

# HB0352



## 100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0352

by Rep. David McSweeney

### SYNOPSIS AS INTRODUCED:

720 ILCS 570/401

from Ch. 56 1/2, par. 1401

Amends the Illinois Controlled Substances Act. Increases the minimum penalties by 3 years for knowingly manufacturing or delivering, or possessing with intent to manufacture or deliver, 15 grams or more of heroin.

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CORRECTIONAL  
BUDGET AND  
IMPACT 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 Illinois Controlled Substances Act is  
5 amended by changing Section 401 as follows:

6 (720 ILCS 570/401) (from Ch. 56 1/2, par. 1401)

7 Sec. 401. Manufacture or delivery, or possession with  
8 intent to manufacture or deliver, a controlled substance, a  
9 counterfeit substance, or controlled substance analog. Except  
10 as authorized by this Act, it is unlawful for any person  
11 knowingly to manufacture or deliver, or possess with intent to  
12 manufacture or deliver, a controlled substance other than  
13 methamphetamine and other than bath salts as defined in the  
14 Bath Salts Prohibition Act sold or offered for sale in a retail  
15 mercantile establishment as defined in Section 16-0.1 of the  
16 Criminal Code of 2012, a counterfeit substance, or a controlled  
17 substance analog. A violation of this Act with respect to each  
18 of the controlled substances listed herein constitutes a single  
19 and separate violation of this Act. For purposes of this  
20 Section, "controlled substance analog" or "analog" means a  
21 substance, other than a controlled substance, that has a  
22 chemical structure substantially similar to that of a  
23 controlled substance in Schedule I or II, or that was

1 specifically designed to produce an effect substantially  
2 similar to that of a controlled substance in Schedule I or II.  
3 Examples of chemical classes in which controlled substance  
4 analogs are found include, but are not limited to, the  
5 following: phenethylamines, N-substituted piperidines,  
6 morphinans, ecgonines, quinazolinones, substituted indoles,  
7 and arylcycloalkylamines. For purposes of this Act, a  
8 controlled substance analog shall be treated in the same manner  
9 as the controlled substance to which it is substantially  
10 similar.

11 (a) Any person who violates this Section with respect to  
12 the following amounts of controlled or counterfeit substances  
13 or controlled substance analogs, notwithstanding any of the  
14 provisions of subsections (c), (d), (e), (f), (g) or (h) to the  
15 contrary, is guilty of a Class X felony and shall be sentenced  
16 to a term of imprisonment as provided in this subsection (a)  
17 and fined as provided in subsection (b):

18 (1) (A) not less than 9 ~~6~~ years and not more than 30  
19 years with respect to 15 grams or more but less than  
20 100 grams of a substance containing heroin, or an  
21 analog thereof;

22 (B) not less than 12 ~~9~~ years and not more than 40  
23 years with respect to 100 grams or more but less than  
24 400 grams of a substance containing heroin, or an  
25 analog thereof;

26 (C) not less than 15 ~~12~~ years and not more than 50

1 years with respect to 400 grams or more but less than  
2 900 grams of a substance containing heroin, or an  
3 analog thereof;

4 (D) not less than 18 ~~15~~ years and not more than 60  
5 years with respect to 900 grams or more of any  
6 substance containing heroin, or an analog thereof;

7 (1.5) (A) not less than 6 years and not more than 30  
8 years with respect to 15 grams or more but less than  
9 100 grams of a substance containing fentanyl, or an  
10 analog thereof;

11 (B) not less than 9 years and not more than 40  
12 years with respect to 100 grams or more but less than  
13 400 grams of a substance containing fentanyl, or an  
14 analog thereof;

15 (C) not less than 12 years and not more than 50  
16 years with respect to 400 grams or more but less than  
17 900 grams of a substance containing fentanyl, or an  
18 analog thereof;

19 (D) not less than 15 years and not more than 60  
20 years with respect to 900 grams or more of a substance  
21 containing fentanyl, or an analog thereof;

