



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB2916

Introduced 1/20/2006, by Sen. William R. Haine

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-101	from Ch. 95 1/2, par. 6-101
625 ILCS 5/6-303	from Ch. 95 1/2, par. 6-303
625 ILCS 5/Chapter 16A heading new	
625 ILCS 5/16A-1 new	
625 ILCS 5/16A-5 new	
625 ILCS 5/16A-10 new	
625 ILCS 5/16A-15 new	
625 ILCS 5/16A-20 new	
625 ILCS 5/16A-25 new	
625 ILCS 5/16A-30 new	
625 ILCS 5/16A-35 new	
625 ILCS 5/16A-40 new	
625 ILCS 5/16A-45 new	
625 ILCS 5/16A-50 new	
720 ILCS 5/36-1	from Ch. 38, par. 36-1

Amends the Illinois Vehicle Code and the Criminal Code of 1961. Transfers from the Criminal Code of 1961 to the Illinois Vehicle Code provisions for seizure and forfeiture of the vehicles of certain persons driving without a valid driver's license or permit or without liability insurance or who have committed specified violations while driving under the influence of alcohol, drugs, or intoxicating compounds. Establishes procedure for the forfeiture, including the right to a hearing for persons with a claim to the vehicle.

LRB094 19124 DRH 54645 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning transportation.

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

4 Section 5. The Illinois Vehicle Code is amended by changing  
5 Sections 6-101 and 6-303 and adding Chapter 16A as follows:

6 (625 ILCS 5/6-101) (from Ch. 95 1/2, par. 6-101)

7 Sec. 6-101. Drivers must have licenses or permits.

8 (a) No person, except those expressly exempted by Section  
9 6-102, shall drive any motor vehicle upon a highway in this  
10 State unless such person has a valid license or permit, or a  
11 restricted driving permit, issued under the provisions of this  
12 Act.

13 (b) No person shall drive a motor vehicle unless he holds a  
14 valid license or permit, or a restricted driving permit issued  
15 under the provisions of Section 6-205, 6-206, or 6-113 of this  
16 Act. Any person to whom a license is issued under the  
17 provisions of this Act must surrender to the Secretary of State  
18 all valid licenses or permits. No drivers license shall be  
19 issued to any person who holds a valid Foreign State license,  
20 identification card, or permit unless such person first  
21 surrenders to the Secretary of State any such valid Foreign  
22 State license, identification card, or permit.

23 (c) Any person licensed as a driver hereunder shall not be  
24 required by any city, village, incorporated town or other  
25 municipal corporation to obtain any other license to exercise  
26 the privilege thereby granted.

27 (d) In addition to other penalties imposed under this  
28 Section, any person in violation of this Section who is also in  
29 violation of Section 7-601 of this Code relating to mandatory  
30 insurance requirements shall have his or her motor vehicle  
31 immediately impounded by the arresting law enforcement  
32 officer. The motor vehicle may be released to any licensed

1 driver upon a showing of proof of insurance for the motor  
2 vehicle that was impounded and the notarized written consent  
3 for the release by the vehicle owner.

4 (e) In addition to other penalties imposed under this  
5 Section, the vehicle of any person in violation of this Section  
6 who is also in violation of Section 7-601 of this Code relating  
7 to mandatory insurance requirements and who, in violating this  
8 Section, has caused death or personal injury to another person  
9 is subject to forfeiture under Chapter 16A of this Code  
10 ~~Sections 36-1 and 36-2 of the Criminal Code of 1961~~. For the  
11 purposes of this Section, a personal injury shall include any  
12 type A injury as indicated on the traffic accident report  
13 completed by a law enforcement officer that requires immediate  
14 professional attention in either a doctor's office or a medical  
15 facility. A type A injury shall include severely bleeding  
16 wounds, distorted extremities, and injuries that require the  
17 injured party to be carried from the scene.

18 (Source: P.A. 93-187, eff. 7-11-03; 93-895, eff. 1-1-05.)

19 (625 ILCS 5/6-303) (from Ch. 95 1/2, par. 6-303)

20 Sec. 6-303. Driving while driver's license, permit or  
21 privilege to operate a motor vehicle is suspended or revoked.

22 (a) Any person who drives or is in actual physical control  
23 of a motor vehicle on any highway of this State at a time when  
24 such person's driver's license, permit or privilege to do so or  
25 the privilege to obtain a driver's license or permit is revoked  
26 or suspended as provided by this Code or the law of another  
27 state, except as may be specifically allowed by a judicial  
28 driving permit, family financial responsibility driving  
29 permit, probationary license to drive, or a restricted driving  
30 permit issued pursuant to this Code or under the law of another  
31 state, shall be guilty of a Class A misdemeanor.

