



## 93RD GENERAL ASSEMBLY

### State of Illinois

### 2003 and 2004

Introduced 02/04/04, by Dan Brady

#### SYNOPSIS AS INTRODUCED:

720 ILCS 570/401

from Ch. 56 1/2, par. 1401

Amends the Illinois Control Substances Act. Provides that a person may be convicted of a Class X felony possession of a methamphetamine manufacturing chemical without the proof of intent to manufacture a substance containing methamphetamine or salt of any optical isomer of methamphetamine, or an analog of the substances. Provides that a person may be convicted of a Class 2 felony violation for possession of more than 3 grams of a methamphetamine manufacturing chemical without the proof of such intent. Effective immediately.

LRB093 20855 RLC 46790 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT in relation to 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. Except as authorized by this Act, it is unlawful  
8 for any person knowingly to: (i) manufacture or deliver, or  
9 possess with intent to manufacture or deliver, a controlled or  
10 counterfeit substance or controlled substance analog or (ii)  
11 possess any methamphetamine manufacturing chemical listed in  
12 paragraph (z-1) of Section 102 ~~with the intent to manufacture~~  
13 ~~methamphetamine or the salt of an optical isomer of~~  
14 ~~methamphetamine or an analog thereof.~~ A violation of this Act  
15 with respect to each of the controlled substances listed herein  
16 constitutes a single and separate violation of this Act. For  
17 purposes of this Section, "controlled substance analog" or  
18 "analog" means a substance which is intended for human  
19 consumption, other than a controlled substance, that has a  
20 chemical structure substantially similar to that of a  
21 controlled substance in Schedule I or II, or that was  
22 specifically designed to produce an effect substantially  
23 similar to that of a controlled substance in Schedule I or II.  
24 Examples of chemical classes in which controlled substance  
25 analogs are found include, but are not limited to, the  
26 following: phenethylamines, N-substituted piperidines,  
27 morphinans, ecgonines, quinazolinones, substituted indoles,  
28 and arylcycloalkylamines. For purposes of this Act, a  
29 controlled substance analog shall be treated in the same manner  
30 as the controlled substance to which it is substantially  
31 similar.

32 (a) Any person who violates this Section with respect to

1 the following amounts of controlled or counterfeit substances  
2 or controlled substance analogs, notwithstanding any of the  
3 provisions of subsections (c), (c-5), (d), (d-5), (e), (f), (g)  
4 or (h) to the contrary, is guilty of a Class X felony and shall  
5 be sentenced to a term of imprisonment as provided in this  
6 subsection (a) and fined as provided in subsection (b):

7 (1) (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 heroin, 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 heroin, 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 heroin, 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 any  
21 substance containing heroin, 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  
27 years with respect to 100 grams or more but less than  
28 400 grams of a substance containing cocaine, or an  
29 analog thereof;

30 (C) not less than 12 years and not more than 50  
31 years with respect to 400 grams or more but less than  
32 900 grams of a substance containing cocaine, or an  
33 analog thereof;

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

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

5 (B) not less than 9 years and not more than 40  
6 years with respect to 100 grams or more but less than  
7 400 grams of a substance containing morphine, or an  
8 analog thereof;

9 (C) not less than 12 years and not more than 50  
10 years with respect to 400 grams or more but less than  
11 900 grams of a substance containing morphine, or an  
12 analog thereof;

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

16 (4) 200 grams or more of any substance containing  
17 peyote, or an analog thereof;

18 (5) 200 grams or more of any substance containing a  
19 derivative of barbituric acid or any of the salts of a  
20 derivative of barbituric acid, or an analog thereof;

21 (6) 200 grams or more of any substance containing  
22 amphetamine or any salt of an optical isomer of  
23 amphetamine, or an analog thereof;

24 (6.5) (A) not less than 6 years and not more than 30  
25 years with respect to 15 grams or more but less than  
26 100 grams of a substance containing methamphetamine or  
27 any salt of an optical isomer of methamphetamine, or an  
28 analog thereof;

29 (B) not less than 9 years and not more than 40  
30 years with respect to 100 grams or more but less than  
31 400 grams of a substance containing methamphetamine or  
32 any salt of an optical isomer of methamphetamine, or an  
33 analog thereof;

34 (C) not less than 12 years and not more than 50  
35 years with respect to 400 grams or more but less than  
36 900 grams of a substance containing methamphetamine or

1 any salt of an optical isomer of methamphetamine, or an  
2 analog thereof;

3 (D) not less than 15 years and not more than 60  
4 years with respect to 900 grams or more of any  
5 substance containing methamphetamine or any salt of an  
6 optical isomer of methamphetamine, or an analog  
7 thereof.

