

SB1322



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1322

Introduced 2/18/2015, by Sen. Jason A. Barickman

SYNOPSIS AS INTRODUCED:

720 ILCS 5/36-1

from Ch. 38, par. 36-1

Amends the Criminal Code of 2012. Provides for the seizure of a vessel, vehicle or aircraft used with the knowledge and consent of the owner in the commission of home repair fraud or aggravated home repair fraud.

LRB099 10096 RLC 30319 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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.

8 (a) Any vessel or watercraft, vehicle, or aircraft may be
9 seized and impounded by the law enforcement agency if the
10 vessel or watercraft, vehicle, or aircraft is used with the
11 knowledge and consent of the owner in the commission of~~7~~ or in
12 the attempt to commit as defined in Section 8-4 of this Code~~7~~
13 ~~an offense prohibited by:~~

14 (1) an offense prohibited by Section 9-1 (first degree
15 murder), Section 9-3 (involuntary manslaughter and
16 reckless homicide), Section 10-2 (aggravated kidnaping),
17 Section 11-1.20 (criminal sexual assault), Section 11-1.30
18 (aggravated criminal sexual assault), Section 11-1.40
19 (predatory criminal sexual assault of a child), subsection
20 (a) of Section 11-1.50 (criminal sexual abuse), subsection
21 (a), (c), or (d) of Section 11-1.60 (aggravated criminal
22 sexual abuse), Section 11-6 (indecent solicitation of a
23 child), Section 11-14.4 (promoting juvenile prostitution

1 except for keeping a place of juvenile prostitution),
2 Section 11-20.1 (child pornography), paragraph (a)(1),
3 (a)(2), (a)(4), (b)(1), (b)(2), (e)(1), (e)(2), (e)(3),
4 (e)(4), (e)(5), (e)(6), or (e)(7) of Section 12-3.05
5 (aggravated battery), Section 12-7.3 (stalking), Section
6 12-7.4 (aggravated stalking), Section 16-1 (theft if the
7 theft is of precious metal or of scrap metal), subdivision
8 (f)(2) or (f)(3) of Section 16-25 (retail theft), Section
9 18-2 (armed robbery), Section 19-1 (burglary), Section
10 19-2 (possession of burglary tools), Section 19-3
11 (residential burglary), Section 20-1 (arson; residential
12 arson; place of worship arson), Section 20-2 (possession of
13 explosives or explosive or incendiary devices),
14 subdivision (a)(6) or (a)(7) of Section 24-1 (unlawful use
15 of weapons), Section 24-1.2 (aggravated discharge of a
16 firearm), Section 24-1.2-5 (aggravated discharge of a
17 machine gun or a firearm equipped with a device designed or
18 used for silencing the report of a firearm), Section 24-1.5
19 (reckless discharge of a firearm), Section 28-1
20 (gambling), or Section 29D-15.2 (possession of a deadly
21 substance) of this Code;

22 (2) an offense prohibited by Section 21, 22, 23, 24 or
23 26 of the Cigarette Tax Act if the vessel or watercraft,
24 vehicle, or aircraft contains more than 10 cartons of such
25 cigarettes;

26 (3) an offense prohibited by Section 28, 29, or 30 of

1 the Cigarette Use Tax Act if the vessel or watercraft,
2 vehicle, or aircraft contains more than 10 cartons of such
3 cigarettes;

4 (4) an offense prohibited by Section 44 of the
5 Environmental Protection Act;

6 (5) an offense prohibited by Section 11-204.1 of the
7 Illinois Vehicle Code (aggravated fleeing or attempting to
8 elude a peace officer);

9 (6) an offense prohibited by Section 11-501 of the
10 Illinois Vehicle Code (driving while under the influence of
11 alcohol or other drug or drugs, intoxicating compound or
12 compounds or any combination thereof) or a similar
13 provision of a local ordinance, and:

14 (A) during a period in which his or her driving
15 privileges are revoked or suspended if the revocation
16 or suspension was for:

17 (i) Section 11-501 (driving under the
18 influence of alcohol or other drug or drugs,
19 intoxicating compound or compounds or any
20 combination thereof),

21 (ii) Section 11-501.1 (statutory summary
22 suspension or revocation),

23 (iii) paragraph (b) of Section 11-401 (motor
24 vehicle accidents involving death or personal
25 injuries), or

26 (iv) reckless homicide as defined in Section

1 9-3 of this Code;