32 (b) The Secretary of State upon receiving a report of the  
33 conviction of any violation indicating a person was operating a  
34 motor vehicle during the time when said person's driver's  
35 license, permit or privilege was suspended by the Secretary, by

1 the appropriate authority of another state, or pursuant to  
2 Section 11-501.1; except as may be specifically allowed by a  
3 probationary license to drive, judicial driving permit or  
4 restricted driving permit issued pursuant to this Code or the  
5 law of another state; shall extend the suspension for the same  
6 period of time as the originally imposed suspension; however,  
7 if the period of suspension has then expired, the Secretary  
8 shall be authorized to suspend said person's driving privileges  
9 for the same period of time as the originally imposed  
10 suspension; and if the conviction was upon a charge which  
11 indicated that a vehicle was operated during the time when the  
12 person's driver's license, permit or privilege was revoked;  
13 except as may be allowed by a restricted driving permit issued  
14 pursuant to this Code or the law of another state; the  
15 Secretary shall not issue a driver's license for an additional  
16 period of one year from the date of such conviction indicating  
17 such person was operating a vehicle during such period of  
18 revocation.

19 (c) Any person convicted of violating this Section shall  
20 serve a minimum term of imprisonment of 10 consecutive days or  
21 30 days of community service when the person's driving  
22 privilege was revoked or suspended as a result of:

23 (1) a violation of Section 11-501 of this Code or a  
24 similar provision of a local ordinance relating to the  
25 offense of operating or being in physical control of a  
26 vehicle while under the influence of alcohol, any other  
27 drug or any combination thereof; or

28 (2) a violation of paragraph (b) of Section 11-401 of  
29 this Code or a similar provision of a local ordinance  
30 relating to the offense of leaving the scene of a motor  
31 vehicle accident involving personal injury or death; or

32 (3) a violation of Section 9-3 of the Criminal Code of  
33 1961, as amended, relating to the offense of reckless  
34 homicide; or

35 (4) a statutory summary suspension under Section  
36 11-501.1 of this Code.

1           Such sentence of imprisonment or community service shall  
2 not be subject to suspension in order to reduce such sentence.

3           (c-1) Except as provided in subsection (d), any person  
4 convicted of a second violation of this Section shall be  
5 ordered by the court to serve a minimum of 100 hours of  
6 community service.

7           (c-2) In addition to other penalties imposed under this  
8 Section, the court may impose on any person convicted a fourth  
9 time of violating this Section any of the following:

10           (1) Seizure of the license plates of the person's  
11 vehicle.

12           (2) Immobilization of the person's vehicle for a period  
13 of time to be determined by the court.

14           (d) Any person convicted of a second violation of this  
15 Section shall be guilty of a Class 4 felony and shall serve a  
16 minimum term of imprisonment of 30 days or 300 hours of  
17 community service, as determined by the court, if the  
18 revocation or suspension was for a violation of Section 11-401  
19 or 11-501 of this Code, or a similar out-of-state offense, or a  
20 similar provision of a local ordinance, a violation of Section  
21 9-3 of the Criminal Code of 1961, relating to the offense of  
22 reckless homicide, or a similar out-of-state offense, or a  
23 statutory summary suspension under Section 11-501.1 of this  
24 Code.

25           (d-1) Except as provided in subsection (d-2) and subsection  
26 (d-3), any person convicted of a third or subsequent violation  
27 of this Section shall serve a minimum term of imprisonment of  
28 30 days or 300 hours of community service, as determined by the  
29 court.

30           (d-2) Any person convicted of a third violation of this  
31 Section is guilty of a Class 4 felony and must serve a minimum  
32 term of imprisonment of 30 days if the revocation or suspension  
33 was for a violation of Section 11-401 or 11-501 of this Code,  
34 or a similar out-of-state offense, or a similar provision of a  
35 local ordinance, a violation of Section 9-3 of the Criminal  
36 Code of 1961, relating to the offense of reckless homicide, or

1 a similar out-of-state offense, or a statutory summary  
2 suspension under Section 11-501.1 of this Code.

