforts. When any real property returned to the seizing
10 agency is sold by the agency or its unit of government, the
11 proceeds of the sale shall be delivered to the Director and
12 distributed in accordance with subsections ~~subsection~~ (g) and
13 (g-5).

14 (g) Except as otherwise provided in subsection (g-5),
15 all monies and the sale proceeds of all other property
16 forfeited and seized under this Act shall be distributed as
17 follows:

18 (1) 65% shall be distributed to the metropolitan
19 enforcement group, local, municipal, county, or state law
20 enforcement agency or agencies which conducted or
21 participated in the investigation resulting in the
22 forfeiture. The distribution shall bear a reasonable
23 relationship to the degree of direct participation of the
24 law enforcement agency in the effort resulting in the
25 forfeiture, taking into account the total value of the
26 property forfeited and the total law enforcement effort
27 with respect to the violation of the law upon which the
28 forfeiture is based. Amounts distributed to the agency or
29 agencies shall be used for the enforcement of laws
30 governing cannabis and controlled substances, except that
31 amounts distributed to the Secretary of State shall be
32 deposited into the Secretary of State Evidence Fund to be
33 used as provided in Section 2-115 of the Illinois Vehicle
34 Code.

1 (2) (i) 12.5% shall be distributed to the Office of
 2 the State's Attorney of the county in which the
 3 prosecution resulting in the forfeiture was instituted,
 4 deposited in a special fund in the county treasury and
 5 appropriated to the State's Attorney for use in the
 6 enforcement of laws governing cannabis and controlled
 7 substances. In counties over 3,000,000 population, 25%
 8 will be distributed to the Office of the State's Attorney
 9 for use in the enforcement of laws governing cannabis and
 10 controlled substances. If the prosecution is undertaken
 11 solely by the Attorney General, the portion provided
 12 hereunder shall be distributed to the Attorney General
 13 for use in the enforcement of laws governing cannabis and
 14 controlled substances.

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

24 (3) 10% shall be retained by the Department of
 25 State Police for expenses related to the administration
 26 and sale of seized and forfeited property.

27 (g-5) All moneys and the sale proceeds of all other
 28 property forfeited and seized as a direct result of
 29 enforcement efforts of the Illinois Conservation Police may
 30 be used by the Department of Natural Resources Office of Law
 31 Enforcement for use in enforcing laws regulating controlled
 32 substances and cannabis on Department of Natural Resources
 33 regulated lands and waterways.

34 (h) Species of plants from which controlled substances

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

11 (Source: P.A. 89-404, eff. 8-20-95; 90-593, eff.
 12 6-19-98.)

13 Section 5. The Unified Code of Corrections is amended
 14 by changing Section 5-9-1.2 as follows:

15 (730 ILCS 5/5-9-1.2) (from Ch. 38, par. 1005-9-1.2)

16 Sec. 5-9-1.2. (a) Twelve and one-half percent of all
 17 amounts collected as fines pursuant to Section 5-9-1.1 shall
 18 be paid into the Youth Drug Abuse Prevention Fund, which is
 19 hereby created in the State treasury, to be used by the
 20 Department of Human Services for the funding of programs and
 21 services for drug-abuse treatment, and prevention and
 22 education services, for juveniles.

23 (b) Eighty-seven and one-half percent of the proceeds of
 24 all fines received pursuant to Section 5-9-1.1 shall be
 25 transmitted to and deposited in the treasurer's office at the
 26 level of government as follows:

27 (1) If such seizure was made by a combination of
 28 law enforcement personnel representing differing units of
 29 local government, the court levying the fine shall
 30 equitably allocate 50% of the fine among these units of
 31 local government and shall allocate 37 1/2% to the county
 32 general corporate fund. In the event that the seizure was

1 made by law enforcement personnel representing a unit of
2 local government from a municipality where the number of
3 inhabitants exceeds 2 million in population, the court
4 levying the fine shall allocate 87 1/2% of the fine to
5 that unit of local government. If the seizure was made
6 by a combination of law enforcement personnel
7 representing differing units of local government, and at
8 least one of those units represents a municipality where
9 the number of inhabitants exceeds 2 million in
10 population, the court shall equitably allocate 87 1/2% of
11 the proceeds of the fines received among the differing
12 units of local government.

13 (2) If such seizure was made by State law
14 enforcement personnel, then the court shall allocate 37
15 1/2% to the State treasury and 50% to the county general
16 corporate fund.

17 (3) If a State law enforcement agency in
18 combination with a law enforcement agency or agencies of
19 a unit or units of local government conducted the
20 seizure, the court shall equitably allocate 37 1/2% of
21 the fines to or among the law enforcement agency or
22 agencies of the unit or units of local government which
23 conducted the seizure and shall allocate 50% to the
24 county general corporate fund.

25 (c) The proceeds of all fines allocated to the law
26 enforcement agency or agencies of the unit or units of local
27 government pursuant to subsection (b) shall be made available
28 to that law enforcement agency as expendable receipts for use
29 in the enforcement of laws regulating controlled substances
30 and cannabis. The proceeds of fines awarded to the State
31 treasury shall be deposited in a special fund known as the
32 Drug Traffic Prevention Fund. Monies from this fund may be
33 used by the Department of State Police for use in the
34 enforcement of laws regulating controlled substances and

1 cannabis; to satisfy funding provisions of the
2 Intergovernmental Drug Laws Enforcement Act; and to defray
3 costs and expenses associated with returning violators of the
4 Cannabis Control Act and the Illinois Controlled Substances
5 Act only, as provided in those Acts, when punishment of the
6 crime shall be confinement of the criminal in the
7 penitentiary. Moneys in the Drug Traffic Prevention Fund
8 deposited from fines awarded as a direct result of
9 enforcement efforts of the Illinois Conservation Police may
10 be used by the Department of Natural Resources Office of Law
11 Enforcement for use in enforcing laws regulating controlled
12 substances and cannabis on Department of Natural Resources
13 regulated lands and waterways.;-and All other monies shall be
14 paid into the general revenue fund in the State treasury.
15 (Source: P.A. 89-507, eff. 7-1-97.)

16 Section 99. Effective date. This Act takes effect July
17 1, 2002.