

1 AN ACT in relation to motor vehicles.

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
5 changing Section 6-303 as follows:

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

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

9 (a) Any person who drives or is in actual physical
10 control of a motor vehicle on any highway of this State at a
11 time when such person's driver's license, permit or privilege
12 to do so or the privilege to obtain a driver's license or
13 permit is revoked or suspended as provided by this Code or
14 the law of another state, except as may be specifically
15 allowed by a judicial driving permit, family financial
16 responsibility driving permit, probationary license to drive,
17 or a restricted driving permit issued pursuant to this Code
18 or under the law of another state, shall be guilty of a Class
19 A misdemeanor.

20 (b) The Secretary of State upon receiving a report of
21 the conviction of any violation indicating a person was
22 operating a motor vehicle during the time when said person's
23 driver's license, permit or privilege was suspended by the
24 Secretary, by the appropriate authority of another state, or
25 pursuant to Section 11-501.1; except as may be specifically
26 allowed by a probationary license to drive, judicial driving
27 permit or restricted driving permit issued pursuant to this
28 Code or the law of another state; shall extend the suspension
29 for the same period of time as the originally imposed
30 suspension; however, if the period of suspension has then
31 expired, the Secretary shall be authorized to suspend said

1 person's driving privileges for the same period of time as
 2 the originally imposed suspension; and if the conviction was
 3 upon a charge which indicated that a vehicle was operated
 4 during the time when the person's driver's license, permit or
 5 privilege was revoked; except as may be allowed by a
 6 restricted driving permit issued pursuant to this Code or the
 7 law of another state; the Secretary shall not issue a
 8 driver's license for an additional period of one year from
 9 the date of such conviction indicating such person was
 10 operating a vehicle during such period of revocation.

11 (c) Any person convicted of violating this Section shall
 12 serve a minimum term of imprisonment of 14 10 consecutive
 13 days or 60 30 days of community service, ~~when the person's~~
 14 ~~driving privilege was revoked or suspended as a result of:~~

15 (1) ~~a violation of Section 11-501 of this Code or a~~
 16 ~~similar provision of a local ordinance relating to the~~
 17 ~~offense of operating or being in physical control of a~~
 18 ~~vehicle while under the influence of alcohol, any other~~
 19 ~~drug or any combination thereof; or~~

20 (2) ~~a violation of paragraph (b) of Section 11-401~~
 21 ~~of this Code or a similar provision of a local ordinance~~
 22 ~~relating to the offense of leaving the scene of a motor~~
 23 ~~vehicle accident involving personal injury or death; or~~

24 (3) ~~a violation of Section 9-3 of the Criminal Code~~
 25 ~~of 1961, as amended, relating to the offense of reckless~~
 26 ~~homicide; or~~

27 (4) ~~a statutory summary suspension under Section~~
 28 ~~11-501.1 of this Code.~~

29 Such sentence of imprisonment or community service shall
 30 not be subject to suspension in order to reduce such
 31 sentence.

32 (c-1) Except as provided in subsection (d), any person
 33 convicted of a second violation of this Section shall be
 34 ordered by the court to serve a minimum of 100 hours of

1 community service.

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

5 (1) Seizure of the license plates of the person's
6 vehicle.

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

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

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

25 (d-2) Any person convicted of a third violation of this
26 Section is guilty of a Class 4 felony and must serve a
27 minimum term of imprisonment of 30 days if the revocation or
28 suspension was for a violation of Section 11-401 or 11-501 of
29 this Code, or a similar out-of-state offense, or a similar
30 provision of a local ordinance, a violation of Section 9-3 of
31 the Criminal Code of 1961, relating to the offense of
32 reckless homicide, or a similar out-of-state offense, or a
33 statutory summary suspension under Section 11-501.1 of this
34 Code.

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

11 (e) Any person in violation of this Section who is also
12 in violation of Section 7-601 of this Code relating to
13 mandatory insurance requirements, in addition to other
14 penalties imposed under this Section, shall have his or her
15 motor vehicle immediately impounded by the arresting law
16 enforcement officer. The motor vehicle may be released to any
17 licensed driver upon a showing of proof of insurance for the
18 vehicle that was impounded and the notarized written consent
19 for the release by the vehicle owner.

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

23 (Source: P.A. 91-692, eff. 4-13-00; 92-340, eff. 8-10-01.)

