



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB4221

Introduced 11/14/2022, by Sen. Sally J. Turner - Sue Rezin

#### SYNOPSIS AS INTRODUCED:

720 ILCS 570/401

from Ch. 56 1/2, par. 1401

720 ILCS 570/401.1

from Ch. 56 1/2, par. 1401.1

Amends the Illinois Controlled Substances Act. Provides that in addition to any other penalties provided by law, a person knowingly and unlawfully selling or dispensing any scheduled drug containing a detectable amount of fentanyl is guilty of a Class X felony and shall be sentenced to a term of imprisonment of not less than 9 years and not more than 40 years or fined not more than \$250,000, or both. Provides that it shall be a Class 1 felony for which a fine not to exceed \$100,000 may be imposed for any person to knowingly use an electronic communication device in the furtherance of controlled substance trafficking involving a substance containing any amount of fentanyl. Provides that this penalty shall be in addition to any other penalties imposed by law. Defines "electronic communication device".

LRB102 28263 RLC 40134 b

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 Sections 401 and 401.1 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  
17 controlled substance analog. A violation of this Act with  
18 respect to each of the controlled substances listed herein  
19 constitutes a single and separate violation of this Act. For  
20 purposes of this Section, "controlled substance analog" or  
21 "analog" means a substance, other than a controlled substance,  
22 which is not approved by the United States Food and Drug  
23 Administration or, if approved, is not dispensed or possessed

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

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

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

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

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

4 (D) not less than 15 years and not more than 60 years  
5 with respect to 900 grams or more of any substance  
6 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 100  
9 grams of a substance containing fentanyl, or an analog  
10 thereof;

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

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

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

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

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

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

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

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

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

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

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

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

18 (4) 200 grams or more of any substance containing  
19 peyote, or an analog thereof;

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

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

26 (6.5) (blank);

1 (6.6) (blank);

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

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

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

1 any amount of any substance containing lysergic acid  
2 diethylamide (LSD), or an analog thereof;

3 (D) not less than 15 years and not more than 60 years  
4 with respect to: (i) 900 grams or more of any substance  
5 containing lysergic acid diethylamide (LSD), or an analog  
6 thereof, or (ii) 1500 or more objects or 1500 or more  
7 segregated parts of an object or objects containing in  
8 them or having upon them any amount of a substance  
9 containing lysergic acid diethylamide (LSD), or an analog  
10 thereof;

11 (7.5) (A) not less than 6 years and not more than 30 years  
12 with respect to: (i) 15 grams or more but less than 100  
13 grams of a 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, or (ii) 15 or more pills, tablets,  
17 caplets, capsules, or objects but less than 200 pills,  
18 tablets, caplets, capsules, or objects containing in them  
19 or having upon them any amounts of any substance listed in  
20 paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
21 (20.1), (21), (25), or (26) of subsection (d) of Section  
22 204, or an analog or derivative thereof;

23 (B) not less than 9 years and not more than 40 years  
24 with respect to: (i) 100 grams or more but less than 400  
25 grams of a substance listed in paragraph (1), (2), (2.1),  
26 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or

1 (26) of subsection (d) of Section 204, or an analog or  
2 derivative thereof, or (ii) 200 or more pills, tablets,  
3 caplets, capsules, or objects but less than 600 pills,  
4 tablets, caplets, capsules, or objects containing in them  
5 or having upon them any amount of any substance listed in  
6 paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
7 (20.1), (21), (25), or (26) of subsection (d) of Section  
8 204, or an analog or derivative thereof;

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

21 (D) not less than 15 years and not more than 60 years  
22 with respect to: (i) 900 grams or more of any substance  
23 listed in paragraph (1), (2), (2.1), (2.2), (3), (14.1),  
24 (19), (20), (20.1), (21), (25), or (26) of subsection (d)  
25 of Section 204, or an analog or derivative thereof, or  
26 (ii) 1,500 or more pills, tablets, caplets, capsules, or



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

6 (8) 30 grams or more of any substance containing  
7 pentazocine or any of the salts, isomers and salts of  
8 isomers of pentazocine, or an analog thereof;

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

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

15 (10.5) 30 grams or more of any substance containing  
16 ketamine or any of the salts, isomers and salts of isomers  
17 of ketamine, or an analog thereof;

18 (10.6) 100 grams or more of any substance containing  
19 hydrocodone, or any of the salts, isomers and salts of  
20 isomers of hydrocodone, or an analog thereof;

21 (10.7) (blank);

22 (10.8) 100 grams or more of any substance containing  
23 dihydrocodeine, or any of the salts, isomers and salts of  
24 isomers of dihydrocodeine, or an analog thereof;

25 (10.9) 100 grams or more of any substance containing  
26 oxycodone, or any of the salts, isomers and salts of

1 isomers of oxycodone, or an analog thereof;

2 (11) 200 grams or more of any substance containing any  
3 other controlled substance classified in Schedules I or  
4 II, or an analog thereof, which is not otherwise included  
5 in this subsection.

