

SB1375



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1375

Introduced 2/9/2007, by Sen. John J. Millner

SYNOPSIS AS INTRODUCED:

740 ILCS 40/3

from Ch. 100 1/2, par. 16

Amends the Controlled Substance and Cannabis Control Act. Provides that if a property that is alleged to be a nuisance under this Act is owned by a corporation and the Department of State Police or the State's Attorney sends the preliminary notice describing the property as a nuisance under the Act to the corporation's address registered with the Secretary of State, such action shall create a rebuttable presumption that the parties have acted with due diligence and the court may grant injunctive relief.

LRB095 04893 AJO 24958 b

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 5. The Controlled Substance and Cannabis Nuisance
5 Act is amended by changing Section 3 as follows:

6 (740 ILCS 40/3) (from Ch. 100 1/2, par. 16)

7 Sec. 3. (a) The Department or the State's Attorney or any
8 citizen of the county in which a nuisance exists may file a
9 complaint in the name of the People of the State of Illinois,
10 to enjoin all persons from maintaining or permitting such
11 nuisance, to abate the same and to enjoin the use of any such
12 place for the period of one year.

13 (b) Upon the filing of a complaint by the State's Attorney
14 or the Department in which the complaint states that
15 irreparable injury, loss or damage will result to the People of
16 the State of Illinois, the court shall enter a temporary
17 restraining order without notice enjoining the maintenance of
18 such nuisance, upon testimony under oath, affidavit, or
19 verified complaint containing facts sufficient, if sustained,
20 to justify the court in entering a preliminary injunction upon
21 a hearing after notice. Every such temporary restraining order
22 entered without notice shall be endorsed with the date and hour
23 of entry of the order, shall be filed of record, and shall

1 expire by its terms within such time after entry, not to exceed
2 10 days as fixed by the court, unless the temporary restraining
3 order, for good cause is extended for a like period or unless
4 the party against whom the order is directed consents that it
5 may be extended for a longer period. The reason for extension
6 shall be shown in the order. In case a temporary restraining
7 order is entered without notice, the motion for a permanent
8 injunction shall be set down for hearing at the earliest
9 possible time and takes precedence over all matters except
10 older matters of the same character, and when the motion comes
11 on for hearing, the Department or State's Attorney, as the case
12 may be, shall proceed with the application for a permanent
13 injunction, and, if he does not do so, the court shall dissolve
14 the temporary restraining order. On 2 days notice to the
15 Department or State's Attorney, as the case may be, the
16 defendant may appear and move the dissolution or modification
17 of such temporary restraining order and in that event the court
18 shall proceed to hear and determine such motion as
19 expeditiously as the ends of justice require.

20 (c) Upon the filing of the complaint by a citizen or the
21 Department or the State's Attorney (in cases in which the
22 Department or State's Attorney do not request injunctive relief
23 without notice) in the circuit court, the court, if satisfied
24 that the nuisance complained of exists, shall allow a temporary
25 restraining order, with bond unless the application is filed by
26 the Department or State's Attorney, in such amount as the court

1 may determine, enjoining the defendant from maintaining any
2 such nuisance within the jurisdiction of the court granting the
3 injunctive relief. However, no such injunctive relief shall be
4 granted, except on behalf of an owner or agent, unless it be
5 made to appear to the satisfaction of the court that the owner
6 or agent of such place, knew or had been personally served with
7 a notice signed by the plaintiff and, that such notice has been
8 served upon such owner or such agent of such place at least 5
9 days prior thereto, that such place, specifically describing
10 the same, was being so used, naming the date or dates of its
11 being so used, and that such owner or agent had failed to abate
12 such nuisance, or that upon diligent inquiry such owner or
13 agent could not be found ~~within Illinois~~ for the service of
14 such preliminary notice. The lessee, if any, of such place
15 shall be made a party defendant to such petition. If the
16 property owner is a corporation and the Department or the
17 State's Attorney sends the preliminary notice to the corporate
18 address registered with the Secretary of State, such action
19 shall create a rebuttable presumption that the parties have
20 acted with due diligence and the court may grant injunctive
21 relief.

22 (d) In all cases in which the complaint is filed by a
23 citizen, such complaint shall be verified.

24 (Source: P.A. 87-765.)