2 (B) has been previously convicted of reckless
3 homicide or a similar provision of a law of another
4 state relating to reckless homicide in which the person
5 was determined to have been under the influence of
6 alcohol, other drug or drugs, or intoxicating compound
7 or compounds as an element of the offense or the person
8 has previously been convicted of committing a
9 violation of driving under the influence of alcohol or
10 other drug or drugs, intoxicating compound or
11 compounds or any combination thereof and was involved
12 in a motor vehicle accident that resulted in death,
13 great bodily harm, or permanent disability or
14 disfigurement to another, when the violation was a
15 proximate cause of the death or injuries;

16 (C) the person committed a violation of driving
17 under the influence of alcohol or other drug or drugs,
18 intoxicating compound or compounds or any combination
19 thereof under Section 11-501 of the Illinois Vehicle
20 Code or a similar provision for the third or subsequent
21 time;

22 (D) he or she did not possess a valid driver's
23 license or permit or a valid restricted driving permit
24 or a valid judicial driving permit or a valid
25 monitoring device driving permit; or

26 (E) he or she knew or should have known that the

1 vehicle he or she was driving was not covered by a
2 liability insurance policy;

3 (7) an offense described in subsection (g) of Section
4 6-303 of the Illinois Vehicle Code;

5 (8) an offense described in subsection (e) of Section
6 6-101 of the Illinois Vehicle Code; ~~or~~

7 (9) (A) ~~(i) — (1)~~ operating a watercraft under the
8 influence of alcohol, other drug or drugs, intoxicating
9 compound or compounds, or combination thereof under
10 Section 5-16 of the Boat Registration and Safety Act during
11 a period in which his or her privileges to operate a
12 watercraft are revoked or suspended and the revocation or
13 suspension was for operating a watercraft under the
14 influence of alcohol, other drug or drugs, intoxicating
15 compound or compounds, or combination thereof; (B) ~~(2)~~
16 operating a watercraft under the influence of alcohol,
17 other drug or drugs, intoxicating compound or compounds, or
18 combination thereof and has been previously convicted of
19 reckless homicide or a similar provision of a law in
20 another state relating to reckless homicide in which the
21 person was determined to have been under the influence of
22 alcohol, other drug or drugs, intoxicating compound or
23 compounds, or combination thereof as an element of the
24 offense or the person has previously been convicted of
25 committing a violation of operating a watercraft under the
26 influence of alcohol, other drug or drugs, intoxicating

1 compound or compounds, or combination thereof and was
2 involved in an accident that resulted in death, great
3 bodily harm, or permanent disability or disfigurement to
4 another, when the violation was a proximate cause of the
5 death or injuries; or (C) ~~(3)~~ the person committed a
6 violation of operating a watercraft under the influence of
7 alcohol, other drug or drugs, intoxicating compound or
8 compounds, or combination thereof under Section 5-16 of the
9 Boat Registration and Safety Act or a similar provision for
10 the third or subsequent time; ~~or watercraft or watercraft~~

11 (10) home repair fraud as defined in Section 3 of the
12 Home Repair Fraud Act; or

13 (11) aggravated home repair fraud as defined in Section
14 5 of the Home Repair Fraud Act.

15 (b) In addition, any mobile or portable equipment used in
16 the commission of an act which is in violation of Section 7g of
17 the Metropolitan Water Reclamation District Act shall be
18 subject to seizure and forfeiture under the same procedures
19 provided in this Article for the seizure and forfeiture of
20 vessels or watercraft, vehicles, and aircraft, and any such
21 equipment shall be deemed a vessel or watercraft, vehicle, or
22 aircraft for purposes of this Article.

23 (c) In addition, when a person discharges a firearm at
24 another individual from a vehicle with the knowledge and
25 consent of the owner of the vehicle and with the intent to
26 cause death or great bodily harm to that individual and as a

1 result causes death or great bodily harm to that individual,
2 the vehicle shall be subject to seizure and forfeiture under
3 the same procedures provided in this Article for the seizure
4 and forfeiture of vehicles used in violations of clauses (1),
5 (2), (3), or (4) of subsection (a) of this Section.

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

1 provisions of this paragraph in another forfeiture proceeding.
2 If the owner of the vehicle seized owns more than one vehicle,
3 the procedure set out in this paragraph may be used for only
4 one vehicle.

5 (e) In addition, property declared contraband under
6 Section 40 of the Illinois Streetgang Terrorism Omnibus
7 Prevention Act may be seized and forfeited under this Article.

8 (Source: P.A. 97-333, eff. 8-12-11; 97-1109, eff. 1-1-13;
9 97-1150, eff. 1-25-13; 98-699, eff. 1-1-15; 98-1020, eff.
10 8-22-14; revised 9-30-14.)