



## 98TH GENERAL ASSEMBLY

### State of Illinois

### 2013 and 2014

### HB3284

by Rep. Elgie R. Sims, Jr.

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/36-1	from Ch. 38, par. 36-1
720 ILCS 5/37-1	from Ch. 38, par. 37-1
720 ILCS 5/37-4	from Ch. 38, par. 37-4

Amends the Criminal Code of 2012. Provides that any building used in animal fighting is a public nuisance and may be abated. Provides for the seizure and forfeiture of vessels, vehicles, and aircraft used with the knowledge and consent of the owner in the commission of animal fighting. Provides that in those cases the court may order the sheriff of the county in which the public nuisance occurred to padlock the property and impound any vessels, vehicles, or aircraft located on the property.

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CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

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 Sections 36-1, 37-1, and 37-4 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 knowledge and consent of the owner in the commission  
9 of, or in the attempt to commit as defined in Section 8-4 of  
10 this Code, an offense prohibited by (a) Section 9-1, 9-3, 10-2,  
11 11-1.20, 11-1.30, 11-1.40, 11-6, 11-14.4 except for keeping a  
12 place of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2,  
13 11-20.1, 11-20.1B, 11-20.3, 12-4.1, 12-4.2, 12-4.2-5, 12-4.3,  
14 12-4.6, 12-7.3, 12-7.4, 12-13, 12-14, 16-1 if the theft is of  
15 precious metal or of scrap metal, 18-2, 19-1, 19-2, 19-3, 20-1,  
16 20-2, 24-1.2, 24-1.2-5, 24-1.5, 28-1, ~~or~~ 29D-15.2, or 48-1 of  
17 this 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; or (i) Section 4.01 of the Humane  
19 Care for Animals Act may be seized and delivered forthwith to  
20 the sheriff of the county of seizure.

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

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

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

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

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

25 Property declared contraband under Section 40 of the  
26 Illinois Streetgang Terrorism Omnibus Prevention Act may be

1 seized and forfeited under this Article.

2 (Source: P.A. 96-313, eff. 1-1-10; 96-710, eff. 1-1-10;  
3 96-1000, eff. 7-2-10; 96-1267, eff. 7-26-10; 96-1289, eff.  
4 1-1-11; 96-1551, Article 1, Section 960, eff. 7-1-11; 96-1551,  
5 Article 2, Section 1035, eff. 7-1-11; 97-333, eff. 8-12-11;  
6 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)

7 (720 ILCS 5/37-1) (from Ch. 38, par. 37-1)

8 Sec. 37-1. Maintaining Public Nuisance. Any building used  
9 in the commission of offenses prohibited by Sections 9-1, 10-1,  
10 10-2, 11-14, 11-15, 11-16, 11-17, 11-20, 11-20.1, 11-20.1B,  
11 11-20.3, 11-21, 11-22, 12-5.1, 16-1, 20-2, 23-1, 23-1(a)(1),  
12 24-1(a)(7), 24-3, 28-1, 28-3, 31-5, ~~or~~ 39A-1, or 48-1 or  
13 subdivision (a)(1), (a)(2)(A), or (a)(2)(B) of Section  
14 11-14.3, of this Code, or prohibited by the Illinois Controlled  
15 Substances Act, the Methamphetamine Control and Community  
16 Protection Act, or the Cannabis Control Act, or Section 4.01 of  
17 the Humane Care for Animals Act used in the commission of an  
18 inchoate offense relative to any of the aforesaid principal  
19 offenses, or any real property erected, established,  
20 maintained, owned, leased, or used by a streetgang for the  
21 purpose of conducting streetgang related activity as defined in  
22 Section 10 of the Illinois Streetgang Terrorism Omnibus  
23 Prevention Act is a public nuisance.

24 (b) Sentence. A person convicted of knowingly maintaining  
25 such a public nuisance commits a Class A misdemeanor. Each

1 subsequent offense under this Section is a Class 4 felony.

2 (Source: P.A. 96-1551, eff. 7-1-11; 97-1150, eff. 1-25-13.)

3 (720 ILCS 5/37-4) (from Ch. 38, par. 37-4)

4 Sec. 37-4. Abatement of nuisance.) The Attorney General of  
5 this State or the State's Attorney of the county wherein the  
6 nuisance exists may commence an action to abate a public  
7 nuisance as described in Section 37-1 of this Act, in the name  
8 of the People of the State of Illinois, in the circuit court.  
9 Upon being satisfied by affidavits or other sworn evidence that  
10 an alleged public nuisance exists, the court may without notice  
11 or bond enter a temporary restraining order or preliminary  
12 injunction to enjoin any defendant from maintaining such  
13 nuisance and may enter an order restraining any defendant from  
14 removing or interfering with all property used in connection  
15 with the public nuisance, including if the property was used in  
16 commission of a violation of Section 48-1 of this Code or  
17 Section 4.01 of the Humane Care for Animals Act ordering the  
18 sheriff of the county in which the public nuisance occurred to  
19 padlock the property and impound any vessels, vehicles, or  
20 aircraft located on the property. If during the proceedings and  
21 hearings upon the merits, which shall be in the manner of "An  
22 Act in relation to places used for the purpose of using,  
23 keeping or selling controlled substances or cannabis",  
24 approved July 5, 1957, the existence of the nuisance is  
25 established, and it is found that such nuisance was maintained



1 with the intentional, knowing, reckless or negligent  
2 permission of the owner or the agent of the owner managing the  
3 building, the court shall enter an order restraining all  
4 persons from maintaining or permitting such nuisance and from  
5 using the building for a period of one year thereafter, except  
6 that an owner, lessee or other occupant thereof may use such  
7 place if the owner shall give bond with sufficient security or  
8 surety approved by the court, in an amount between \$1,000 and  
9 \$5,000 inclusive, payable to the People of the State of  
10 Illinois, and including a condition that no offense specified  
11 in Section 37-1 of this Act shall be committed at, in or upon  
12 the property described and a condition that the principal  
13 obligor and surety assume responsibility for any fine, costs or  
14 damages resulting from such an offense thereafter.

15 (Source: P.A. 83-342.)