3 (d-3) Any person convicted of a fourth, fifth, sixth,  
4 seventh, eighth, or ninth violation of this Section is guilty  
5 of a Class 4 felony and must serve a minimum term of  
6 imprisonment of 180 days if the revocation or suspension was  
7 for a violation of Section 11-401 or 11-501 of this Code, or a  
8 similar out-of-state offense, or a similar provision of a local  
9 ordinance, a violation of Section 9-3 of the Criminal Code of  
10 1961, relating to the offense of reckless homicide, or a  
11 similar out-of-state offense, or a statutory summary  
12 suspension under Section 11-501.1 of this Code.

13 (d-4) Any person convicted of a tenth, eleventh, twelfth,  
14 thirteenth, or fourteenth violation of this Section is guilty  
15 of a Class 3 felony, and is not eligible for probation or  
16 conditional discharge, if the revocation or suspension was for  
17 a violation of Section 11-401 or 11-501 of this Code, or a  
18 similar out-of-state offense, or a similar provision of a local  
19 ordinance, a violation of Section 9-3 of the Criminal Code of  
20 1961, relating to the offense of reckless homicide, or a  
21 similar out-of-state offense, or a statutory summary  
22 suspension under Section 11-501.1 of this Code.

23 (d-5) Any person convicted of a fifteenth or subsequent  
24 violation of this Section is guilty of a Class 2 felony, and is  
25 not eligible for probation or conditional discharge, if the  
26 revocation or suspension was for a violation of Section 11-401  
27 or 11-501 of this Code, or a similar out-of-state offense, or a  
28 similar provision of a local ordinance, a violation of Section  
29 9-3 of the Criminal Code of 1961, relating to the offense of  
30 reckless homicide, or a similar out-of-state offense, or a  
31 statutory summary suspension under Section 11-501.1 of this  
32 Code.

33 (e) Any person in violation of this Section who is also in  
34 violation of Section 7-601 of this Code relating to mandatory  
35 insurance requirements, in addition to other penalties imposed  
36 under this Section, shall have his or her motor vehicle

1 immediately impounded by the arresting law enforcement  
2 officer. The motor vehicle may be released to any licensed  
3 driver upon a showing of proof of insurance for the vehicle  
4 that was impounded and the notarized written consent for the  
5 release by the vehicle owner.

6 (f) For any prosecution under this Section, a certified  
7 copy of the driving abstract of the defendant shall be admitted  
8 as proof of any prior conviction.

9 (g) The motor vehicle used in a violation of this Section  
10 is subject to seizure and forfeiture as provided in Chapter 16A  
11 of this Code ~~Sections 36-1 and 36-2 of the Criminal Code of~~  
12 ~~1961~~ if the person's driving privilege was revoked or suspended  
13 as a result of a violation listed in paragraph (1), (2), or (3)  
14 of subsection (c) of this Section or as a result of a summary  
15 suspension as provided in paragraph (4) of subsection (c) of  
16 this Section.

17 (Source: P.A. 94-112, eff. 1-1-06.)

18 (625 ILCS 5/Chapter 16A heading new)

19 CHAPTER 16A. TRAFFIC SAFETY FORFEITURES

20 (625 ILCS 5/16A-1 new)

21 Sec. 16A-1. Short title. This Chapter may be cited as the  
22 Traffic Safety Forfeiture Law of 2006.

23 (625 ILCS 5/16A-5 new)

24 Sec. 16A-5. Legislative Declaration. The Illinois General  
25 Assembly finds that persons who drive without a valid driver's  
26 license or permit or with a suspended or revoked driver's  
27 license or permit pose a significant and dangerous threat to  
28 Illinois motorists. The civil forfeiture of motor vehicles used  
29 by persons who drive without a valid driver's license or permit  
30 or with a suspended or revoked driver's license or permit will  
31 have a significant beneficial effect in deterring this type of  
32 activity and will reduce the number of traffic fatalities and  
33 accidents caused by those persons. It is necessary and

1 appropriate to take additional steps to prevent drivers who  
2 drive without a valid driver's license or permit or with  
3 suspended or revoked licenses or permits from driving,  
4 including civil forfeiture of vehicles used by those persons.  
5 The State has a critical interest in enforcing its traffic laws  
6 and keeping drivers with suspended or revoked licenses or  
7 permits from illegally driving. Seizing the vehicles used by  
8 those persons serves an important governmental and public  
9 interest, namely the protection of the health, safety, and  
10 welfare of Illinois motorists from the harm of associated with  
11 driving without a valid driver's license or permit or with a  
12 suspended or revoked license or permit.

