

# HB0285



## 101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB0285

by Rep. David McSweeney

### SYNOPSIS AS INTRODUCED:

720 ILCS 570/401

from Ch. 56 1/2, par. 1401

Amends the Illinois Controlled Substances Act. Increases the minimum penalties by 3 years for knowingly manufacturing or delivering, or possessing with intent to manufacture or deliver, 15 grams or more of heroin.

LRB101 03993 SLF 49001 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 9 ~~6~~ years and not more than 30  
21 years with respect to 15 grams or more but less than 100  
22 grams of a substance containing heroin, or an analog  
23 thereof;

24 (B) not less than 12 ~~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 15 ~~12~~ years and not more than 50  
2 years with respect to 400 grams or more but less than 900  
3 grams of a substance containing heroin, or an analog  
4 thereof;

5 (D) not less than 18 ~~15~~ years and not more than 60  
6 years with respect to 900 grams or more of any substance  
7 containing heroin, or an analog thereof;

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

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

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

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

21 (2) (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 cocaine, 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 cocaine, 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 cocaine, 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 cocaine, or an analog thereof;

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

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

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

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

1 (6.5) (blank);

2 (6.6) (blank);

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

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

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

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

4 (D) not less than 15 years and not more than 60 years  
5 with respect to: (i) 900 grams or more of any substance  
6 containing lysergic acid diethylamide (LSD), or an analog  
7 thereof, or (ii) 1500 or more objects or 1500 or more  
8 segregated parts of an object or objects containing in them  
9 or having upon them any amount of a substance containing  
10 lysergic acid diethylamide (LSD), or an analog 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 (26)  
15 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 (26)

1 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 (26)  
13 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 (ii)  
26 1,500 or more pills, tablets, caplets, capsules, or objects



1 containing in them or having upon them any amount of a  
2 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 II,  
4 or an analog thereof, which is not otherwise included in  
5 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 value"  
13 shall have the meaning ascribed in Section 110-5 of the Code of  
14 Criminal Procedure of 1963. Any person sentenced with respect  
15 to any other provision of subsection (a), may in addition to  
16 the penalties provided therein, be fined an amount not to  
17 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 the

1 following amounts of controlled or counterfeit substances or  
2 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 any  
19 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 of  
5 any substance containing lysergic acid diethylamide (LSD),  
6 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 any  
26 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 or  
5 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-5) (Blank).

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

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

24 (g) Any person who violates this Section with regard to any  
25 other amount of a controlled or counterfeit substance  
26 classified in Schedule IV is guilty of a Class 3 felony. The

1 fine for violation of this subsection (g) shall not be more  
2 than \$100,000.

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

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

13 (j) (Blank).

14 (Source: P.A. 99-371, eff. 1-1-16; 99-585, eff. 1-1-17;  
15 100-368, eff. 1-1-18.)