22 (2) (A) not less than 6 years and not more than 30  
23 years with respect to 15 grams or more but less than  
24 100 grams of a substance containing cocaine, or an  
25 analog thereof;

26 (B) not less than 9 years and not more than 40

1 years with respect to 100 grams or more but less than  
2 400 grams of a substance containing cocaine, or an  
3 analog thereof;

4 (C) not less than 12 years and not more than 50  
5 years with respect to 400 grams or more but less than  
6 900 grams of a substance containing cocaine, or an  
7 analog thereof;

8 (D) not less than 15 years and not more than 60  
9 years with respect to 900 grams or more of any  
10 substance containing cocaine, or an analog thereof;

11 (3) (A) not less than 6 years and not more than 30  
12 years with respect to 15 grams or more but less than  
13 100 grams of a substance containing morphine, or an  
14 analog thereof;

15 (B) not less than 9 years and not more than 40  
16 years with respect to 100 grams or more but less than  
17 400 grams of a substance containing morphine, or an  
18 analog thereof;

19 (C) not less than 12 years and not more than 50  
20 years with respect to 400 grams or more but less than  
21 900 grams of a substance containing morphine, or an  
22 analog thereof;

23 (D) not less than 15 years and not more than 60  
24 years with respect to 900 grams or more of a substance  
25 containing morphine, or an analog thereof;

26 (4) 200 grams or more of any substance containing

1           peyote, or an analog thereof;

2           (5) 200 grams or more of any substance containing a  
3           derivative of barbituric acid or any of the salts of a  
4           derivative of barbituric acid, or an analog thereof;

5           (6) 200 grams or more of any substance containing  
6           amphetamine or any salt of an optical isomer of  
7           amphetamine, or an analog thereof;

8           (6.5) (blank);

9           (6.6) (blank);

10          (7) (A) not less than 6 years and not more than 30  
11          years with respect to: (i) 15 grams or more but less  
12          than 100 grams of a substance containing lysergic acid  
13          diethylamide (LSD), or an analog thereof, or (ii) 15 or  
14          more objects or 15 or more segregated parts of an  
15          object or objects but less than 200 objects or 200  
16          segregated parts of an object or objects containing in  
17          them or having upon them any amounts of any substance  
18          containing lysergic acid diethylamide (LSD), or an  
19          analog thereof;

20          (B) not less than 9 years and not more than 40  
21          years with respect to: (i) 100 grams or more but less  
22          than 400 grams of a substance containing lysergic acid  
23          diethylamide (LSD), or an analog thereof, or (ii) 200  
24          or more objects or 200 or more segregated parts of an  
25          object or objects but less than 600 objects or less  
26          than 600 segregated parts of an object or objects

1 containing in them or having upon them any amount of  
2 any substance containing lysergic acid diethylamide  
3 (LSD), or an analog thereof;

4 (C) not less than 12 years and not more than 50  
5 years with respect to: (i) 400 grams or more but less  
6 than 900 grams of a substance containing lysergic acid  
7 diethylamide (LSD), or an analog thereof, or (ii) 600  
8 or more objects or 600 or more segregated parts of an  
9 object or objects but less than 1500 objects or 1500  
10 segregated parts of an object or objects containing in  
11 them or having upon them any amount of any substance  
12 containing lysergic acid diethylamide (LSD), or an  
13 analog thereof;

14 (D) not less than 15 years and not more than 60  
15 years with respect to: (i) 900 grams or more of any  
16 substance containing lysergic acid diethylamide (LSD),  
17 or an analog thereof, or (ii) 1500 or more objects or  
18 1500 or more segregated parts of an object or objects  
19 containing in them or having upon them any amount of a  
20 substance containing lysergic acid diethylamide (LSD),  
21 or an analog thereof;