13 (625 ILCS 5/16A-10 new)

14 Sec. 16A-10. Applicability. This Chapter applies to all  
15 motor vehicles used by persons who drive without a valid  
16 driver's license or permit or with suspended or revoked  
17 licenses or permits in violation of Section 6-303 of this Code,  
18 if the person's driving privileges were revoked or suspended as  
19 a result of a violation listed in paragraph (1), (2), or (3) of  
20 subsection (c) of Section 6-303 of this Code or as a result of  
21 a statutory summary suspension as provided in paragraph (4) of  
22 subsection (c) of Section 6-303, or if the person committed the  
23 offenses described in the following provisions of this Code:  
24 Section 11-501, subdivisions (c-1)(1), (c-1)(2), (c-1)(3),  
25 (d)(1)(A), (d)(1)(D), (d)(1)(G), or (d)(1)(H); or an offense  
26 described in subsection (e) of Section 6-101 of this Code.

27 (625 ILCS 5/16A-15 new)

28 Sec. 16A-15. Seizure.

29 (a) Any motor vehicle used in violation of Section 6-303,  
30 11-501, or 6-101 of this Code may be seized for forfeiture if:

31 (1) the person's driving privileges were revoked or  
32 suspended as a result of a violation listed in paragraph  
33 (1), (2), or (3) of subsection (c) of Section 6-303; or

34 (2) the person's driving privileges were revoked or



1 suspended as a result of a summary suspension as provided  
2 in paragraph (4) of subsection (c) of Section 6-303; or

3 (3) the person committed the offenses described in the  
4 following provisions of this Code: Section 11-501,  
5 subdivisions (c-1) (1), (c-1) (2), (c-1) (3), (d) (1) (A),  
6 (d) (1) (D), (d) (1) (G), or (d) (1) (H); or

7 (4) the person committed an offense described in  
8 subsection (e) of Section 6-101 of this Code, or

9 (5) the person committed an offense described in  
10 subsection (g) of Section 6-303 of this Code.

11 (b) The seizing agency shall, within 30 days after seizure,  
12 deliver the vehicle to the sheriff of the county of seizure and  
13 notify the State's Attorney of the county in which the act or  
14 omission giving rise to the forfeiture occurred, or in which  
15 the motor vehicle was seized, of the seizure and the facts and  
16 circumstances giving rise to the seizure and shall provide the  
17 State's Attorney with the inventory of the motor vehicle and  
18 its estimated value. The seizing agency shall also notify the  
19 Secretary of State that forfeiture proceedings are pending  
20 regarding the vehicle.

21 (c) If, after review of the facts surrounding the seizure,  
22 the State's Attorney is of the opinion that the seized motor  
23 vehicle is subject to forfeiture, the State's Attorney shall,  
24 within 45 days of the receipt of notice of seizure from the  
25 seizing agency, cause notice of pending forfeiture of the motor  
26 vehicle to be given to the owner and any person whose right,  
27 title, or interest is of record with the Secretary of State.

28 (625 ILCS 5/16A-20 new)

29 Sec. 16A-20. Notice to owner or interest holder.

30 (a) Whenever notice of pending forfeiture or service of an  
31 in rem complaint is required under this Chapter:

32 (1) the notice of pending forfeiture must include a  
33 description of the motor vehicle, the estimated value of  
34 the motor vehicle, the date and place of seizure, the  
35 conduct giving rise to forfeiture or the violation of law

1 alleged, and a summary of procedures and procedural rights  
2 applicable to the forfeiture action; and

3 (2) if the name and address of the owner or any person  
4 whose right, title, or interest is of record are known, the  
5 notice or service shall be given by either personal service  
6 or by mailing a copy of the notice by certified mail,  
7 return receipt requested, to that address. If the address  
8 of an owner or any person whose right, title, or interest  
9 is of record changes prior to the effective date of the  
10 notice of pending forfeiture, the owner or any person whose  
11 right, title, or interest is of record shall promptly  
12 notify the seizing agency of the change in address or, if  
13 the address of an owner or any person whose right, title,  
14 or interest is of record changes subsequent to the  
15 effective date of the notice of pending forfeiture, the  
16 owner or any person whose right, title, or interest is of  
17 record shall promptly notify the seizing agency and the  
18 State's Attorney's Office of the change in address.

19 (b) Notice served under this Chapter is effective upon  
20 personal service or the mailing of written notice, whichever is  
21 earlier.

