

HB3836



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3836

by Rep. Katie Stuart

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. Effective immediately.

LRB100 08903 RLC 19046 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, that has a
22 chemical structure substantially similar to that of a
23 controlled substance in Schedule I or II, or that was

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

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

18 (1) (A) not less than 9 ~~6~~ years and not more than 30
19 years with respect to 15 grams or more but less than
20 100 grams of a substance containing heroin, or an
21 analog thereof;

22 (B) not less than 12 ~~9~~ years and not more than 40
23 years with respect to 100 grams or more but less than
24 400 grams of a substance containing heroin, or an
25 analog thereof;

26 (C) not less than 15 ~~12~~ years and not more than 50

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

4 (D) not less than 18 ~~15~~ years and not more than 60
5 years with respect to 900 grams or more of any
6 substance 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
9 100 grams of a substance containing fentanyl, or an
10 analog thereof;

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

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

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

26 (B) not less than 9 years and not more than 40

1 years with respect to 100 grams or more but less than
2 400 grams of a substance containing cocaine, or an
3 analog thereof;

4 (C) not less than 12 years and not more than 50
5 years with respect to 400 grams or more but less than
6 900 grams of a substance containing cocaine, or an
7 analog thereof;

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

11 (3) (A) not less than 6 years and not more than 30
12 years with respect to 15 grams or more but less than
13 100 grams of a substance containing morphine, or an
14 analog thereof;

15 (B) not less than 9 years and not more than 40
16 years with respect to 100 grams or more but less than
17 400 grams of a substance containing morphine, or an
18 analog thereof;

19 (C) not less than 12 years and not more than 50
20 years with respect to 400 grams or more but less than
21 900 grams of a substance containing morphine, or an
22 analog thereof;

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

26 (4) 200 grams or more of any substance containing

1 peyote, or an analog thereof;

2 (5) 200 grams or more of any substance containing a
3 derivative of barbituric acid or any of the salts of a
4 derivative of barbituric acid, or an analog thereof;

5 (6) 200 grams or more of any substance containing
6 amphetamine or any salt of an optical isomer of
7 amphetamine, or an analog thereof;

8 (6.5) (blank);

9 (6.6) (blank);

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

20 (B) not less than 9 years and not more than 40
21 years with respect to: (i) 100 grams or more but less
22 than 400 grams of a substance containing lysergic acid
23 diethylamide (LSD), or an analog thereof, or (ii) 200
24 or more objects or 200 or more segregated parts of an
25 object or objects but less than 600 objects or less
26 than 600 segregated parts of an object or objects

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

4 (C) not less than 12 years and not more than 50
5 years with respect to: (i) 400 grams or more but less
6 than 900 grams of a substance containing lysergic acid
7 diethylamide (LSD), or an analog thereof, or (ii) 600
8 or more objects or 600 or more segregated parts of an
9 object or objects but less than 1500 objects or 1500
10 segregated parts of an object or objects containing in
11 them or having upon them any amount of any substance
12 containing lysergic acid diethylamide (LSD), or an
13 analog thereof;

14 (D) not less than 15 years and not more than 60
15 years with respect to: (i) 900 grams or more of any
16 substance containing lysergic acid diethylamide (LSD),
17 or an analog thereof, or (ii) 1500 or more objects or
18 1500 or more segregated parts of an object or objects
19 containing in them or having upon them any amount of a
20 substance containing lysergic acid diethylamide (LSD),
21 or an analog thereof;

22 (7.5) (A) not less than 6 years and not more than 30
23 years with respect to: (i) 15 grams or more but less
24 than 100 grams of a substance listed in paragraph (1),
25 (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),
26 (21), (25), or (26) of subsection (d) of Section 204,

1 or an analog or derivative thereof, or (ii) 15 or more
2 pills, tablets, caplets, capsules, or objects but less
3 than 200 pills, tablets, caplets, capsules, or objects
4 containing in them or having upon them any amounts of
5 any substance listed in paragraph (1), (2), (2.1),
6 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or
7 (26) of subsection (d) of Section 204, or an analog or
8 derivative thereof;

9 (B) not less than 9 years and not more than 40
10 years with respect to: (i) 100 grams or more but less
11 than 400 grams of a substance listed in paragraph (1),
12 (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),
13 (21), (25), or (26) of subsection (d) of Section 204,
14 or an analog or derivative thereof, or (ii) 200 or more
15 pills, tablets, caplets, capsules, or objects but less
16 than 600 pills, tablets, caplets, capsules, or objects
17 containing in them or having upon them any amount of
18 any substance listed in paragraph (1), (2), (2.1),
19 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or
20 (26) of subsection (d) of Section 204, or an analog or
21 derivative thereof;

22 (C) not less than 12 years and not more than 50
23 years with respect to: (i) 400 grams or more but less
24 than 900 grams of a substance listed in paragraph (1),
25 (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),
26 (21), (25), or (26) of subsection (d) of Section 204,

1 or an analog or derivative thereof, or (ii) 600 or more
2 pills, tablets, caplets, capsules, or objects but less
3 than 1,500 pills, tablets, caplets, capsules, or
4 objects containing in them or having upon them any
5 amount of any substance listed in paragraph (1), (2),
6 (2.1), (2.2), (3), (14.1), (19), (20), (20.1), (21),
7 (25), or (26) of subsection (d) of Section 204, or an
8 analog or derivative 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 listed in paragraph (1), (2), (2.1), (2.2),
12 (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of
13 subsection (d) of Section 204, or an analog or
14 derivative thereof, or (ii) 1,500 or more pills,
15 tablets, caplets, capsules, or objects containing in
16 them or having upon them any amount of a substance
17 listed in paragraph (1), (2), (2.1), (2.2), (3),
18 (14.1), (19), (20), (20.1), (21), (25), or (26) of
19 subsection (d) of Section 204, or an analog or
20 derivative thereof;

