

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 Cannabis Control Act is amended by changing  
5 Section 12 as follows:

6 (720 ILCS 550/12) (from Ch. 56 1/2, par. 712)

7 Sec. 12. (a) The following are subject to forfeiture:

8 (1) all substances containing cannabis which have been  
9 produced, manufactured, delivered, or possessed in  
10 violation of this Act;

11 (2) all raw materials, products and equipment of any  
12 kind which are produced, delivered, or possessed in  
13 connection with any substance containing cannabis in  
14 violation of this Act;

15 (3) all conveyances, including aircraft, vehicles or  
16 vessels, which are used, or intended for use, to transport,  
17 or in any manner to facilitate the transportation, sale,  
18 receipt, possession, or concealment of property described  
19 in paragraph (1) or (2) that constitutes a felony violation  
20 of the Act, but:

21 (i) no conveyance used by any person as a common  
22 carrier in the transaction of business as a common  
23 carrier is subject to forfeiture under this Section

1           unless it appears that the owner or other person in  
2           charge of the conveyance is a consenting party or privy  
3           to a violation of this Act;

4           (ii) no conveyance is subject to forfeiture under  
5           this Section by reason of any act or omission which the  
6           owner proves to have been committed or omitted without  
7           his knowledge or consent;

8           (iii) a forfeiture of a conveyance encumbered by a  
9           bona fide security interest is subject to the interest  
10          of the secured party if he neither had knowledge of nor  
11          consented to the act or omission;

12          (4) all money, things of value, books, records, and  
13          research products and materials including formulas,  
14          microfilm, tapes, and data which are used, or intended for  
15          use in a felony violation of this Act;

16          (5) everything of value furnished or intended to be  
17          furnished by any person in exchange for a substance in  
18          violation of this Act, all proceeds traceable to such an  
19          exchange, and all moneys, negotiable instruments, and  
20          securities used, or intended to be used, to commit or in  
21          any manner to facilitate any felony violation of this Act;

22          (6) all real property, including any right, title, and  
23          interest including, but not limited to, any leasehold  
24          interest or the beneficial interest to a land trust, in the  
25          whole of any lot or tract of land and any appurtenances or  
26          improvements, that is used or intended to be used to

1 facilitate the manufacture, distribution, sale, receipt,  
2 or concealment of property described in paragraph (1) or  
3 (2) of this subsection (a) that constitutes a felony  
4 violation of more than 2,000 grams of a substance  
5 containing cannabis or that is the proceeds of any felony  
6 violation of this Act.

7 (b) Property subject to forfeiture under this Act may be  
8 seized by the Director or any peace officer upon process or  
9 seizure warrant issued by any court having jurisdiction over  
10 the property. Seizure by the Director or any peace officer  
11 without process may be made:

12 (1) if the property subject to seizure has been the  
13 subject of a prior judgment in favor of the State in a  
14 criminal proceeding or in an injunction or forfeiture  
15 proceeding based upon this Act or the Drug Asset Forfeiture  
16 Procedure Act;

17 (2) if there is probable cause to believe that the  
18 property is directly or indirectly dangerous to health or  
19 safety;

20 (3) if there is probable cause to believe that the  
21 property is subject to forfeiture under this Act and the  
22 property is seized under circumstances in which a  
23 warrantless seizure or arrest would be reasonable; or

24 (4) in accordance with the Code of Criminal Procedure  
25 of 1963.

26 (c) In the event of seizure pursuant to subsection (b),

1 notice shall be given forthwith to all known interest holders  
2 that forfeiture proceedings, including a preliminary review,  
3 shall be instituted in accordance with the Drug Asset  
4 Forfeiture Procedure Act and such proceedings shall thereafter  
5 be instituted in accordance with that Act. Upon a showing of  
6 good cause, the notice required for a preliminary review under  
7 this Section may be postponed.

8 (c-1) In the event the State's Attorney is of the opinion  
9 that real property is subject to forfeiture under this Act,  
10 forfeiture proceedings shall be instituted in accordance with  
11 the Drug Asset Forfeiture Procedure Act. The exemptions from  
12 forfeiture provisions of Section 8 of the Drug Asset Forfeiture  
13 Procedure Act are applicable.

14 (d) Property taken or detained under this Section shall not  
15 be subject to replevin, but is deemed to be in the custody of  
16 the Director subject only to the order and judgments of the  
17 circuit court having jurisdiction over the forfeiture  
18 proceedings and the decisions of the State's Attorney under the  
19 Drug Asset Forfeiture Procedure Act. When property is seized  
20 under this Act, the seizing agency shall promptly conduct an  
21 inventory of the seized property, estimate the property's  
22 value, and shall forward a copy of the inventory of seized  
23 property and the estimate of the property's value to the  
24 Director. Upon receiving notice of seizure, the Director may:

25 (1) place the property under seal;

26 (2) remove the property to a place designated by him;

1           (3) keep the property in the possession of the seizing  
2           agency;

3           (4) remove the property to a storage area for  
4           safekeeping or, if the property is a negotiable instrument  
5           or money and is not needed for evidentiary purposes,  
6           deposit it in an interest bearing account;

7           (5) place the property under constructive seizure by  
8           posting notice of pending forfeiture on it, by giving  
9           notice of pending forfeiture to its owners and interest  
10          holders, or by filing notice of pending forfeiture in any  
11          appropriate public record relating to the property; or

12          (6) provide for another agency or custodian, including  
13          an owner, secured party, or lienholder, to take custody of  
14          the property upon the terms and conditions set by the  
15          Director.