22 (7.5) (A) not less than 6 years and not more than 30  
23 years with respect to: (i) 15 grams or more but less  
24 than 100 grams of a substance listed in paragraph (1),  
25 (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),  
26 (21), (25), or (26) of subsection (d) of Section 204,

1 or an analog or derivative thereof, or (ii) 15 or more  
2 pills, tablets, caplets, capsules, or objects but less  
3 than 200 pills, tablets, caplets, capsules, or objects  
4 containing in them or having upon them any amounts of  
5 any substance listed in paragraph (1), (2), (2.1),  
6 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or  
7 (26) of subsection (d) of Section 204, or an analog or  
8 derivative thereof;

9 (B) not less than 9 years and not more than 40  
10 years with respect to: (i) 100 grams or more but less  
11 than 400 grams of a substance listed in paragraph (1),  
12 (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),  
13 (21), (25), or (26) of subsection (d) of Section 204,  
14 or an analog or derivative thereof, or (ii) 200 or more  
15 pills, tablets, caplets, capsules, or objects but less  
16 than 600 pills, tablets, caplets, capsules, or objects  
17 containing in them or having upon them any amount of  
18 any substance listed in paragraph (1), (2), (2.1),  
19 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or  
20 (26) of subsection (d) of Section 204, or an analog or  
21 derivative thereof;

22 (C) not less than 12 years and not more than 50  
23 years with respect to: (i) 400 grams or more but less  
24 than 900 grams of a substance listed in paragraph (1),  
25 (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),  
26 (21), (25), or (26) of subsection (d) of Section 204,



1 or an analog or derivative thereof, or (ii) 600 or more  
2 pills, tablets, caplets, capsules, or objects but less  
3 than 1,500 pills, tablets, caplets, capsules, or  
4 objects containing in them or having upon them any  
5 amount of any substance listed in paragraph (1), (2),  
6 (2.1), (2.2), (3), (14.1), (19), (20), (20.1), (21),  
7 (25), or (26) of subsection (d) of Section 204, or an  
8 analog or derivative thereof;

9 (D) not less than 15 years and not more than 60  
10 years with respect to: (i) 900 grams or more of any  
11 substance listed in paragraph (1), (2), (2.1), (2.2),  
12 (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of  
13 subsection (d) of Section 204, or an analog or  
14 derivative thereof, or (ii) 1,500 or more pills,  
15 tablets, caplets, capsules, or objects containing in  
16 them or having upon them any amount of a substance  
17 listed in paragraph (1), (2), (2.1), (2.2), (3),  
18 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
19 subsection (d) of Section 204, or an analog or  
20 derivative thereof;

21 (8) 30 grams or more of any substance containing  
22 pentazocine or any of the salts, isomers and salts of  
23 isomers of pentazocine, or an analog thereof;

24 (9) 30 grams or more of any substance containing  
25 methaqualone or any of the salts, isomers and salts of  
26 isomers of methaqualone, or an analog thereof;

1           (10) 30 grams or more of any substance containing  
2 phencyclidine or any of the salts, isomers and salts of  
3 isomers of phencyclidine (PCP), or an analog thereof;

4           (10.5) 30 grams or more of any substance containing  
5 ketamine or any of the salts, isomers and salts of isomers  
6 of ketamine, or an analog thereof;

7           (10.6) 100 grams or more of any substance containing  
8 hydrocodone, or any of the salts, isomers and salts of  
9 isomers of hydrocodone, or an analog thereof;

10          (10.7) 100 grams or more of any substance containing  
11 dihydrocodeinone, or any of the salts, isomers and salts of  
12 isomers of dihydrocodeinone, or an analog thereof;

13          (10.8) 100 grams or more of any substance containing  
14 dihydrocodeine, or any of the salts, isomers and salts of  
15 isomers of dihydrocodeine, or an analog thereof;

16          (10.9) 100 grams or more of any substance containing  
17 oxycodone, or any of the salts, isomers and salts of  
18 isomers of oxycodone, or an analog thereof;

19          (11) 200 grams or more of any substance containing any  
20 other controlled substance classified in Schedules I or II,  
21 or an analog thereof, which is not otherwise included in  
22 this subsection.