22 (625 ILCS 5/16A-25 new)

23 Sec. 16A-25. Non-judicial forfeiture.

24 (a) Any person claiming ownership of the motor vehicle that  
25 is the subject of notice under Section 16A-20 may, within 45  
26 days after the effective date of notice as described in Section  
27 16A-20, file with the State's Attorney a verified claim of his  
28 or her ownership of the motor vehicle. The claim must set  
29 forth:

30 (1) the caption of the proceedings as set forth on the  
31 notice of pending forfeiture and the name of the claimant;

32 (2) the address at which the claimant will accept mail;

33 (3) the nature and extent of the claimant's ownership  
34 of the motor vehicle;

35 (4) the date and circumstances of the claimant's

1 acquisition of the ownership of the motor vehicle and the  
2 identity of the transferor;

3 (5) the name and address of all other persons known to  
4 have an interest in the motor vehicle;

5 (6) the specific provision of law relied on in  
6 asserting that the motor vehicle is not subject to  
7 forfeiture;

8 (7) all essential facts supporting each assertion; and

9 (8) the relief sought.

10 (b) If a claimant files a claim and deposits with the  
11 State's Attorney a cost bond, in the form of a cashier's check  
12 payable to the clerk of the court, in the sum of 10% of the  
13 reasonable value of the motor vehicle as alleged by the State's  
14 Attorney, or the sum of \$100, whichever is greater, then the  
15 State's Attorney shall, within 45 days after receipt of the  
16 claim and cost bond, institute judicial in rem forfeiture  
17 proceedings and deposit the cost bond with the clerk of the  
18 court as described in Section 16A-35. In lieu of a cost bond, a  
19 person claiming ownership of the seized motor vehicle may file,  
20 under penalty of perjury, an indigency affidavit.

21 (c) If the motor vehicle is not forfeited in the judicial  
22 in rem proceeding, the clerk of the court shall return to the  
23 claimant, unless the court orders otherwise, 90% of the sum  
24 which has been deposited and shall retain as costs 10% of the  
25 money deposited.

26 (d) If no claim is filed or bond given within the 45 day  
27 period as described in this Section, the State's Attorney shall  
28 declare the property forfeited and shall promptly notify the  
29 owner, any person whose right, title, or interest is of record,  
30 and the sheriff of the county in which the seizure occurred, of  
31 the declaration of forfeiture.

32 (e) A copy of the declaration of forfeiture shall be filed  
33 with the sheriff of the county in which the seizure occurs and  
34 with the Secretary of State. The declaration, when filed,  
35 constitutes authority for the issuance of clear title to the  
36 vehicle to the department or agency to whom it is delivered or

1 to any purchaser of the vehicle.

2 (f) When a motor vehicle is forfeited under this Chapter,  
3 the sheriff of the county in which the seizure occurs shall  
4 sell the motor vehicle at public auction, unless the motor  
5 vehicle is required by law to be destroyed or is harmful to the  
6 public.

7 (g) If, however, upon application of the seizing agency or  
8 the prosecutor who was responsible for the investigation,  
9 arrest, and prosecution that led to the forfeiture of the motor  
10 vehicle, the county sheriff may award the motor vehicle to the  
11 seizing agency or prosecutor for official use, if the agency or  
12 prosecutor can demonstrate that the vehicle requested would be  
13 useful to the agency or prosecutor for official use.

14 (h) The proceeds of any sale at public auction under this  
15 Chapter, after payment of all liens and deduction of the  
16 reasonable charges and expenses incurred by the sheriff in  
17 storing and selling the vehicle, shall be paid into the general  
18 fund of the county of seizure.

19 (625 ILCS 5/16A-30 new)

20 Sec. 16A-30. Presumptions. Suspension or revocation of the  
21 driver's license or permit of the driver of the motor vehicle  
22 shall be conclusively presumed to be known by the driver if:

23 (1) the Secretary of State has sent the driver a certified  
24 letter, return receipt requested, regarding the suspension or  
25 revocation; or

26 (2) the suspension or revocation was the result of a court  
27 order.

28 (625 ILCS 5/16A-35 new)

29 Sec. 16A-35. Exemptions from forfeiture. A motor vehicle is  
30 exempt from forfeiture under this Chapter if:

31 (1) the owner or any person whose right, title, or interest  
32 is of record with the Secretary of State establishes by a  
33 preponderance of the evidence that he or she made a reasonable  
34 effort or inquiry to determine whether the driver possessed a

1 valid driver's license before allowing him or her to operate  
2 the owner's vehicle. The owner or any person whose right,  
3 title, or interest is of record is not required to inquire of  
4 the Secretary of State whether the driver possessed a valid  
5 driver's license; and

