



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB1038

Introduced 1/9/2025, by Rep. John M. Cabello

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. Increases the penalties by 3 years for a minimum sentence and 10 years for a maximum sentence for the knowing manufacture or delivery or possession with intent to manufacture or deliver 15 grams or more of any substance containing fentanyl, or an analog thereof. Provides that the knowing manufacture or delivery or possession with intent to manufacture or deliver 15 grams or more of any substance containing fentanyl, or an analog thereof of one gram or more but less than 15 grams of any substance containing fentanyl, or an analog thereof is a Class X (rather than a Class 1) felony. Provides that excluding violations of the Act when the controlled substance is fentanyl, any person sentenced to a term of imprisonment with respect to violations of these provisions, controlled substance trafficking, calculated criminal drug conspiracy, criminal drug conspiracy, streetgang criminal drug conspiracy, or delivery of controlled substances to persons under 18 years of age or at truck stops, safety rest areas, or school, when the substance containing the controlled substance contains any amount of fentanyl, 6 (rather than 3) years shall be added to the term of imprisonment imposed by the court, and the maximum sentence for the offense shall be increased by 6 (rather than 3) years. With respect to the offense of controlled substance trafficking, if the substance trafficked contains any amount of fentanyl, a person convicted of controlled substance trafficking shall be sentenced to a term of imprisonment not less than 3 times the minimum term and fined an amount as authorized by this Act, based upon the amount of fentanyl brought or caused to be brought into the State, and not more than 3 times the maximum term of imprisonment and fined 3 times the amount as authorized by this Act, based upon the amount of fentanyl brought or caused to be brought into the State.

LRB104 03253 RLC 13275 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 9 ~~6~~ years and not more than 40
8 ~~30~~ 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 12 ~~9~~ years and not more than 50 ~~40~~
12 years with respect to 100 grams or more but less than 400
13 grams of a substance containing fentanyl, or an analog
14 thereof;

15 (C) not less than 15 ~~12~~ years and not more than 60 ~~50~~
16 years with respect to 400 grams or more but less than 900
17 grams of a substance containing fentanyl, or an analog
18 thereof;

19 (D) not less than 18 ~~15~~ years and not more than 70 ~~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 years
23 with respect to 15 grams or more but less than 100 grams of
24 a substance containing cocaine, or an analog thereof;

25 (B) not less than 9 years and not more than 40 years
26 with respect to 100 grams or more but less than 400 grams

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

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

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

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

20 (4) 200 grams or more of any substance containing
21 peyote, or an analog thereof;

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

25 (6) 200 grams or more of any substance containing
26 amphetamine or any salt of an optical isomer of

1 amphetamine, or an analog thereof;

2 (6.5) (blank);

3 (6.6) (blank);

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

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

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

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

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

13 (7.5) (A) not less than 6 years and not more than 30 years
14 with respect to: (i) 15 grams or more but less than 100
15 grams of a substance listed in paragraph (1), (2), (2.1),
16 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or
17 (26) of subsection (d) of Section 204, or an analog or
18 derivative thereof, or (ii) 15 or more pills, tablets,
19 caplets, capsules, or objects but less than 200 pills,
20 tablets, caplets, capsules, or objects containing in them
21 or having upon them any amounts of any substance listed in
22 paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),
23 (20.1), (21), (25), or (26) of subsection (d) of Section
24 204, or an analog or derivative thereof;

25 (B) not less than 9 years and not more than 40 years
26 with respect to: (i) 100 grams or more but less than 400

1 grams of a substance listed in paragraph (1), (2), (2.1),
2 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or
3 (26) of subsection (d) of Section 204, or an analog or
4 derivative thereof, or (ii) 200 or more pills, tablets,
5 caplets, capsules, or objects but less than 600 pills,
6 tablets, caplets, capsules, or objects containing in them
7 or having upon them any amount of any substance listed in
8 paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),
9 (20.1), (21), (25), or (26) of subsection (d) of Section
10 204, or an analog or derivative thereof;

11 (C) not less than 12 years and not more than 50 years
12 with respect to: (i) 400 grams or more but less than 900
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) 600 or more pills, tablets,
17 caplets, capsules, or objects but less than 1,500 pills,
18 tablets, caplets, capsules, or objects containing in them
19 or having upon them any amount 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 (D) not less than 15 years and not more than 60 years
24 with respect to: (i) 900 grams or more of any substance
25 listed in paragraph (1), (2), (2.1), (2.2), (3), (14.1),
26 (19), (20), (20.1), (21), (25), or (26) of subsection (d)

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

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

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

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

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

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

23 (10.7) (blank);

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

1 (10.9) 100 grams or more of any substance containing
2 oxycodone, or any of the salts, isomers and salts of
3 isomers of oxycodone, or an analog thereof;

4 (11) 200 grams or more of any substance containing any
5 other controlled substance classified 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 more than \$500,000 or the full street value
13 of the controlled or counterfeit substance or controlled
14 substance analog, whichever is greater. The term "street
15 value" shall have the meaning ascribed in Section 110-5 of the
16 Code of Criminal Procedure of 1963. Any person sentenced with
17 respect to any other provision of subsection (a), may in
18 addition to the penalties provided therein, be fined an amount
19 not to exceed \$500,000.