24 Section 10. The Criminal Code of 1961 is amended by
25 changing Sections 36-1 and 36-2 as follows:

26 (720 ILCS 5/36-1) (from Ch. 38, par. 36-1)

27 Sec. 36-1. Seizure. Any vessel, vehicle or aircraft
28 used with the knowledge and consent of the owner in the
29 commission of, or in the attempt to commit as defined in
30 Section 8-4 of this Code, an offense prohibited by (a)
31 Section 9-1, 9-3, 10-2, 11-6, 11-15.1, 11-19.1, 11-19.2,
32 11-20.1, 12-4.1, 12-4.2, 12-4.2-5, 12-4.3, 12-4.6, 12-7.3,

1 12-7.4, 12-13, 12-14, 18-2, 19-1, 19-2, 19-3, 20-1, 20-2,
2 20.5-6, 24-1.2, 24-1.2-5, 24-1.5, or 28-1 of this Code,
3 paragraph (a) of Section 12-4 of this Code, paragraph (a) of
4 Section 12-15 or paragraphs (a), (c) or (d) of Section 12-16
5 of this Code, or paragraph (a)(6) or (a)(7) of Section 24-1
6 of this Code; (b) Section 21, 22, 23, 24 or 26 of the
7 Cigarette Tax Act if the vessel, vehicle or aircraft contains
8 more than 10 cartons of such cigarettes; (c) Section 28, 29
9 or 30 of the Cigarette Use Tax Act if the vessel, vehicle or
10 aircraft contains more than 10 cartons of such cigarettes;
11 (d) Section 44 of the Environmental Protection Act; (e)
12 11-204.1 of the Illinois Vehicle Code; or (f) the offenses
13 described in the following provisions of the Illinois Vehicle
14 Code: Section 11-501 subdivisions (c-1)(1), (c-1)(2),
15 (c-1)(3), (d)(1)(A), or (d)(1)(D); or (g) Section 6-303 of
16 the Illinois Vehicle Code; may be seized and delivered
17 forthwith to the sheriff of the county of seizure.

18 Within 15 days after such delivery the sheriff shall give
19 notice of seizure to each person according to the following
20 method: Upon each such person whose right, title or interest
21 is of record in the office of the Secretary of State, the
22 Secretary of Transportation, the Administrator of the Federal
23 Aviation Agency, or any other Department of this State, or
24 any other state of the United States if such vessel, vehicle
25 or aircraft is required to be so registered, as the case may
26 be, by mailing a copy of the notice by certified mail to the
27 address as given upon the records of the Secretary of State,
28 the Department of Aeronautics, Department of Public Works and
29 Buildings or any other Department of this State or the United
30 States if such vessel, vehicle or aircraft is required to be
31 so registered. Within that 15 day period the sheriff shall
32 also notify the State's Attorney of the county of seizure
33 about the seizure.

34 In addition, any mobile or portable equipment used in the

1 commission of an act which is in violation of Section 7g of
2 the Metropolitan Water Reclamation District Act shall be
3 subject to seizure and forfeiture under the same procedures
4 provided in this Article for the seizure and forfeiture of
5 vessels, vehicles and aircraft, and any such equipment shall
6 be deemed a vessel, vehicle or aircraft for purposes of this
7 Article.

8 When a person discharges a firearm at another individual
9 from a vehicle with the knowledge and consent of the owner of
10 the vehicle and with the intent to cause death or great
11 bodily harm to that individual and as a result causes death
12 or great bodily harm to that individual, the vehicle shall be
13 subject to seizure and forfeiture under the same procedures
14 provided in this Article for the seizure and forfeiture of
15 vehicles used in violations of clauses (a), (b), (c), or (d)
16 of this Section.

17 If the spouse of the owner of a vehicle seized for a
18 violation of subdivision (c-1)(1), (c-1)(2), (c-1)(3),
19 (d)(1)(A), or (d)(1)(D) of Section 11-501 of the Illinois
20 Vehicle Code or Section 9-3 of this Code makes a showing that
21 the seized vehicle is the only source of transportation and
22 it is determined that the financial hardship to the family as
23 a result of the seizure outweighs the benefit to the State
24 from the seizure, the vehicle may be forfeited to the spouse
25 or family member and the title to the vehicle shall be
26 transferred to the spouse or family member who is properly
27 licensed and who requires the use of the vehicle for
28 employment or family transportation purposes. A written
29 declaration of forfeiture of a vehicle under this Section
30 shall be sufficient cause for the title to be transferred to
31 the spouse or family member. The provisions of this
32 paragraph shall apply only to one forfeiture per vehicle. If
33 the vehicle is the subject of a subsequent forfeiture
34 proceeding by virtue of a subsequent conviction of either

1 spouse or the family member, the spouse or family member to
2 whom the vehicle was forfeited under the first forfeiture
3 proceeding may not utilize the provisions of this paragraph
4 in another forfeiture proceeding. If the owner of the
5 vehicle seized owns more than one vehicle, the procedure set
6 out in this paragraph may be used for only one vehicle.