6 (2) the owner or any person whose right, title, or interest  
7 is of record with the Secretary of State did not hold the  
8 property jointly or in common with a person whose conduct gave  
9 rise to the forfeiture; and

10 (3) the owner or any person whose right, title, or interest  
11 is of record with the Secretary of State does not hold the  
12 property for the benefit of or as nominee for any person whose  
13 conduct gave rise to its forfeiture, and, if the owner or any  
14 person whose right, title, or interest is of record acquired  
15 the interest through any such person, the owner or any person  
16 whose right, title, or interest is of record acquired it as a  
17 bona fide purchaser for value without knowingly taking part in  
18 the conduct giving rise to the forfeiture; and

19 (4) the owner or any person whose right, title, or interest  
20 is of record with the Secretary of State acquired the interest  
21 before the commencement of the conduct giving rise to its  
22 forfeiture, and the person whose conduct gave rise to its  
23 forfeiture did not have the authority to convey the interest to  
24 a bona fide purchaser for value at the time of the conduct.

25 (625 ILCS 5/16A-40 new)

26 Sec. 16A-40. Judicial in rem procedures.

27 (a) Within 45 days of receipt of a proper verified claim  
28 and cost bond, the State's Attorney shall institute judicial  
29 forfeiture proceedings by filing a verified complaint for  
30 forfeiture and, if the claimant has filed a claim and cost  
31 bond, by depositing the cost bond with the clerk of the court.  
32 When authorized by law, a forfeiture must be ordered by a court  
33 in an action in rem brought by a State's Attorney pursuant to a  
34 verified complaint for forfeiture.

35 (b) During the probable cause portion of the judicial in

1 rem proceeding in which the State presents its case-in-chief,  
2 the court must receive and consider, among other things, all  
3 relevant hearsay evidence and information. The laws of evidence  
4 relating to civil actions shall apply to all other portions of  
5 the judicial in rem proceeding.

6 (c) Only an owner or a person or legal entity whose right,  
7 title, or interest is of record with the Secretary of State on  
8 or before the date of seizure of the vehicle may file an answer  
9 asserting a claim against the motor vehicle in the action in  
10 rem. For purposes of this Section, any person or legal entity  
11 whose right, title, or interest is of record shall be referred  
12 to as the claimant.

13 (d) The answer must be signed by the claimant under penalty  
14 of perjury and must set forth:

15 (1) the caption of the proceedings, as set forth on the  
16 notice of pending forfeiture, and the name of the claimant;

17 (2) the address at which the claimant will accept mail;

18 (3) the nature and extent of the claimant's ownership  
19 of the motor vehicle;

20 (4) the date and circumstances of the claimant's  
21 acquisition of ownership of the motor vehicle and the  
22 identity of transferor;

23 (5) the name and address of all other persons known to  
24 have an interest in the motor vehicle;

25 (6) the specific provisions of Section 16A-35 relied on  
26 in asserting that the motor vehicle is not subject to  
27 forfeiture;

28 (7) all essential facts supporting each assertion; and

29 (8) the precise relief sought.

30 (e) The answer must be filed with the court within 45 days  
31 after service of the civil in rem complaint.

32 (f) The hearing must be held within 60 days after filing of  
33 the answer unless continued for good cause. If a related  
34 traffic or criminal case that gave rise to this proceeding is  
35 still pending, however, upon motion of the State, all  
36 forfeiture proceedings shall be stayed until the underlying

1 case is concluded.

2 (g) At the hearing, the State shall show probable cause for  
3 forfeiture of the motor vehicle. If the State shows probable  
4 cause, the claimant has the burden of showing by a  
5 preponderance of the evidence that the claimant's interest in  
6 the motor vehicle is not subject to forfeiture.

7 (h) If the State does not show existence of probable cause,  
8 or a claimant has established by a preponderance of evidence  
9 that the claimant's interest is exempt under Section 16A-35,  
10 the court shall order that interest in the property returned or  
11 conveyed to the claimant and shall order all other interests  
12 forfeited to the State. If the State does show probable cause  
13 and the claimant does not establish by a preponderance of  
14 evidence that the claimant's interest is exempt under Section  
15 16A-35, the court shall order the motor vehicle forfeited to  
16 the State.

17 (i) A defendant who has pled guilty or has been found  
18 guilty in any traffic or criminal proceeding is precluded from  
19 later denying the essential allegations of the traffic or  
20 criminal offense of which the defendant was convicted in any  
21 proceeding under this Act, regardless of the pendency of an  
22 appeal from that conviction. Evidence of the pendency of an  
23 appeal is admissible, however.

