



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB5763

by Rep. John M. Cabello

#### SYNOPSIS AS INTRODUCED:

720 ILCS 570/401

from Ch. 56 1/2, par. 1401

Amends the Illinois Controlled Substances Act. Provides that a person who knowingly manufactures or delivers, or possesses with intent to manufacture or deliver, 5 (rather than 15) grams or more but less than 100 grams of a substance containing heroin, or an analog thereof, is guilty of a Class X felony and shall be sentenced to not less than 6 years and not more than 30 years imprisonment. Currently a person who knowingly manufactures or delivers, or possesses with intent to manufacture or deliver, at least 5 grams but less than 15 grams of heroin, or an analog thereof, is guilty of a Class 1 felony with a maximum fine of \$250,000.

LRB098 18935 RLC 54082 b

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. Except as authorized by this Act, it is unlawful  
8 for any person knowingly to manufacture or deliver, or possess  
9 with intent to manufacture or deliver, a controlled substance  
10 other than methamphetamine, a counterfeit substance, or a  
11 controlled substance analog. A violation of this Act with  
12 respect to each of the controlled substances listed herein  
13 constitutes a single and separate violation of this Act. For  
14 purposes of this Section, "controlled substance analog" or  
15 "analog" means a substance which is intended for human  
16 consumption, other than a controlled substance, that has a  
17 chemical structure substantially similar to that of a  
18 controlled substance in Schedule I or II, or that was  
19 specifically designed to produce an effect substantially  
20 similar to that of a controlled substance in Schedule I or II.  
21 Examples of chemical classes in which controlled substance  
22 analogs are found include, but are not limited to, the  
23 following: phenethylamines, N-substituted piperidines,

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

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

13 (1) (A) not less than 6 years and not more than 30  
14 years with respect to 5 ~~15~~ grams or more but less than  
15 100 grams of a substance containing heroin, or an  
16 analog thereof;

17 (B) not less than 9 years and not more than 40  
18 years with respect to 100 grams or more but less than  
19 400 grams of a substance containing heroin, or an  
20 analog thereof;

21 (C) not less than 12 years and not more than 50  
22 years with respect to 400 grams or more but less than  
23 900 grams of a substance containing heroin, or an  
24 analog thereof;

25 (D) not less than 15 years and not more than 60  
26 years with respect to 900 grams or more of any

1 substance containing heroin, or an analog thereof;

2 (1.5) (A) not less than 6 years and not more than 30  
3 years with respect to 15 grams or more but less than  
4 100 grams of a substance containing fentanyl, or an  
5 analog thereof;

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

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

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

17 (2) (A) not less than 6 years and not more than 30  
18 years with respect to 15 grams or more but less than  
19 100 grams of a substance containing cocaine, or an  
20 analog thereof;

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

25 (C) not less than 12 years and not more than 50  
26 years with respect to 400 grams or more but less than

1 900 grams of a substance containing cocaine, 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 cocaine, or an analog thereof;

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

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

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

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

21 (4) 200 grams or more of any substance containing  
22 peyote, or an analog thereof;

23 (5) 200 grams or more of any substance containing a  
24 derivative of barbituric acid or any of the salts of a  
25 derivative of barbituric acid, or an analog thereof;

26 (6) 200 grams or more of any substance containing

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

3           (6.5) (blank);

4           (6.6) (blank);

5           (7) (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 containing lysergic acid  
8           diethylamide (LSD), or an analog thereof, or (ii) 15 or  
9           more objects or 15 or more segregated parts of an  
10          object or objects but less than 200 objects or 200  
11          segregated parts of an object or objects containing in  
12          them or having upon them any amounts of any substance  
13          containing lysergic acid diethylamide (LSD), or an  
14          analog thereof;

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

25          (C) not less than 12 years and not more than 50  
26          years with respect to: (i) 400 grams or more but less

1 than 900 grams of a substance containing lysergic acid  
2 diethylamide (LSD), or an analog thereof, or (ii) 600  
3 or more objects or 600 or more segregated parts of an  
4 object or objects but less than 1500 objects or 1500  
5 segregated parts of an object or objects containing in  
6 them or having upon them any amount of any substance  
7 containing lysergic acid diethylamide (LSD), or an  
8 analog 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 containing lysergic acid diethylamide (LSD),  
12 or an analog thereof, or (ii) 1500 or more objects or  
13 1500 or more segregated parts of an object or objects  
14 containing in them or having upon them any amount of a  
15 substance containing lysergic acid diethylamide (LSD),  
16 or an analog thereof;