7 Property declared contraband under Section 40 of the
8 Illinois Streetgang Terrorism Omnibus Prevention Act may be
9 seized and forfeited under this Article.

10 (Source: P.A. 91-876, eff. 1-1-01; 92-57, eff. 1-1-02.)

11 (720 ILCS 5/36-2) (from Ch. 38, par. 36-2)

12 Sec. 36-2. Action for forfeiture. (a) The State's
13 Attorney in the county in which such seizure occurs if he
14 finds that such forfeiture was incurred without willful
15 negligence or without any intention on the part of the owner
16 of the vessel, vehicle or aircraft or any person whose right,
17 title or interest is of record as described in Section 36-1,
18 to violate the law, or finds the existence of such mitigating
19 circumstances as to justify remission of the forfeiture, may
20 cause the sheriff to remit the same upon such terms and
21 conditions as the State's Attorney deems reasonable and just.
22 The State's Attorney shall exercise his discretion under the
23 foregoing provision of this Section 36-2(a) promptly after
24 notice is given in accordance with Section 36-1. If the
25 State's Attorney does not cause the forfeiture to be remitted
26 he shall forthwith bring an action for forfeiture in the
27 Circuit Court within whose jurisdiction the seizure and
28 confiscation has taken place. The State's Attorney shall give
29 notice of the forfeiture proceeding by mailing a copy of the
30 Complaint in the forfeiture proceeding to the persons, and
31 upon the manner, set forth in Section 36-1. The owner of the
32 seized vessel, vehicle or aircraft or any person whose right,
33 title, or interest is of record as described in Section 36-1,

1 may within 20 days after the mailing of such notice file a
2 verified answer to the Complaint and may appear at the
3 hearing on the action for forfeiture. The State shall show at
4 such hearing by a preponderance of the evidence, that such
5 vessel, vehicle or aircraft was used in the commission of an
6 offense described in Section 36-1. The owner of such vessel,
7 vehicle or aircraft or any person whose right, title, or
8 interest is of record as described in Section 36-1, may show
9 by a preponderance of the evidence that he did not know, and
10 did not have reason to know, that the vessel, vehicle or
11 aircraft was to be used in the commission of such an offense
12 or that any of the exceptions set forth in Section 36-3 are
13 applicable. Unless the State shall make such showing, the
14 Court shall order such vessel, vehicle or aircraft released
15 to the owner. Where the State has made such showing, the
16 Court may order the vessel, vehicle or aircraft destroyed;
17 may order it delivered to any local, municipal or county law
18 enforcement agency, or the Department of State Police or the
19 Department of Revenue of the State of Illinois; or may order
20 it sold at public auction.

21 (b) A copy of the order shall be filed with the sheriff
22 of the county in which the seizure occurs and with each
23 Federal or State office or agency with which such vessel,
24 vehicle or aircraft is required to be registered. Such order,
25 when filed, constitutes authority for the issuance of clear
26 title to such vehicle, aircraft, or boat to the department or
27 agency to whom it is delivered or any purchaser thereof. The
28 sheriff shall comply promptly with instructions to remit
29 received from the State's Attorney or Attorney General in
30 accordance with Sections 36-2(a) or 36-3.

31 (c) The proceeds of any sale at public auction pursuant
32 to Section 36-2 of this Act, after payment of all liens and
33 deduction of the reasonable charges and expenses incurred by
34 the sheriff in storing and selling such vehicle, shall be

1 paid into the general fund of the county of seizure. Moneys
2 paid into the general fund of the county from the proceeds of
3 the sale of motor vehicles under clause (g) of Section 36-1
4 shall be used for the creation and funding of programs for
5 education about and the prevention of driving a motor vehicle
6 under the influence of alcohol or other drugs.

7 (Source: P.A. 84-25.)