24 (j) An acquittal or dismissal in a traffic or criminal  
25 proceeding shall not preclude civil proceedings under this  
26 Chapter. A motor vehicle subject to forfeiture under this  
27 Chapter shall not be subject to return or release by a court  
28 exercising jurisdiction over a traffic or criminal case  
29 involving the seizure of that motor vehicle, unless the return  
30 or release is consented to by the State's Attorney.

31 (k) All interest in the motor vehicle declared forfeited  
32 under this Chapter vests in the State on the commission of the  
33 conduct giving rise to forfeiture of the motor vehicle. The  
34 motor vehicle remains subject to forfeiture after any  
35 subsequent transfer to any person, and the motor vehicle shall  
36 be ordered forfeited unless the transferee claims and

1 establishes in a hearing under this Chapter that the  
2 transferee's ownership is exempt under Section 16A-35.

3 (l) A civil action under this Chapter must be commenced  
4 within 5 years after the last conduct giving rise to forfeiture  
5 became known or should have become known, or 5 years after the  
6 forfeitable motor vehicle is discovered, whichever is later,  
7 excluding any time during which either the motor vehicle or  
8 claimant is out of the State or in confinement or during which  
9 criminal or traffic proceedings relating to the same conduct  
10 are in progress.

11 (m) Motor vehicles taken or detained under this Chapter  
12 shall not be subject to replevin and are deemed to be in the  
13 custody of the county sheriff, subject only to the order and  
14 judgments of the circuit court having jurisdiction over the  
15 forfeiture proceedings and the decisions of the State's  
16 Attorney under this Chapter.

17 (625 ILCS 5/16A-45 new)

18 Sec. 16A-45. Stay of time periods. If a motor vehicle is  
19 seized for evidence and for forfeiture, the time periods for  
20 instituting judicial and non-judicial forfeiture proceedings  
21 shall not begin until the motor vehicle is no longer needed for  
22 evidence.

23 (625 ILCS 5/16A-50 new)

24 Sec. 16A-50. Settlement of claims.

25 (a) Notwithstanding other provisions of this Chapter, the  
26 State's Attorney and a claimant of a seized motor vehicle may  
27 enter into an agreed settlement concerning the seized motor  
28 vehicle in the amount and upon the terms that are set out in  
29 writing in a settlement agreement.

30 (b) If the county sheriff or the State's Attorney agrees to  
31 release a motor vehicle to an owner or person whose right,  
32 title, or interest is of record, that person must sign a  
33 stipulated vehicle release agreement that provides for the  
34 automatic forfeiture of any vehicle registered to him or her if



1 the vehicle is driven by a driver with a suspended or revoked  
2 license or permit. This Section applies to any vehicle  
3 currently owned or any vehicle registered in the future. If the  
4 person does not sign the agreement, the vehicle may not be  
5 released. A signed agreement precludes any claim, if the motor  
6 vehicle is subsequently driven by a person with a suspended or  
7 revoked driver's license or permit or in violation of  
8 subdivision (d) (1) (g) or (d) (1) (h) of Section 11-501 of this  
9 Code, that the person to whom the vehicle was released is an  
10 innocent owner.

11 Section 10. The Criminal Code of 1961 is amended by  
12 changing Section 36-1 as follows:

13 (720 ILCS 5/36-1) (from Ch. 38, par. 36-1)

14 Sec. 36-1. Seizure. Any vessel, vehicle or aircraft used  
15 with the knowledge and consent of the owner in the commission  
16 of, or in the attempt to commit as defined in Section 8-4 of  
17 this Code, an offense prohibited by (a) Section 9-1, 9-3, 10-2,  
18 11-6, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-4.1, 12-4.2,  
19 12-4.2-5, 12-4.3, 12-4.6, 12-7.3, 12-7.4, 12-13, 12-14, 18-2,  
20 19-1, 19-2, 19-3, 20-1, 20-2, 20.5-6, 24-1.2, 24-1.2-5, 24-1.5,  
21 or 28-1 of this Code, paragraph (a) of Section 12-4 of this  
22 Code, paragraph (a) of Section 12-15 or paragraphs (a), (c) or  
23 (d) of Section 12-16 of this Code, or paragraph (a) (6) or  
24 (a) (7) of Section 24-1 of this Code; (b) Section 21, 22, 23, 24  
25 or 26 of the Cigarette Tax Act if the vessel, vehicle or  
26 aircraft contains more than 10 cartons of such cigarettes; (c)  
27 Section 28, 29 or 30 of the Cigarette Use Tax Act if the  
28 vessel, vehicle or aircraft contains more than 10 cartons of  
29 such cigarettes; (d) Section 44 of the Environmental Protection  
30 Act; or (e) Section 11-204.1 of the Illinois Vehicle Code; ~~(f)~~  
31 ~~the offenses described in the following provisions of the~~  
32 ~~Illinois Vehicle Code: Section 11-501 subdivisions (e-1)(1),~~  
33 ~~(e-1)(2), (e-1)(3), (d)(1)(A), (d)(1)(D), (d)(1)(G), or~~  
34 ~~(d)(1)(H); (g) an offense described in subsection (g) of~~