23          (b) Any person sentenced with respect to violations of  
24 paragraph (1), (2), (3), (7), or (7.5) of subsection (a)  
25 involving 100 grams or more of the controlled substance named  
26 therein, may in addition to the penalties provided therein, be

1 fined an amount not more than \$500,000 or the full street value  
2 of the controlled or counterfeit substance or controlled  
3 substance analog, whichever is greater. The term "street value"  
4 shall have the meaning ascribed in Section 110-5 of the Code of  
5 Criminal Procedure of 1963. Any person sentenced with respect  
6 to any other provision of subsection (a), may in addition to  
7 the penalties provided therein, be fined an amount not to  
8 exceed \$500,000.

9 (b-1) Excluding violations of this Act when the controlled  
10 substance is fentanyl, any person sentenced to a term of  
11 imprisonment with respect to violations of Section 401, 401.1,  
12 405, 405.1, 405.2, or 407, when the substance containing the  
13 controlled substance contains any amount of fentanyl, 3 years  
14 shall be added to the term of imprisonment imposed by the  
15 court, and the maximum sentence for the offense shall be  
16 increased by 3 years.

17 (c) Any person who violates this Section with regard to the  
18 following amounts of controlled or counterfeit substances or  
19 controlled substance analogs, notwithstanding any of the  
20 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)  
21 to the contrary, is guilty of a Class 1 felony. The fine for  
22 violation of this subsection (c) shall not be more than  
23 \$250,000:

24 (1) 1 gram or more but less than 15 grams of any  
25 substance containing heroin, or an analog thereof;

26 (1.5) 1 gram or more but less than 15 grams of any

1 substance containing fentanyl, or an analog thereof;

2 (2) 1 gram or more but less than 15 grams of any  
3 substance containing cocaine, or an analog thereof;

4 (3) 10 grams or more but less than 15 grams of any  
5 substance containing morphine, or an analog thereof;

6 (4) 50 grams or more but less than 200 grams of any  
7 substance containing peyote, or an analog thereof;

8 (5) 50 grams or more but less than 200 grams of any  
9 substance containing a derivative of barbituric acid or any  
10 of the salts of a derivative of barbituric acid, or an  
11 analog thereof;

12 (6) 50 grams or more but less than 200 grams of any  
13 substance containing amphetamine or any salt of an optical  
14 isomer of amphetamine, or an analog thereof;

15 (6.5) (blank);

16 (7) (i) 5 grams or more but less than 15 grams of any  
17 substance containing lysergic acid diethylamide (LSD), or  
18 an analog thereof, or (ii) more than 10 objects or more  
19 than 10 segregated parts of an object or objects but less  
20 than 15 objects or less than 15 segregated parts of an  
21 object containing in them or having upon them any amount of  
22 any substance containing lysergic acid diethylamide (LSD),  
23 or an analog thereof;

24 (7.5) (i) 5 grams or more but less than 15 grams of any  
25 substance listed in paragraph (1), (2), (2.1), (2.2), (3),  
26 (14.1), (19), (20), (20.1), (21), (25), or (26) of

1 subsection (d) of Section 204, or an analog or derivative  
2 thereof, or (ii) more than 10 pills, tablets, caplets,  
3 capsules, or objects but less than 15 pills, tablets,  
4 caplets, capsules, or objects containing in them or having  
5 upon them any amount of any substance listed in paragraph  
6 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),  
7 (21), (25), or (26) of subsection (d) of Section 204, or an  
8 analog or derivative thereof;

9 (8) 10 grams or more but less than 30 grams of any  
10 substance containing pentazocine or any of the salts,  
11 isomers and salts of isomers of pentazocine, or an analog  
12 thereof;

