

# SB1302



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1302

Introduced 2/3/2023, by Sen. Seth Lewis

### SYNOPSIS AS INTRODUCED:

720 ILCS 570/402

from Ch. 56 1/2, par. 1402

Amends the Illinois Controlled Substances Act. Provides that, except as otherwise authorized by the Act, any person who knowingly possesses 15 grams or more but less than 100 grams of fentanyl is guilty of a Class 1 felony and, if sentenced to a term of imprisonment, shall be sentenced to not less than 4 years and not more than 15 years.

LRB103 25100 RLC 51435 b

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 402 as follows:

6 (720 ILCS 570/402) (from Ch. 56 1/2, par. 1402)

7 Sec. 402. Except as otherwise authorized by this Act, it  
8 is unlawful for any person knowingly to possess a controlled  
9 or counterfeit substance or controlled substance analog. A  
10 violation of this Act with respect to each of the controlled  
11 substances listed herein constitutes a single and separate  
12 violation of this Act. For purposes of this Section,  
13 "controlled substance analog" or "analog" means a substance,  
14 other than a controlled substance, which is not approved by  
15 the United States Food and Drug Administration or, if  
16 approved, is not dispensed or possessed in accordance with  
17 State or federal law, and that has a chemical structure  
18 substantially similar to that of a controlled substance in  
19 Schedule I or II, or that was specifically designed to produce  
20 an effect substantially similar to that of a controlled  
21 substance in Schedule I or II. Examples of chemical classes in  
22 which controlled substance analogs are found include, but are  
23 not limited to, the following: phenethylamines, N-substituted

1 piperidines, morphinans, ecgonines, quinazolinones,  
2 substituted indoles, and arylcycloalkylamines. For purposes of  
3 this Act, a controlled substance analog shall be treated in  
4 the same manner as the controlled substance to which it is  
5 substantially similar.

6 (a) Any person who violates this Section with respect to  
7 the following controlled or counterfeit substances and  
8 amounts, notwithstanding any of the provisions of subsections  
9 (c) and (d) to the contrary, is guilty of a Class 1 felony and  
10 shall, if sentenced to a term of imprisonment, be sentenced as  
11 provided in this subsection (a) and fined as provided in  
12 subsection (b):

13 (1) (A) not less than 4 years and not more than 15  
14 years with respect to 15 grams or more but less than  
15 100 grams of a substance containing heroin or  
16 fentanyl;

17 (B) not less than 6 years and not more than 30  
18 years with respect to 100 grams or more but less than  
19 400 grams of a substance containing heroin;

20 (C) not less than 8 years and not more than 40  
21 years with respect to 400 grams or more but less than  
22 900 grams of any substance containing heroin;

23 (D) not less than 10 years and not more than 50  
24 years with respect to 900 grams or more of any  
25 substance containing heroin;

26 (2) (A) not less than 4 years and not more than 15

1 years with respect to 15 grams or more but less than  
2 100 grams of any substance containing cocaine;

3 (B) not less than 6 years and not more than 30  
4 years with respect to 100 grams or more but less than  
5 400 grams of any substance containing cocaine;

6 (C) not less than 8 years and not more than 40  
7 years with respect to 400 grams or more but less than  
8 900 grams of any substance containing cocaine;

9 (D) not less than 10 years and not more than 50  
10 years with respect to 900 grams or more of any  
11 substance containing cocaine;

12 (3) (A) not less than 4 years and not more than 15  
13 years with respect to 15 grams or more but less than  
14 100 grams of any substance containing morphine;

15 (B) not less than 6 years and not more than 30  
16 years with respect to 100 grams or more but less than  
17 400 grams of any substance containing morphine;

18 (C) not less than 6 years and not more than 40  
19 years with respect to 400 grams or more but less than  
20 900 grams of any substance containing morphine;

21 (D) not less than 10 years and not more than 50  
22 years with respect to 900 grams or more of any  
23 substance containing morphine;

24 (4) 200 grams or more of any substance containing  
25 peyote;

26 (5) 200 grams or more of any substance containing a

1 derivative of barbituric acid or any of the salts of a  
2 derivative of barbituric acid;

3 (6) 200 grams or more of any substance containing  
4 amphetamine or any salt of an optical isomer of  
5 amphetamine;

6 (6.5) (blank);

7 (7) (A) not less than 4 years and not more than 15  
8 years with respect to: (i) 15 grams or more but less  
9 than 100 grams of any substance containing lysergic  
10 acid diethylamide (LSD), or an analog thereof, or (ii)  
11 15 or more objects or 15 or more segregated parts of an  
12 object or objects but less than 200 objects or 200  
13 segregated parts of an object or objects containing in  
14 them or having upon them any amount of any substance  
15 containing lysergic acid diethylamide (LSD), or an  
16 analog thereof;

17 (B) not less than 6 years and not more than 30  
18 years with respect to: (i) 100 grams or more but less  
19 than 400 grams of any substance containing lysergic  
20 acid diethylamide (LSD), or an analog thereof, or (ii)  
21 200 or more objects or 200 or more segregated parts of  
22 an object or objects but less than 600 objects or less  
23 than 600 segregated parts of an object or objects  
24 containing in them or having upon them any amount of  
25 any substance containing lysergic acid diethylamide  
26 (LSD), or an analog thereof;