8 (6.6) (A) not less than 6 years and not more than 30  
9 years for the possession of 30 grams or more but less  
10 than 150 grams of any methamphetamine manufacturing  
11 chemical set forth in paragraph (z-1) of Section 102  
12 ~~with intent to manufacture 30 grams or more but less~~  
13 ~~than 150 grams of any substance containing~~  
14 ~~methamphetamine, or salt of any optical isomer of~~  
15 ~~methamphetamine, or an analog thereof;~~

16 (B) not less than 6 years and not more than 40  
17 years for the possession of 150 grams or more but less  
18 than 500 grams of any methamphetamine manufacturing  
19 chemical set forth in paragraph (z-1) of Section 102  
20 ~~with intent to manufacture 150 grams or more but less~~  
21 ~~than 500 grams of any substance containing~~  
22 ~~methamphetamine, or salt of an optical isomer of~~  
23 ~~methamphetamine, or an analog thereof;~~

24 (C) not less than 6 years and not more than 50  
25 years for the possession of 500 grams or more but less  
26 than 1200 grams of any methamphetamine manufacturing  
27 chemical set forth in paragraph (z-1) of Section 102  
28 ~~with intent to manufacture 500 grams or more but less~~  
29 ~~than 1200 grams of any substance containing~~  
30 ~~methamphetamine, or salt of an optical isomer of~~  
31 ~~methamphetamine, or an analog thereof;~~

32 (D) not less than 6 years and not more than 60  
33 years for the possession of 1200 grams or more of any  
34 methamphetamine manufacturing chemical set forth in  
35 paragraph (z-1) of Section 102 ~~with intent to~~  
36 ~~manufacture 1200 grams or more of any substance~~

1 ~~containing methamphetamine, or salt of an optical~~  
2 ~~isomer of methamphetamine, or an analog thereof;~~

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

13 (B) not less than 9 years and not more than 40  
14 years with respect to: (i) 100 grams or more but less  
15 than 400 grams of a substance containing lysergic acid  
16 diethylamide (LSD), or an analog thereof, or (ii) 200  
17 or more objects or 200 or more segregated parts of an  
18 object or objects but less than 600 objects or less  
19 than 600 segregated parts of an object or objects  
20 containing in them or having upon them any amount of  
21 any substance containing lysergic acid diethylamide  
22 (LSD), or an analog thereof;

23 (C) not less than 12 years and not more than 50  
24 years with respect to: (i) 400 grams or more but less  
25 than 900 grams of a substance containing lysergic acid  
26 diethylamide (LSD), or an analog thereof, or (ii) 600  
27 or more objects or 600 or more segregated parts of an  
28 object or objects but less than 1500 objects or 1500  
29 segregated parts of an object or objects containing in  
30 them or having upon them any amount of any substance  
31 containing lysergic acid diethylamide (LSD), or an  
32 analog thereof;

33 (D) not less than 15 years and not more than 60  
34 years with respect to: (i) 900 grams or more of any  
35 substance containing lysergic acid diethylamide (LSD),  
36 or an analog thereof, or (ii) 1500 or more objects or

1 1500 or more segregated parts of an object or objects  
2 containing in them or having upon them any amount of a  
3 substance containing lysergic acid diethylamide (LSD),  
4 or an analog thereof;