16          (e) No disposition may be made of property under seal until  
17          the time for taking an appeal has elapsed or until all appeals  
18          have been concluded unless a court, upon application therefor,  
19          orders the sale of perishable substances and the deposit of the  
20          proceeds of the sale with the court.

21          (f) When property is forfeited under this Act the Director  
22          shall sell all such property unless such property is required  
23          by law to be destroyed or is harmful to the public, and shall  
24          distribute the proceeds of the sale, together with any moneys  
25          forfeited or seized, in accordance with subsection (g).  
26          However, upon the application of the seizing agency or

1 prosecutor who was responsible for the investigation, arrest or  
2 arrests and prosecution which lead to the forfeiture, the  
3 Director may return any item of forfeited property to the  
4 seizing agency or prosecutor for official use in the  
5 enforcement of laws relating to cannabis or controlled  
6 substances, if the agency or prosecutor can demonstrate that  
7 the item requested would be useful to the agency or prosecutor  
8 in their enforcement efforts. When any forfeited conveyance,  
9 including an aircraft, vehicle, or vessel, is returned to the  
10 seizing agency or prosecutor, the conveyance may be used  
11 immediately in the enforcement of the criminal laws of this  
12 State. Upon disposal, all proceeds from the sale of the  
13 conveyance must be used for drug enforcement purposes. When any  
14 real property returned to the seizing agency is sold by the  
15 agency or its unit of government, the proceeds of the sale  
16 shall be delivered to the Director and distributed in  
17 accordance with subsection (g).

18 (g) All monies and the sale proceeds of all other property  
19 forfeited and seized under this Act shall be distributed as  
20 follows:

21 (1) (i) 65% shall be distributed to the metropolitan  
22 enforcement group, local, municipal, county, or state law  
23 enforcement agency or agencies which conducted or  
24 participated in the investigation resulting in the  
25 forfeiture. The distribution shall bear a reasonable  
26 relationship to the degree of direct participation of the

1 law enforcement agency in the effort resulting in the  
2 forfeiture, taking into account the total value of the  
3 property forfeited and the total law enforcement effort  
4 with respect to the violation of the law upon which the  
5 forfeiture is based. Amounts distributed to the agency or  
6 agencies shall be used for the enforcement of laws  
7 governing cannabis and controlled substances or for  
8 security cameras used for the prevention or detection of  
9 violence, except that amounts distributed to the Secretary  
10 of State shall be deposited into the Secretary of State  
11 Evidence Fund to be used as provided in Section 2-115 of  
12 the Illinois Vehicle Code.

13 (ii) Any local, municipal, or county law enforcement  
14 agency entitled to receive a monetary distribution of  
15 forfeiture proceeds may share those forfeiture proceeds  
16 pursuant to the terms of an intergovernmental agreement  
17 with a municipality that has a population in excess of  
18 20,000 if:

19 (I) the receiving agency has entered into an  
20 intergovernmental agreement with the municipality to  
21 provide police services;

22 (II) the intergovernmental agreement for police  
23 services provides for consideration in an amount of not  
24 less than \$1,000,000 per year;

25 (III) the seizure took place within the  
26 geographical limits of the municipality; and

1 (IV) the funds are used only for: the enforcement  
2 of laws governing cannabis and controlled substances;  
3 ~~or~~ for security cameras used for the prevention or  
4 detection of violence; ~~or~~ the establishment of a  
5 municipal police force, including the training of  
6 officers, construction of a police station, the  
7 purchase of law enforcement equipment, or vehicles; or  
8 public education in the community or schools in the  
9 prevention, detection, or the abuse of drugs or  
10 alcohol.

11 (2) (i) 12.5% shall be distributed to the Office of the  
12 State's Attorney of the county in which the prosecution  
13 resulting in the forfeiture was instituted, deposited in a  
14 special fund in the county treasury and appropriated to the  
15 State's Attorney for use in the enforcement of laws  
16 governing cannabis and controlled substances, or at the  
17 discretion of the State's Attorney, in addition to other  
18 authorized purposes, to make grants to local substance  
19 abuse treatment facilities and half-way houses. In  
20 counties over 3,000,000 population, 25% will be  
21 distributed to the Office of the State's Attorney for use  
22 in the enforcement of laws governing cannabis and  
23 controlled substances, or at the discretion of the State's  
24 Attorney, in addition to other authorized purposes, to make  
25 grants to local substance abuse treatment facilities and  
26 half-way houses. If the prosecution is undertaken solely by



1 the Attorney General, the portion provided hereunder shall  
2 be distributed to the Attorney General for use in the  
3 enforcement of laws governing cannabis and controlled  
4 substances.

5 (ii) 12.5% shall be distributed to the Office of the  
6 State's Attorneys Appellate Prosecutor and deposited in  
7 the Narcotics Profit Forfeiture Fund of that Office to be  
8 used for additional expenses incurred in the  
9 investigation, prosecution and appeal of cases arising  
10 under laws governing cannabis and controlled substances.  
11 The Office of the State's Attorneys Appellate Prosecutor  
12 shall not receive distribution from cases brought in  
13 counties with over 3,000,000 population.

14 (3) 10% shall be retained by the Department of State  
15 Police for expenses related to the administration and sale  
16 of seized and forfeited property.

17 (Source: P.A. 97-253, eff. 1-1-12; 97-544, eff. 1-1-12; 97-813,  
18 eff. 7-13-12; 97-985, eff. 1-1-13.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.