1 ~~Section 6-303 of the Illinois Vehicle Code, or (h) an offense~~  
2 ~~described in subsection (e) of Section 6-101 of the Illinois~~  
3 ~~Vehicle Code,~~ may be seized and delivered forthwith to the  
4 sheriff of the county of seizure.

5       Within 15 days after such delivery the sheriff shall give  
6 notice of seizure to each person according to the following  
7 method: Upon each such person whose right, title or interest is  
8 of record in the office of the Secretary of State, the  
9 Secretary of Transportation, the Administrator of the Federal  
10 Aviation Agency, or any other Department of this State, or any  
11 other state of the United States if such vessel, vehicle or  
12 aircraft is required to be so registered, as the case may be,  
13 by mailing a copy of the notice by certified mail to the  
14 address as given upon the records of the Secretary of State,  
15 the Department of Aeronautics, Department of Public Works and  
16 Buildings or any other Department of this State or the United  
17 States if such vessel, vehicle or aircraft is required to be so  
18 registered. Within that 15 day period the sheriff shall also  
19 notify the State's Attorney of the county of seizure about the  
20 seizure.

21       In addition, any mobile or portable equipment used in the  
22 commission of an act which is in violation of Section 7g of the  
23 Metropolitan Water Reclamation District Act shall be subject to  
24 seizure and forfeiture under the same procedures provided in  
25 this Article for the seizure and forfeiture of vessels,  
26 vehicles and aircraft, and any such equipment shall be deemed a  
27 vessel, vehicle or aircraft for purposes of this Article.

28       When a person discharges a firearm at another individual  
29 from a vehicle with the knowledge and consent of the owner of  
30 the vehicle and with the intent to cause death or great bodily  
31 harm to that individual and as a result causes death or great  
32 bodily harm to that individual, the vehicle shall be subject to  
33 seizure and forfeiture under the same procedures provided in  
34 this Article for the seizure and forfeiture of vehicles used in  
35 violations of clauses (a), (b), (c), or (d) of this Section.

36       If the spouse of the owner of a vehicle seized for an

1 offense described in ~~subsection (g) of Section 6-303 of the~~  
2 ~~Illinois Vehicle Code, a violation of subdivision (c-1)(1),~~  
3 ~~(c-1)(2), (c-1)(3), (d)(1)(A), or (d)(1)(D) of Section 11-501~~  
4 ~~of the Illinois Vehicle Code, or~~ Section 9-3 of this Code makes  
5 a showing that the seized vehicle is the only source of  
6 transportation and it is determined that the financial hardship  
7 to the family as a result of the seizure outweighs the benefit  
8 to the State from the seizure, the vehicle may be forfeited to  
9 the spouse or family member and the title to the vehicle shall  
10 be transferred to the spouse or family member who is properly  
11 licensed and who requires the use of the vehicle for employment  
12 or family transportation purposes. A written declaration of  
13 forfeiture of a vehicle under this Section shall be sufficient  
14 cause for the title to be transferred to the spouse or family  
15 member. The provisions of this paragraph shall apply only to  
16 one forfeiture per vehicle. If the vehicle is the subject of a  
17 subsequent forfeiture proceeding by virtue of a subsequent  
18 conviction of either spouse or the family member, the spouse or  
19 family member to whom the vehicle was forfeited under the first  
20 forfeiture proceeding may not utilize the provisions of this  
21 paragraph in another forfeiture proceeding. If the owner of the  
22 vehicle seized owns more than one vehicle, the procedure set  
23 out in this paragraph may be used for only one vehicle.

24 Property declared contraband under Section 40 of the  
25 Illinois Streetgang Terrorism Omnibus Prevention Act may be  
26 seized and forfeited under this Article.

27 (Source: P.A. 93-187, eff. 7-11-03; 94-329, eff. 1-1-06.)