5 (7.5) (A) not less than 6 years and not more than 30  
6 years with respect to: (i) 15 grams or more but less  
7 than 100 grams of a substance listed in paragraph (1),  
8 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
9 (25), or (26) of subsection (d) of Section 204, or an  
10 analog or derivative thereof, or (ii) 15 or more pills,  
11 tablets, caplets, capsules, or objects but less than  
12 200 pills, tablets, caplets, capsules, or objects  
13 containing in them or having upon them any amounts of  
14 any substance listed in paragraph (1), (2), (2.1), (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 (B) not less than 9 years and not more than 40  
19 years with respect to: (i) 100 grams or more but less  
20 than 400 grams of a substance listed in paragraph (1),  
21 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
22 (25), or (26) of subsection (d) of Section 204, or an  
23 analog or derivative thereof, or (ii) 200 or more  
24 pills, tablets, caplets, capsules, or objects but less  
25 than 600 pills, tablets, caplets, capsules, or objects  
26 containing in them or having upon them any amount of  
27 any substance listed in paragraph (1), (2), (2.1), (3),  
28 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
29 subsection (d) of Section 204, or an analog or  
30 derivative thereof;

31 (C) not less than 12 years and not more than 50  
32 years with respect to: (i) 400 grams or more but less  
33 than 900 grams of a substance listed in paragraph (1),  
34 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
35 (25), or (26) of subsection (d) of Section 204, or an  
36 analog or derivative thereof, or (ii) 600 or more

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

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

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

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

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

28 (10.5) 30 grams or more of any substance containing  
29 ketamine or any of the salts, isomers and salts of isomers  
30 of ketamine, or an analog thereof;

31 (11) 200 grams or more of any substance containing any  
32 other controlled substance classified in Schedules I or II,  
33 or an analog thereof, which is not otherwise included in  
34 this subsection.

35 (b) Any person sentenced with respect to violations of  
36 paragraph (1), (2), (3), (6.5), (6.6), (7), or (7.5) of



1 subsection (a) involving 100 grams or more of the controlled  
2 substance named therein, may in addition to the penalties  
3 provided therein, be fined an amount not more than \$500,000 or  
4 the full street value of the controlled or counterfeit  
5 substance or controlled substance analog, whichever is  
6 greater. The term "street value" shall have the meaning  
7 ascribed in Section 110-5 of the Code of Criminal Procedure of  
8 1963. Any person sentenced with respect to any other provision  
9 of subsection (a), may in addition to the penalties provided  
10 therein, be fined an amount not to exceed \$500,000.

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

18 (1) 1 gram or more but less than 15 grams of any  
19 substance containing heroin, or an analog thereof;

20 (2) 1 gram or more but less than 15 grams of any  
21 substance containing cocaine, or an analog thereof;

22 (3) 10 grams or more but less than 15 grams of any  
23 substance containing morphine, or an analog thereof;

24 (4) 50 grams or more but less than 200 grams of any  
25 substance containing peyote, or an analog thereof;

26 (5) 50 grams or more but less than 200 grams of any  
27 substance containing a derivative of barbituric acid or any  
28 of the salts of a derivative of barbituric acid, or an  
29 analog thereof;

30 (6) 50 grams or more but less than 200 grams of any  
31 substance containing amphetamine or any salt of an optical  
32 isomer of amphetamine, or an analog thereof;

33 (6.5) 5 grams or more but less than 15 grams of any  
34 substance containing methamphetamine or any salt or  
35 optical isomer of methamphetamine, or an analog thereof;

36 (7) (i) 5 grams or more but less than 15 grams of any

1 substance containing lysergic acid diethylamide (LSD), or  
2 an analog thereof, or (ii) more than 10 objects or more  
3 than 10 segregated parts of an object or objects but less  
4 than 15 objects or less than 15 segregated parts of an  
5 object containing in them or having upon them any amount of  
6 any substance containing lysergic acid diethylamide (LSD),  
7 or an analog thereof;

8 (7.5) (i) 5 grams or more but less than 15 grams of any  
9 substance listed in paragraph (1), (2), (2.1), (3), (14.1),  
10 (19), (20), (20.1), (21), (25), or (26) of subsection (d)  
11 of Section 204, or an analog or derivative thereof, or (ii)  
12 more than 10 pills, tablets, caplets, capsules, or objects  
13 but less than 15 pills, tablets, caplets, capsules, or  
14 objects containing in them or having upon them any amount  
15 of any substance listed in paragraph (1), (2), (2.1), (3),  
16 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
17 subsection (d) of Section 204, or an analog or derivative  
18 thereof;

19 (8) 10 grams or more but less than 30 grams of any  
20 substance containing pentazocine or any of the salts,  
21 isomers and salts of isomers of pentazocine, or an analog  
22 thereof;