6 (b) Any person sentenced with respect to violations of  
7 paragraph (1), (2), (3), (7), or (7.5) of subsection (a)  
8 involving 100 grams or more of the controlled substance named  
9 therein, may in addition to the penalties provided therein, be  
10 fined an amount not more than \$500,000 or the full street value  
11 of the controlled or counterfeit substance or controlled  
12 substance analog, whichever is greater. The term "street  
13 value" shall have the meaning ascribed in Section 110-5 of the  
14 Code of Criminal Procedure of 1963. Any person sentenced with  
15 respect to any other provision of subsection (a), may in  
16 addition to the penalties provided therein, be fined an amount  
17 not to exceed \$500,000.

18 (b-1) Excluding violations of this Act when the controlled  
19 substance is fentanyl, any person sentenced to a term of  
20 imprisonment with respect to violations of Section 401, 401.1,  
21 405, 405.1, 405.2, or 407, when the substance containing the  
22 controlled substance contains any amount of fentanyl, 3 years  
23 shall be added to the term of imprisonment imposed by the  
24 court, and the maximum sentence for the offense shall be  
25 increased by 3 years.

26 (c) Any person who violates this Section with regard to

1 the following amounts of controlled or counterfeit substances  
2 or controlled substance analogs, notwithstanding any of the  
3 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)  
4 to the contrary, is guilty of a Class 1 felony. The fine for  
5 violation of this subsection (c) shall not be more than  
6 \$250,000:

7 (1) 1 gram or more but less than 15 grams of any  
8 substance containing heroin, or an analog thereof;

9 (1.5) 1 gram or more but less than 15 grams of any  
10 substance containing fentanyl, or an analog thereof;

11 (2) 1 gram or more but less than 15 grams of any  
12 substance containing cocaine, or an analog thereof;

13 (3) 10 grams or more but less than 15 grams of any  
14 substance containing morphine, or an analog thereof;

15 (4) 50 grams or more but less than 200 grams of any  
16 substance containing peyote, or an analog thereof;

17 (5) 50 grams or more but less than 200 grams of any  
18 substance containing a derivative of barbituric acid or  
19 any of the salts of a derivative of barbituric acid, or an  
20 analog thereof;

21 (6) 50 grams or more but less than 200 grams of any  
22 substance containing amphetamine or any salt of an optical  
23 isomer of amphetamine, or an analog thereof;

24 (6.5) (blank);

25 (7) (i) 5 grams or more but less than 15 grams of any  
26 substance containing lysergic acid diethylamide (LSD), or

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

7 (7.5) (i) 5 grams or more but less than 15 grams of any  
8 substance listed in paragraph (1), (2), (2.1), (2.2), (3),  
9 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
10 subsection (d) of Section 204, or an analog or derivative  
11 thereof, or (ii) more than 10 pills, tablets, caplets,  
12 capsules, or objects but less than 15 pills, tablets,  
13 caplets, capsules, or objects containing in them or having  
14 upon them any amount of any substance listed in paragraph  
15 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),  
16 (21), (25), or (26) of subsection (d) of Section 204, or an  
17 analog or derivative thereof;

18 (8) 10 grams or more but less than 30 grams of any  
19 substance containing pentazocine or any of the salts,  
20 isomers and salts of isomers of pentazocine, or an analog  
21 thereof;

22 (9) 10 grams or more but less than 30 grams of any  
23 substance containing methaqualone or any of the salts,  
24 isomers and salts of isomers of methaqualone, or an analog  
25 thereof;

26 (10) 10 grams or more but less than 30 grams of any

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

4 (10.5) 10 grams or more but less than 30 grams of any  
5 substance containing ketamine or any of the salts, isomers  
6 and salts of isomers of ketamine, or an analog thereof;