1 (C) not less than 8 years and not more than 40  
2 years with respect to: (i) 400 grams or more but less  
3 than 900 grams of any substance containing lysergic  
4 acid diethylamide (LSD), or an analog thereof, or (ii)  
5 600 or more objects or 600 or more segregated parts of  
6 an object or objects but less than 1500 objects or 1500  
7 segregated parts of an object or objects containing in  
8 them or having upon them any amount of any substance  
9 containing lysergic acid diethylamide (LSD), or an  
10 analog thereof;

11 (D) not less than 10 years and not more than 50  
12 years with respect to: (i) 900 grams or more of any  
13 substance containing lysergic acid diethylamide (LSD),  
14 or an analog thereof, or (ii) 1500 or more objects or  
15 1500 or more segregated parts of an object or objects  
16 containing in them or having upon them any amount of a  
17 substance containing lysergic acid diethylamide (LSD),  
18 or an analog thereof;

19 (7.5) (A) not less than 4 years and not more than 15  
20 years with respect to: (i) 15 grams or more but less  
21 than 100 grams of any substance listed in paragraph  
22 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
23 (20.1), (21), (25), or (26) of subsection (d) of  
24 Section 204, or an analog or derivative thereof, or  
25 (ii) 15 or more pills, tablets, caplets, capsules, or  
26 objects but less than 200 pills, tablets, caplets,

1 capsules, or objects containing in them or having upon  
2 them any amount of any substance listed in paragraph  
3 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
4 (20.1), (21), (25), or (26) of subsection (d) of  
5 Section 204, or an analog or derivative thereof;

6 (B) not less than 6 years and not more than 30  
7 years with respect to: (i) 100 grams or more but less  
8 than 400 grams of any substance listed in paragraph  
9 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
10 (20.1), (21), (25), or (26) of subsection (d) of  
11 Section 204, or an analog or derivative thereof, or  
12 (ii) 200 or more pills, tablets, caplets, capsules, or  
13 objects but less than 600 pills, tablets, caplets,  
14 capsules, or objects containing in them or having upon  
15 them any amount of any substance listed in paragraph  
16 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
17 (20.1), (21), (25), or (26) of subsection (d) of  
18 Section 204, or an analog or derivative thereof;

19 (C) not less than 8 years and not more than 40  
20 years with respect to: (i) 400 grams or more but less  
21 than 900 grams of any substance listed in paragraph  
22 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
23 (20.1), (21), (25), or (26) of subsection (d) of  
24 Section 204, or an analog or derivative thereof, or  
25 (ii) 600 or more pills, tablets, caplets, capsules, or  
26 objects but less than 1,500 pills, tablets, caplets,

1 capsules, or objects containing in them or having upon  
2 them any amount of any substance listed in paragraph  
3 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
4 (20.1), (21), (25), or (26) of subsection (d) of  
5 Section 204, or an analog or derivative thereof;

6 (D) not less than 10 years and not more than 50  
7 years with respect to: (i) 900 grams or more of any  
8 substance listed in paragraph (1), (2), (2.1), (2.2),  
9 (3), (14.1), (19), (20), (20.1), (21), (25), or (26)  
10 of subsection (d) of Section 204, or an analog or  
11 derivative thereof, or (ii) 1,500 or more pills,  
12 tablets, caplets, capsules, or objects containing in  
13 them or having upon them any amount of a substance  
14 listed in paragraph (1), (2), (2.1), (2.2), (3),  
15 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
16 subsection (d) of Section 204, or an analog or  
17 derivative thereof;

18 (8) 30 grams or more of any substance containing  
19 pentazocine or any of the salts, isomers and salts of  
20 isomers of pentazocine, or an analog thereof;

21 (9) 30 grams or more of any substance containing  
22 methaqualone or any of the salts, isomers and salts of  
23 isomers of methaqualone;

24 (10) 30 grams or more of any substance containing  
25 phencyclidine or any of the salts, isomers and salts of  
26 isomers of phencyclidine (PCP);



1           (10.5) 30 grams or more of any substance containing  
2           ketamine or any of the salts, isomers and salts of isomers  
3           of ketamine;

4           (11) 200 grams or more of any substance containing any  
5           substance classified as a narcotic drug in Schedules I or  
6           II, or an analog thereof, which is not otherwise included  
7           in this subsection.

8           (b) Any person sentenced with respect to violations of  
9           paragraph (1), (2), (3), (7), or (7.5) of subsection (a)  
10          involving 100 grams or more of the controlled substance named  
11          therein, may in addition to the penalties provided therein, be  
12          fined an amount not to exceed \$200,000 or the full street value  
13          of the controlled or counterfeit substances, whichever is  
14          greater. The term "street value" shall have the meaning  
15          ascribed in Section 110-5 of the Code of Criminal Procedure of  
16          1963. Any person sentenced with respect to any other provision  
17          of subsection (a), may in addition to the penalties provided  
18          therein, be fined an amount not to exceed \$200,000.

19          (c) Any person who violates this Section with regard to an  
20          amount of a controlled substance other than methamphetamine or  
21          counterfeit substance not set forth in subsection (a) or (d)  
22          is guilty of a Class 4 felony. The fine for a violation  
23          punishable under this subsection (c) shall not be more than  
24          \$25,000.

25          (d) Any person who violates this Section with regard to  
26          any amount of anabolic steroid is guilty of a Class C

1 misdemeanor for the first offense and a Class B misdemeanor  
2 for a subsequent offense committed within 2 years of a prior  
3 conviction.

4 (Source: P.A. 99-371, eff. 1-1-16; 100-368, eff. 1-1-18.)