



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5945

by Rep. Katie Stuart

SYNOPSIS AS INTRODUCED:

720 ILCS 570/401

from Ch. 56 1/2, par. 1401

Amends the Illinois Controlled Substances Act. Provides that a sentencing enhancement of an additional 3 years imprisonment is applicable when the controlled substance also contains any amount of a fentanyl analog for the following violations: manufacture or delivery, or possession with intent to manufacture or deliver, a controlled substance, a counterfeit substance, or controlled substance analog; controlled substance trafficking; calculated criminal drug conspiracy; criminal drug conspiracy; streetgang criminal drug conspiracy; or delivery of a controlled, counterfeit, or look-alike substance to a person under 18 years of age (currently, the sentencing enhancement is applicable only to additional amounts of fentanyl). Effective immediately.

LRB100 22701 SLF 41681 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. 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 controlled
17 substance analog. A violation of this Act with respect to each
18 of the controlled substances listed herein constitutes a single
19 and separate violation of this Act. For purposes of this
20 Section, "controlled substance analog" or "analog" means a
21 substance, other than a controlled substance, which is not
22 approved by the United States Food and Drug Administration or,
23 if approved, is not dispensed or possessed in accordance with

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

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

20 (1) (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 heroin, 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 heroin, 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 heroin, 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 heroin, or an analog thereof;

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

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

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

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

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

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

25 (C) not less than 12 years and not more than 50 years
26 with respect to 400 grams or more but less than 900 grams

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

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

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

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

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

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

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

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

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

25 (6.5) (blank);

26 (6.6) (blank);

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

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

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

1 diethylamide (LSD), or an analog thereof;

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

9 (7.5) (A) not less than 6 years and not more than 30 years
10 with respect to: (i) 15 grams or more but less than 100
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 (26)
13 of subsection (d) of Section 204, or an analog or
14 derivative thereof, or (ii) 15 or more pills, tablets,
15 caplets, capsules, or objects but less than 200 pills,
16 tablets, caplets, capsules, or objects containing in them
17 or having upon them any amounts 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 (B) not less than 9 years and not more than 40 years
22 with respect to: (i) 100 grams or more but less than 400
23 grams of a substance listed in paragraph (1), (2), (2.1),
24 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or (26)
25 of subsection (d) of Section 204, or an analog or
26 derivative thereof, or (ii) 200 or more pills, tablets,

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

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

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

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

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

7 (9) 30 grams or more of any substance containing
8 methaqualone or any of the salts, isomers and salts of
9 isomers of methaqualone, or an analog thereof;

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

13 (10.5) 30 grams or more of any substance containing
14 ketamine or any of the salts, isomers and salts of isomers
15 of ketamine, or an analog thereof;

16 (10.6) 100 grams or more of any substance containing
17 hydrocodone, or any of the salts, isomers and salts of
18 isomers of hydrocodone, or an analog thereof;

19 (10.7) (blank);

20 (10.8) 100 grams or more of any substance containing
21 dihydrocodeine, or any of the salts, isomers and salts of
22 isomers of dihydrocodeine, or an analog thereof;

23 (10.9) 100 grams or more of any substance containing
24 oxycodone, or any of the salts, isomers and salts of
25 isomers of oxycodone, or an analog thereof;

26 (11) 200 grams or more of any substance containing any

1 other controlled substance classified in Schedules I or II,
2 or an analog thereof, which is not otherwise included in
3 this subsection.

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

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

24 (c) Any person who violates this Section with regard to the
25 following amounts of controlled or counterfeit substances or
26 controlled substance analogs, notwithstanding any of the

1 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)
2 to the contrary, is guilty of a Class 1 felony. The fine for
3 violation of this subsection (c) shall not be more than
4 \$250,000:

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

7 (1.5) 1 gram or more but less than 15 grams of any
8 substance containing fentanyl, or an analog thereof;

9 (2) 1 gram or more but less than 15 grams of any
10 substance containing cocaine, or an analog thereof;

11 (3) 10 grams or more but less than 15 grams of any
12 substance containing morphine, or an analog thereof;

13 (4) 50 grams or more but less than 200 grams of any
14 substance containing peyote, or an analog thereof;

15 (5) 50 grams or more but less than 200 grams of any
16 substance containing a derivative of barbituric acid or any
17 of the salts of a derivative of barbituric acid, or an
18 analog thereof;

19 (6) 50 grams or more but less than 200 grams of any
20 substance containing amphetamine or any salt of an optical
21 isomer of amphetamine, or an analog thereof;

22 (6.5) (blank);

23 (7) (i) 5 grams or more but less than 15 grams of any
24 substance containing lysergic acid diethylamide (LSD), or
25 an analog thereof, or (ii) more than 10 objects or more
26 than 10 segregated parts of an object or objects but less

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

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

16 (8) 10 grams or more but less than 30 grams of any
17 substance containing pentazocine or any of the salts,
18 isomers and salts of isomers of pentazocine, or an analog
19 thereof;

20 (9) 10 grams or more but less than 30 grams of any
21 substance containing methaqualone or any of the salts,
22 isomers and salts of isomers of methaqualone, or an analog
23 thereof;

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

1 analog thereof;

2 (10.5) 10 grams or more but less than 30 grams of any
3 substance containing ketamine or any of the salts, isomers
4 and salts of isomers of ketamine, or an analog thereof;

5 (10.6) 50 grams or more but less than 100 grams of any
6 substance containing hydrocodone, or any of the salts,
7 isomers and salts of isomers of hydrocodone, or an analog
8 thereof;

9 (10.7) (blank);

10 (10.8) 50 grams or more but less than 100 grams of any
11 substance containing dihydrocodeine, or any of the salts,
12 isomers and salts of isomers of dihydrocodeine, or an
13 analog thereof;

14 (10.9) 50 grams or more but less than 100 grams of any
15 substance containing oxycodone, or any of the salts,
16 isomers and salts of isomers of oxycodone, or an analog
17 thereof;

18 (11) 50 grams or more but less than 200 grams of any
19 substance containing a substance classified in Schedules I
20 or II, or an analog thereof, which is not otherwise
21 included in this subsection.

22 (c-5) (Blank).

23 (d) Any person who violates this Section with regard to any
24 other amount of a controlled or counterfeit substance
25 containing dihydrocodeine or classified in Schedules I or II,
26 or an analog thereof, which is (i) a narcotic drug, (ii)

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

9 (d-5) (Blank).

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

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

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

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

6 (i) This Section does not apply to the manufacture,
7 possession or distribution of a substance in conformance with
8 the provisions of an approved new drug application or an
9 exemption for investigational use within the meaning of Section
10 505 of the Federal Food, Drug and Cosmetic Act.

11 (j) (Blank).

12 (Source: P.A. 99-371, eff. 1-1-16; 99-585, eff. 1-1-17;
13 100-368, eff. 1-1-18.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.