20 (b-1) Excluding violations of this Act when the controlled
21 substance is fentanyl, any person sentenced to a term of
22 imprisonment with respect to violations of Section 401, 401.1,
23 405, 405.1, 405.2, or 407, when the substance containing the
24 controlled substance contains any amount of fentanyl, 6 ~~3~~
25 years shall be added to the term of imprisonment imposed by the
26 court, and the maximum sentence for the offense shall be

1 increased by 6 ~~3~~ years.

2 (c) Any person who violates this Section with regard to
3 the following amounts of controlled or counterfeit substances
4 or controlled substance analogs, notwithstanding any of the
5 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)
6 to the contrary, is guilty of a Class 1 felony. The fine for
7 violation of this subsection (c) shall not be more than
8 \$250,000; except any person who violates this Section with
9 regards to paragraph (1.5) of subsection (a) is guilty of a
10 Class X felony:

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

13 (1.5) 1 gram or more but less than 15 grams of any
14 substance containing fentanyl, or an analog thereof;

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

17 (3) 10 grams or more but less than 15 grams of any
18 substance containing morphine, or an analog thereof;

19 (4) 50 grams or more but less than 200 grams of any
20 substance containing peyote, or an analog thereof;

21 (5) 50 grams or more but less than 200 grams of any
22 substance containing a derivative of barbituric acid or
23 any of the salts of a derivative of barbituric acid, or an
24 analog thereof;

25 (6) 50 grams or more but less than 200 grams of any
26 substance containing amphetamine or any salt of an optical

1 isomer of amphetamine, or an analog thereof;

2 (6.5) (blank);

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

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

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

26 (9) 10 grams or more but less than 30 grams of any

1 substance containing methaqualone or any of the salts,
2 isomers and salts of isomers of methaqualone, or an analog
3 thereof;

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

8 (10.5) 10 grams or more but less than 30 grams of any
9 substance containing ketamine or any of the salts, isomers
10 and salts of isomers of ketamine, or an analog thereof;

11 (10.6) 50 grams or more but less than 100 grams of any
12 substance containing hydrocodone, or any of the salts,
13 isomers and salts of isomers of hydrocodone, or an analog
14 thereof;

15 (10.7) (blank);

16 (10.8) 50 grams or more but less than 100 grams of any
17 substance containing dihydrocodeine, or any of the salts,
18 isomers and salts of isomers of dihydrocodeine, or an
19 analog thereof;

20 (10.9) 50 grams or more but less than 100 grams of any
21 substance containing oxycodone, or any of the salts,
22 isomers and salts of isomers of oxycodone, or an analog
23 thereof;

24 (11) 50 grams or more but less than 200 grams of any
25 substance containing a substance classified in Schedules I
26 or II, or an analog thereof, which is not otherwise

1 included in this subsection.

2 (c-5) (Blank).

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

15 (d-5) (Blank).

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

23 (f) Any person who violates this Section with regard to
24 any other amount of a controlled or counterfeit substance
25 classified in Schedule III is guilty of a Class 3 felony. The
26 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
3 any 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
8 any 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
16 Section 505 of the Federal Food, Drug and Cosmetic Act.

17 (j) (Blank).

18 (Source: P.A. 99-371, eff. 1-1-16; 99-585, eff. 1-1-17;
19 100-368, eff. 1-1-18.)

20 (720 ILCS 570/401.1) (from Ch. 56 1/2, par. 1401.1)

21 Sec. 401.1. Controlled Substance Trafficking.

22 (a) Except for purposes as authorized by this Act, any
23 person who knowingly brings or causes to be brought into this
24 State for the purpose of manufacture or delivery or with the
25 intent to manufacture or deliver a controlled substance other

1 than methamphetamine or counterfeit substance in this or any
2 other state or country is guilty of controlled substance
3 trafficking.

4 (b) A person convicted of controlled substance trafficking
5 shall be sentenced to a term of imprisonment not less than
6 twice the minimum term and fined an amount as authorized by
7 Section 401 of this Act, based upon the amount of controlled or
8 counterfeit substance brought or caused to be brought into
9 this State, and not more than twice the maximum term of
10 imprisonment and fined twice the amount as authorized by
11 Section 401 of this Act, based upon the amount of controlled or
12 counterfeit substance brought or caused to be brought into
13 this State; except if the substance trafficked contains any
14 amount of fentanyl, a person convicted of controlled substance
15 trafficking shall be sentenced to a term of imprisonment not
16 less than 3 times the minimum term and fined an amount as
17 authorized by Section 401 of this Act, based upon the amount of
18 fentanyl brought or caused to be brought into this State, and
19 not more than 3 times the maximum term of imprisonment and
20 fined 3 times the amount as authorized by Section 401 of this
21 Act, based upon the amount of fentanyl brought or caused to be
22 brought into this State.

23 (c) It shall be a Class 2 felony for which a fine not to
24 exceed \$100,000 may be imposed for any person to knowingly use
25 a cellular radio telecommunication device in the furtherance
26 of controlled substance trafficking. This penalty shall be in

1 addition to any other penalties imposed by law.

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