7 (10.6) 50 grams or more but less than 100 grams of any  
8 substance containing hydrocodone, or any of the salts,  
9 isomers and salts of isomers of hydrocodone, or an analog  
10 thereof;

11 (10.7) (blank);

12 (10.8) 50 grams or more but less than 100 grams of any  
13 substance containing dihydrocodeine, or any of the salts,  
14 isomers and salts of isomers of dihydrocodeine, or an  
15 analog thereof;

16 (10.9) 50 grams or more but less than 100 grams of any  
17 substance containing oxycodone, or any of the salts,  
18 isomers and salts of isomers of oxycodone, or an analog  
19 thereof;

20 (11) 50 grams or more but less than 200 grams of any  
21 substance containing a substance classified in Schedules I  
22 or II, or an analog thereof, which is not otherwise  
23 included in this subsection.

24 (c-5) (Blank).

25 (d) Any person who violates this Section with regard to  
26 any other amount of a controlled or counterfeit substance

1 containing dihydrocodeine or classified in Schedules I or II,  
2 or an analog thereof, which is (i) a narcotic drug, (ii)  
3 lysergic acid diethylamide (LSD) or an analog thereof, (iii)  
4 any substance containing amphetamine or fentanyl or any salt  
5 or optical isomer of amphetamine or fentanyl, or an analog  
6 thereof, or (iv) any substance containing N-Benzylpiperazine  
7 (BZP) or any salt or optical isomer of N-Benzylpiperazine  
8 (BZP), or an analog thereof, is guilty of a Class 2 felony. The  
9 fine for violation of this subsection (d) shall not be more  
10 than \$200,000.

11 (d-1) In addition to any other penalties provided by law,  
12 a person knowingly and unlawfully selling or dispensing any  
13 scheduled drug containing a detectable amount of fentanyl is  
14 guilty of a Class X felony and shall be sentenced to a term of  
15 imprisonment of not less than 9 years and not more than 40  
16 years or fined not more than \$250,000, or both.

17 (d-5) (Blank).

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

25 (f) Any person who violates this Section with regard to  
26 any other amount of a controlled or counterfeit substance

1 classified in Schedule III is guilty of a Class 3 felony. The  
2 fine for violation of this subsection (f) shall not be more  
3 than \$125,000.

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

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

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

19 (j) (Blank).

20 (Source: P.A. 99-371, eff. 1-1-16; 99-585, eff. 1-1-17;  
21 100-368, eff. 1-1-18.)

22 (720 ILCS 570/401.1) (from Ch. 56 1/2, par. 1401.1)

23 Sec. 401.1. Controlled Substance Trafficking.

24 (a) Except for purposes as authorized by this Act, any  
25 person who knowingly brings or causes to be brought into this

1 State for the purpose of manufacture or delivery or with the  
2 intent to manufacture or deliver a controlled substance other  
3 than methamphetamine or counterfeit substance in this or any  
4 other state or country is guilty of controlled substance  
5 trafficking.

6 (b) A person convicted of controlled substance trafficking  
7 shall be sentenced to a term of imprisonment not less than  
8 twice the minimum term and fined an amount as authorized by  
9 Section 401 of this Act, based upon the amount of controlled or  
10 counterfeit substance brought or caused to be brought into  
11 this State, and not more than twice the maximum term of  
12 imprisonment and fined twice the amount as authorized by  
13 Section 401 of this Act, based upon the amount of controlled or  
14 counterfeit substance brought or caused to be brought into  
15 this State.

16 (c) It shall be a Class 2 felony for which a fine not to  
17 exceed \$100,000 may be imposed for any person to knowingly use  
18 a cellular radio telecommunication device in the furtherance  
19 of controlled substance trafficking. This penalty shall be in  
20 addition to any other penalties imposed by law.

21 (d) It shall be a Class 1 felony for which a fine not to  
22 exceed \$100,000 may be imposed for any person to knowingly use  
23 an electronic communication device in the furtherance of  
24 controlled substance trafficking involving a substance  
25 containing any amount of fentanyl. This penalty shall be in  
26 addition to any other penalties imposed by law. For purposes



1 of this subsection (d):

2 "Computer" has the meaning ascribed to it in Section  
3 17-0.5 of the Criminal Code of 2012.

4 "Electronic communication device" means an electronic  
5 device, including, but not limited to, a wireless telephone,  
6 personal digital assistant, or a portable or mobile computer,  
7 that is capable of transmitting images or pictures.

8 (Source: P.A. 94-556, eff. 9-11-05.)