23 (9) 10 grams or more but less than 30 grams of any  
24 substance containing methaqualone or any of the salts,  
25 isomers and salts of isomers of methaqualone, or an analog  
26 thereof;

27 (10) 10 grams or more but less than 30 grams of any  
28 substance containing phencyclidine or any of the salts,  
29 isomers and salts of isomers of phencyclidine (PCP), or an  
30 analog thereof;

31 (10.5) 10 grams or more but less than 30 grams of any  
32 substance containing ketamine or any of the salts, isomers  
33 and salts of isomers of ketamine, or an analog thereof;

34 (11) 50 grams or more but less than 200 grams of any  
35 substance containing a substance classified in Schedules I  
36 or II, or an analog thereof, which is not otherwise

1 included in this subsection.

2 (c-5) Any person who violates this Section with regard to  
3 possession of any methamphetamine manufacturing chemical set  
4 forth in paragraph (z-1) of Section 102 with intent to  
5 manufacture 15 grams or more but less than 30 grams of  
6 methamphetamine, or salt of an optical isomer of  
7 methamphetamine or any analog thereof, is guilty of a Class 1  
8 felony. The fine for violation of this subsection (c-5) shall  
9 not be more than \$250,000.

10 (d) Any person who violates this Section with regard to any  
11 other amount of a controlled or counterfeit substance  
12 classified in Schedules I or II, or an analog thereof, which is  
13 (i) a narcotic drug, (ii) lysergic acid diethylamide (LSD) or  
14 an analog thereof, or (iii) any substance containing  
15 amphetamine or methamphetamine or any salt or optical isomer of  
16 amphetamine or methamphetamine, or an analog thereof, is guilty  
17 of a Class 2 felony. The fine for violation of this subsection  
18 (d) shall not be more than \$200,000.

19 (d-5) Any person who violates this Section with regard to  
20 possession of more than 3 grams of any methamphetamine  
21 manufacturing chemical set forth in paragraph (z-1) of Section  
22 102 ~~with intent to manufacture less than 15 grams of~~  
23 ~~methamphetamine, or salt of an optical isomer of~~  
24 ~~methamphetamine or any analog thereof,~~ is guilty of a Class 2  
25 felony. The fine for violation of this subsection (d-5) shall  
26 not be more than \$200,000.

27 (e) Any person who violates this Section with regard to any  
28 other amount of a controlled or counterfeit substance  
29 classified in Schedule I or II, or an analog thereof, which  
30 substance is not included under subsection (d) of this Section,  
31 is guilty of a Class 3 felony. The fine for violation of this  
32 subsection (e) shall not be more than \$150,000.

33 (f) Any person who violates this Section with regard to any  
34 other amount of a controlled or counterfeit substance  
35 classified in Schedule III is guilty of a Class 3 felony. The  
36 fine for violation of this subsection (f) shall not be more

1 than \$125,000.

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

7 (h) Any person who violates this Section with regard to any  
8 other amount of a controlled or counterfeit substance  
9 classified in Schedule V is guilty of a Class 3 felony. The  
10 fine for violation of this subsection (h) shall not be more  
11 than \$75,000.

12 (i) This Section does not apply to the manufacture,  
13 possession or distribution of a substance in conformance with  
14 the provisions of an approved new drug application or an  
15 exemption for investigational use within the meaning of Section  
16 505 of the Federal Food, Drug and Cosmetic Act.

17 (j) The presence of any methamphetamine manufacturing  
18 chemical in a sealed, factory imprinted container, including,  
19 but not limited to a bottle, box, or plastic blister package,  
20 at the time of seizure by law enforcement, is prima facie  
21 evidence that the methamphetamine manufacturing chemical  
22 located within the container is in fact the chemical so  
23 described and in the amount and dosage listed on the container.  
24 The factory imprinted container is admissible for a violation  
25 of this Section for purposes of proving the contents of the  
26 container.

27 (Source: P.A. 92-16, eff. 6-28-01; 92-256, eff. 1-1-02; 92-698,  
28 eff. 7-19-02; 93-278, eff. 1-1-04.)

29 Section 99. Effective date. This Act takes effect upon  
30 becoming law.