17 (7.5) (A) not less than 6 years and not more than 30  
18 years with respect to: (i) 15 grams or more but less  
19 than 100 grams of a substance listed in paragraph (1),  
20 (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),  
21 (21), (25), or (26) of subsection (d) of Section 204,  
22 or an analog or derivative thereof, or (ii) 15 or more  
23 pills, tablets, caplets, capsules, or objects but less  
24 than 200 pills, tablets, caplets, capsules, or objects  
25 containing in them or having upon them any amounts of  
26 any substance listed in paragraph (1), (2), (2.1),

1 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or  
2 (26) of subsection (d) of Section 204, or an analog or  
3 derivative thereof;

4 (B) not less than 9 years and not more than 40  
5 years with respect to: (i) 100 grams or more but less  
6 than 400 grams of a substance listed in paragraph (1),  
7 (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),  
8 (21), (25), or (26) of subsection (d) of Section 204,  
9 or an analog or derivative thereof, or (ii) 200 or more  
10 pills, tablets, caplets, capsules, or objects but less  
11 than 600 pills, tablets, caplets, capsules, or objects  
12 containing in them or having upon them any amount of  
13 any substance listed in paragraph (1), (2), (2.1),  
14 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or  
15 (26) of subsection (d) of Section 204, or an analog or  
16 derivative thereof;

17 (C) not less than 12 years and not more than 50  
18 years with respect to: (i) 400 grams or more but less  
19 than 900 grams of a substance listed in paragraph (1),  
20 (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),  
21 (21), (25), or (26) of subsection (d) of Section 204,  
22 or an analog or derivative thereof, or (ii) 600 or more  
23 pills, tablets, caplets, capsules, or objects but less  
24 than 1,500 pills, tablets, caplets, capsules, or  
25 objects containing in them or having upon them any  
26 amount of any substance listed in paragraph (1), (2),



1 (2.1), (2.2), (3), (14.1), (19), (20), (20.1), (21),  
2 (25), or (26) of subsection (d) of Section 204, or an  
3 analog or derivative thereof;

4 (D) not less than 15 years and not more than 60  
5 years with respect to: (i) 900 grams or more of any  
6 substance listed in paragraph (1), (2), (2.1), (2.2),  
7 (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of  
8 subsection (d) of Section 204, or an analog or  
9 derivative thereof, or (ii) 1,500 or more pills,  
10 tablets, caplets, capsules, or objects containing in  
11 them or having upon them any amount of a substance  
12 listed in paragraph (1), (2), (2.1), (2.2), (3),  
13 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
14 subsection (d) of Section 204, or an analog or  
15 derivative thereof;

16 (8) 30 grams or more of any substance containing  
17 pentazocine or any of the salts, isomers and salts of  
18 isomers of pentazocine, or an analog thereof;

19 (9) 30 grams or more of any substance containing  
20 methaqualone or any of the salts, isomers and salts of  
21 isomers of methaqualone, or an analog thereof;

22 (10) 30 grams or more of any substance containing  
23 phencyclidine or any of the salts, isomers and salts of  
24 isomers of phencyclidine (PCP), or an analog thereof;

25 (10.5) 30 grams or more of any substance containing  
26 ketamine or any of the salts, isomers and salts of isomers

1 of ketamine, or an analog thereof;

2 (10.6) 100 grams or more of any substance containing  
3 hydrocodone, or any of the salts, isomers and salts of  
4 isomers of hydrocodone, or an analog thereof;

5 (10.7) 100 grams or more of any substance containing  
6 dihydrocodeinone, or any of the salts, isomers and salts of  
7 isomers of dihydrocodeinone, or an analog thereof;

8 (10.8) 100 grams or more of any substance containing  
9 dihydrocodeine, or any of the salts, isomers and salts of  
10 isomers of dihydrocodeine, or an analog thereof;

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

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

18 (b) Any person sentenced with respect to violations of  
19 paragraph (1), (2), (3), (7), or (7.5) of subsection (a)  
20 involving 100 grams or more of the controlled substance named  
21 therein, may in addition to the penalties provided therein, be  
22 fined an amount not more than \$500,000 or the full street value  
23 of the controlled or counterfeit substance or controlled  
24 substance analog, whichever is greater. The term "street value"  
25 shall have the meaning ascribed in Section 110-5 of the Code of  
26 Criminal Procedure of 1963. Any person sentenced with respect

1 to any other provision of subsection (a), may in addition to  
2 the penalties provided therein, be fined an amount not to  
3 exceed \$500,000.

4 (b-1) Excluding violations of this Act when the controlled  
5 substance is fentanyl, any person sentenced to a term of  
6 imprisonment with respect to violations of Section 401, 401.1,  
7 405, 405.1, 405.2, or 407, when the substance containing the  
8 controlled substance contains any amount of fentanyl, 3 years  
9 shall be added to the term of imprisonment imposed by the  
10 court, and the maximum sentence for the offense shall be  
11 increased by 3 years.

