



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2185

by Rep. Tom Cross - Dennis M. Reboletti

SYNOPSIS AS INTRODUCED:

720 ILCS 5/36-1

from Ch. 38, par. 36-1

Amends the Criminal Code of 2012. Makes a technical change in a Section concerning the seizure of a vessel, vehicle, or aircraft used with the knowledge and consent of the owner in the commission of, or in the attempt to commit, certain offenses.

LRB098 10128 RLC 40287 b

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Section 36-1 as follows:

6 (720 ILCS 5/36-1) (from Ch. 38, par. 36-1)

7 Sec. 36-1. Seizure. Any vessel, vehicle or aircraft used
8 with the ~~the~~ knowledge and consent of the owner in the
9 commission of, or in the attempt to commit as defined in
10 Section 8-4 of this Code, an offense prohibited by (a) Section
11 9-1, 9-3, 10-2, 11-1.20, 11-1.30, 11-1.40, 11-6, 11-14.4 except
12 for keeping a place of juvenile prostitution, 11-15.1, 11-19.1,
13 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-4.1, 12-4.2, 12-4.2-5,
14 12-4.3, 12-4.6, 12-7.3, 12-7.4, 12-13, 12-14, 16-1 if the theft
15 is of precious metal or of scrap metal, 18-2, 19-1, 19-2, 19-3,
16 20-1, 20-2, 24-1.2, 24-1.2-5, 24-1.5, 28-1, or 29D-15.2 of this
17 Code, subdivision (a) (1), (a) (2), (a) (4), (b) (1), (e) (1),
18 (e) (2), (e) (3), (e) (4), (e) (5), (e) (6), or (e) (7) of Section
19 12-3.05, paragraph (a) of Section 12-4 of this Code, paragraph
20 (a) of Section 11-1.50, paragraph (a) of Section 12-15,
21 paragraph (a), (c), or (d) of Section 11-1.60, or paragraphs
22 (a), (c) or (d) of Section 12-16 of this Code, or paragraph
23 (a) (6) or (a) (7) of Section 24-1 of this Code; (b) Section 21,

1 22, 23, 24 or 26 of the Cigarette Tax Act if the vessel,
2 vehicle or aircraft contains more than 10 cartons of such
3 cigarettes; (c) Section 28, 29 or 30 of the Cigarette Use Tax
4 Act if the vessel, vehicle or aircraft contains more than 10
5 cartons of such cigarettes; (d) Section 44 of the Environmental
6 Protection Act; (e) 11-204.1 of the Illinois Vehicle Code; (f)
7 (1) driving under the influence of alcohol or other drug or
8 drugs, intoxicating compound or compounds or any combination
9 thereof under Section 11-501 of the Illinois Vehicle Code
10 during a period in which his or her driving privileges are
11 revoked or suspended where the revocation or suspension was for
12 driving under the influence of alcohol or other drug or drugs,
13 intoxicating compound or compounds or any combination thereof,
14 Section 11-501.1, paragraph (b) of Section 11-401, or for
15 reckless homicide as defined in Section 9-3 of the Criminal
16 Code of 1961 or the Criminal Code of 2012; (2) driving while
17 under the influence of alcohol, other drug or drugs,
18 intoxicating compound or compounds or any combination thereof
19 and has been previously convicted of reckless homicide or a
20 similar provision of a law of another state relating to
21 reckless homicide in which the person was determined to have
22 been under the influence of alcohol, other drug or drugs, or
23 intoxicating compound or compounds as an element of the offense
24 or the person has previously been convicted of committing a
25 violation of driving under the influence of alcohol or other
26 drug or drugs, intoxicating compound or compounds or any

1 combination thereof and was involved in a motor vehicle
2 accident that resulted in death, great bodily harm, or
3 permanent disability or disfigurement to another, when the
4 violation was a proximate cause of the death or injuries; (3)
5 the person committed a violation of driving under the influence
6 of alcohol or other drug or drugs, intoxicating compound or
7 compounds or any combination thereof under Section 11-501 of
8 the Illinois Vehicle Code or a similar provision for the third
9 or subsequent time; (4) the person committed the violation
10 while he or she did not possess a driver's license or permit or
11 a restricted driving permit or a judicial driving permit or a
12 monitoring device driving permit; or (5) the person committed
13 the violation while he or she knew or should have known that
14 the vehicle he or she was driving was not covered by a
15 liability insurance policy; (g) an offense described in
16 subsection (g) of Section 6-303 of the Illinois Vehicle Code;
17 or (h) an offense described in subsection (e) of Section 6-101
18 of the Illinois Vehicle Code; may be seized and delivered
19 forthwith to the sheriff of the county of seizure.

20 Within 15 days after such delivery the sheriff shall give
21 notice of seizure to each person according to the following
22 method: Upon each such person whose right, title or interest is
23 of record in the office of the Secretary of State, the
24 Secretary of Transportation, the Administrator of the Federal
25 Aviation Agency, or any other Department of this State, or any
26 other state of the United States if such vessel, vehicle or

1 aircraft is required to be so registered, as the case may be,
2 by mailing a copy of the notice by certified mail to the
3 address as given upon the records of the Secretary of State,
4 the Department of Aeronautics, Department of Public Works and
5 Buildings or any other Department of this State or the United
6 States if such vessel, vehicle or aircraft is required to be so
7 registered. Within that 15 day period the sheriff shall also
8 notify the State's Attorney of the county of seizure about the
9 seizure.

10 In addition, any mobile or portable equipment used in the
11 commission of an act which is in violation of Section 7g of the
12 Metropolitan Water Reclamation District Act shall be subject to
13 seizure and forfeiture under the same procedures provided in
14 this Article for the seizure and forfeiture of vessels,
15 vehicles and aircraft, and any such equipment shall be deemed a
16 vessel, vehicle or aircraft for purposes of this Article.

17 When a person discharges a firearm at another individual
18 from a vehicle with the knowledge and consent of the owner of
19 the vehicle and with the intent to cause death or great bodily
20 harm to that individual and as a result causes death or great
21 bodily harm to that individual, the vehicle shall be subject to
22 seizure and forfeiture under the same procedures provided in
23 this Article for the seizure and forfeiture of vehicles used in
24 violations of clauses (a), (b), (c), or (d) of this Section.

25 If the spouse of the owner of a vehicle seized for an
26 offense described in subsection (g) of Section 6-303 of the

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

1 (Source: P.A. 96-313, eff. 1-1-10; 96-710, eff. 1-1-10;
2 96-1000, eff. 7-2-10; 96-1267, eff. 7-26-10; 96-1289, eff.
3 1-1-11; 96-1551, Article 1, Section 960, eff. 7-1-11; 96-1551,
4 Article 2, Section 1035, eff. 7-1-11; 97-333, eff. 8-12-11;
5 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)