13 (9) 10 grams or more but less than 30 grams of any  
14 substance containing methaqualone or any of the salts,  
15 isomers and salts of isomers of methaqualone, or an analog  
16 thereof;

17 (10) 10 grams or more but less than 30 grams of any  
18 substance containing phencyclidine or any of the salts,  
19 isomers and salts of isomers of phencyclidine (PCP), or an  
20 analog thereof;

21 (10.5) 10 grams or more but less than 30 grams of any  
22 substance containing ketamine or any of the salts, isomers  
23 and salts of isomers of ketamine, or an analog thereof;

24 (10.6) 50 grams or more but less than 100 grams of any  
25 substance containing hydrocodone, or any of the salts,  
26 isomers and salts of isomers of hydrocodone, or an analog

1           thereof;

2           (10.7) 50 grams or more but less than 100 grams of any  
3           substance containing dihydrocodeinone, or any of the  
4           salts, isomers and salts of isomers of dihydrocodeinone, or  
5           an analog thereof;

6           (10.8) 50 grams or more but less than 100 grams of any  
7           substance containing dihydrocodeine, or any of the salts,  
8           isomers and salts of isomers of dihydrocodeine, or an  
9           analog thereof;

10          (10.9) 50 grams or more but less than 100 grams of any  
11          substance containing oxycodone, or any of the salts,  
12          isomers and salts of isomers of oxycodone, or an analog  
13          thereof;

14          (11) 50 grams or more but less than 200 grams of any  
15          substance containing a substance classified in Schedules I  
16          or II, or an analog thereof, which is not otherwise  
17          included in this subsection.

18          (c-5) (Blank).

19          (d) Any person who violates this Section with regard to any  
20          other amount of a controlled or counterfeit substance  
21          containing dihydrocodeinone or dihydrocodeine or classified in  
22          Schedules I or II, or an analog thereof, which is (i) a  
23          narcotic drug, (ii) lysergic acid diethylamide (LSD) or an  
24          analog thereof, (iii) any substance containing amphetamine or  
25          fentanyl or any salt or optical isomer of amphetamine or  
26          fentanyl, or an analog thereof, or (iv) any substance

1 containing N-Benzylpiperazine (BZP) or any salt or optical  
2 isomer of N-Benzylpiperazine (BZP), or an analog thereof, is  
3 guilty of a Class 2 felony. The fine for violation of this  
4 subsection (d) shall not be more than \$200,000.

5 (d-5) (Blank).

6 (e) Any person who violates this Section with regard to any  
7 other amount of a controlled substance other than  
8 methamphetamine or counterfeit substance classified in  
9 Schedule I or II, or an analog thereof, which substance is not  
10 included under subsection (d) of this Section, is guilty of a  
11 Class 3 felony. The fine for violation of this subsection (e)  
12 shall not be more than \$150,000.

13 (f) Any person who violates this Section with regard to any  
14 other amount of a controlled or counterfeit substance  
15 classified in Schedule III is guilty of a Class 3 felony. The  
16 fine for violation of this subsection (f) shall not be more  
17 than \$125,000.

18 (g) Any person who violates this Section with regard to any  
19 other amount of a controlled or counterfeit substance  
20 classified in Schedule IV is guilty of a Class 3 felony. The  
21 fine for violation of this subsection (g) shall not be more  
22 than \$100,000.

23 (h) Any person who violates this Section with regard to any  
24 other amount of a controlled or counterfeit substance  
25 classified in Schedule V is guilty of a Class 3 felony. The  
26 fine for violation of this subsection (h) shall not be more

1 than \$75,000.

2 (i) This Section does not apply to the manufacture,  
3 possession or distribution of a substance in conformance with  
4 the provisions of an approved new drug application or an  
5 exemption for investigational use within the meaning of Section  
6 505 of the Federal Food, Drug and Cosmetic Act.

7 (j) (Blank).

8 (Source: P.A. 99-371, eff. 1-1-16; 99-585, eff. 1-1-17.)