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

19 (1) 1 gram or more but less than 5 ~~15~~ grams of any  
20 substance containing heroin, or an analog thereof;

21 (1.5) 1 gram or more but less than 15 grams of any  
22 substance containing fentanyl, or an analog thereof;

23 (2) 1 gram or more but less than 15 grams of any  
24 substance containing cocaine, or an analog thereof;

25 (3) 10 grams or more but less than 15 grams of any  
26 substance containing morphine, or an analog thereof;

1           (4) 50 grams or more but less than 200 grams of any  
2 substance containing peyote, or an analog thereof;

3           (5) 50 grams or more but less than 200 grams of any  
4 substance containing a derivative of barbituric acid or any  
5 of the salts of a derivative of barbituric acid, or an  
6 analog thereof;

7           (6) 50 grams or more but less than 200 grams of any  
8 substance containing amphetamine or any salt of an optical  
9 isomer of amphetamine, or an analog thereof;

10          (6.5) (blank);

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

19          (7.5) (i) 5 grams or more but less than 15 grams of any  
20 substance listed in paragraph (1), (2), (2.1), (2.2), (3),  
21 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
22 subsection (d) of Section 204, or an analog or derivative  
23 thereof, or (ii) more than 10 pills, tablets, caplets,  
24 capsules, or objects but less than 15 pills, tablets,  
25 caplets, capsules, or objects containing in them or having  
26 upon them any amount of any substance listed in paragraph

1 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),  
2 (21), (25), or (26) of subsection (d) of Section 204, or an  
3 analog or derivative thereof;

4 (8) 10 grams or more but less than 30 grams of any  
5 substance containing pentazocine or any of the salts,  
6 isomers and salts of isomers of pentazocine, or an analog  
7 thereof;

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

12 (10) 10 grams or more but less than 30 grams of any  
13 substance containing phencyclidine or any of the salts,  
14 isomers and salts of isomers of phencyclidine (PCP), or an  
15 analog thereof;

16 (10.5) 10 grams or more but less than 30 grams of any  
17 substance containing ketamine or any of the salts, isomers  
18 and salts of isomers of ketamine, or an analog thereof;

19 (10.6) 50 grams or more but less than 100 grams of any  
20 substance containing hydrocodone, or any of the salts,  
21 isomers and salts of isomers of hydrocodone, or an analog  
22 thereof;

23 (10.7) 50 grams or more but less than 100 grams of any  
24 substance containing dihydrocodeinone, or any of the  
25 salts, isomers and salts of isomers of dihydrocodeinone, or  
26 an analog thereof;

1           (10.8) 50 grams or more but less than 100 grams of any  
2           substance containing dihydrocodeine, or any of the salts,  
3           isomers and salts of isomers of dihydrocodeine, or an  
4           analog thereof;

5           (10.9) 50 grams or more but less than 100 grams of any  
6           substance containing oxycodone, or any of the salts,  
7           isomers and salts of isomers of oxycodone, or an analog  
8           thereof;

9           (11) 50 grams or more but less than 200 grams of any  
10          substance containing a substance classified in Schedules I  
11          or II, or an analog thereof, which is not otherwise  
12          included in this subsection.

13          (c-5) (Blank).

14          (d) Any person who violates this Section with regard to any  
15          other amount of a controlled or counterfeit substance  
16          containing dihydrocodeinone or dihydrocodeine or classified in  
17          Schedules I or II, or an analog thereof, which is (i) a  
18          narcotic drug, (ii) lysergic acid diethylamide (LSD) or an  
19          analog thereof, (iii) any substance containing amphetamine or  
20          fentanyl or any salt or optical isomer of amphetamine or  
21          fentanyl, or an analog thereof, or (iv) any substance  
22          containing N-Benzylpiperazine (BZP) or any salt or optical  
23          isomer of N-Benzylpiperazine (BZP), or an analog thereof, is  
24          guilty of a Class 2 felony. The fine for violation of this  
25          subsection (d) shall not be more than \$200,000.

26          (d-5) (Blank).

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

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

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

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

23           (i) This Section does not apply to the manufacture,  
24 possession or distribution of a substance in conformance with  
25 the provisions of an approved new drug application or an  
26 exemption for investigational use within the meaning of Section

1 505 of the Federal Food, Drug and Cosmetic Act.

2 (j) (Blank).

3 (Source: P.A. 96-347, eff. 1-1-10; 97-997, eff. 1-1-13.)