

HB5250



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5250

Introduced 2/8/2012, by Rep. William Cunningham

SYNOPSIS AS INTRODUCED:

720 ILCS 570/401

from Ch. 56 1/2, par. 1401

Amends the Illinois Controlled Substances Act. Provides for enhanced penalties for the manufacturing or delivery, or possession with intent to manufacture or deliver, of any substance containing hydrocodone, dihydrocodeinone, dihydrocodeine, oxycodone, or any of the salts, isomers and salts of isomers, or analog of those substances.

LRB097 18577 RLC 63809 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 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 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. 95-259, eff. 8-17-07; 96-347, eff. 1-1-10.)