21 (8) 30 grams or more of any substance containing
22 pentazocine or any of the salts, isomers and salts of
23 isomers of pentazocine, or an analog thereof;

24 (9) 30 grams or more of any substance containing
25 methaqualone or any of the salts, isomers and salts of
26 isomers of methaqualone, or an analog thereof;

1 (10) 30 grams or more of any substance containing
2 phencyclidine or any of the salts, isomers and salts of
3 isomers of phencyclidine (PCP), or an analog thereof;

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

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

10 (10.7) 100 grams or more of any substance containing
11 dihydrocodeinone, or any of the salts, isomers and salts of
12 isomers of dihydrocodeinone, or an analog thereof;

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

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

19 (11) 200 grams or more of any substance containing any
20 other controlled substance classified in Schedules I or II,
21 or an analog thereof, which is not otherwise included in
22 this subsection.

23 (b) Any person sentenced with respect to violations of
24 paragraph (1), (2), (3), (7), or (7.5) of subsection (a)
25 involving 100 grams or more of the controlled substance named
26 therein, may in addition to the penalties provided therein, be

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

9 (b-1) Excluding violations of this Act when the controlled
10 substance is fentanyl, any person sentenced to a term of
11 imprisonment with respect to violations of Section 401, 401.1,
12 405, 405.1, 405.2, or 407, when the substance containing the
13 controlled substance contains any amount of fentanyl, 3 years
14 shall be added to the term of imprisonment imposed by the
15 court, and the maximum sentence for the offense shall be
16 increased by 3 years.

17 (c) Any person who violates this Section with regard to the
18 following amounts of controlled or counterfeit substances or
19 controlled substance analogs, notwithstanding any of the
20 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)
21 to the contrary, is guilty of a Class 1 felony. The fine for
22 violation of this subsection (c) shall not be more than
23 \$250,000:

24 (1) 1 gram or more but less than 15 grams of any
25 substance containing heroin, or an analog thereof;

26 (1.5) 1 gram or more but less than 15 grams of any

1 substance containing fentanyl, or an analog thereof;

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

4 (3) 10 grams or more but less than 15 grams of any
5 substance containing morphine, or an analog thereof;

6 (4) 50 grams or more but less than 200 grams of any
7 substance containing peyote, or an analog thereof;

8 (5) 50 grams or more but less than 200 grams of any
9 substance containing a derivative of barbituric acid or any
10 of the salts of a derivative of barbituric acid, or an
11 analog thereof;

12 (6) 50 grams or more but less than 200 grams of any
13 substance containing amphetamine or any salt of an optical
14 isomer of amphetamine, or an analog thereof;

15 (6.5) (blank);

16 (7) (i) 5 grams or more but less than 15 grams of any
17 substance containing lysergic acid diethylamide (LSD), or
18 an analog thereof, or (ii) more than 10 objects or more
19 than 10 segregated parts of an object or objects but less
20 than 15 objects or less than 15 segregated parts of an
21 object containing in them or having upon them any amount of
22 any substance containing lysergic acid diethylamide (LSD),
23 or an analog thereof;

24 (7.5) (i) 5 grams or more but less than 15 grams of any
25 substance listed in paragraph (1), (2), (2.1), (2.2), (3),
26 (14.1), (19), (20), (20.1), (21), (25), or (26) of

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

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

13 (9) 10 grams or more but less than 30 grams of any
14 substance containing methaqualone or any of the salts,
15 isomers and salts of isomers of methaqualone, or an analog
16 thereof;

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

21 (10.5) 10 grams or more but less than 30 grams of any
22 substance containing ketamine or any of the salts, isomers
23 and salts of isomers of ketamine, or an analog thereof;

24 (10.6) 50 grams or more but less than 100 grams of any
25 substance containing hydrocodone, or any of the salts,
26 isomers and salts of isomers of hydrocodone, or an analog

1 thereof;

2 (10.7) 50 grams or more but less than 100 grams of any
3 substance containing dihydrocodeinone, or any of the
4 salts, isomers and salts of isomers of dihydrocodeinone, or
5 an analog thereof;

6 (10.8) 50 grams or more but less than 100 grams of any
7 substance containing dihydrocodeine, or any of the salts,
8 isomers and salts of isomers of dihydrocodeine, or an
9 analog thereof;

10 (10.9) 50 grams or more but less than 100 grams of any
11 substance containing oxycodone, or any of the salts,
12 isomers and salts of isomers of oxycodone, or an analog
13 thereof;

14 (11) 50 grams or more but less than 200 grams of any
15 substance containing a substance classified in Schedules I
16 or II, or an analog thereof, which is not otherwise
17 included in this subsection.

18 (c-5) (Blank).

19 (d) Any person who violates this Section with regard to any
20 other amount of a controlled or counterfeit substance
21 containing dihydrocodeinone or dihydrocodeine or classified in
22 Schedules I or II, or an analog thereof, which is (i) a
23 narcotic drug, (ii) lysergic acid diethylamide (LSD) or an
24 analog thereof, (iii) any substance containing amphetamine or
25 fentanyl or any salt or optical isomer of amphetamine or
26 fentanyl, or an analog thereof, or (iv) any substance

1 containing N-Benzylpiperazine (BZP) or any salt or optical
2 isomer of N-Benzylpiperazine (BZP), or an analog thereof, is
3 guilty of a Class 2 felony. The fine for violation of this
4 subsection (d) shall not be more than \$200,000.

5 (d-5) (Blank).

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

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

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

23 (h) Any person who violates this Section with regard to any
24 other amount of a controlled or counterfeit substance
25 classified in Schedule V is guilty of a Class 3 felony. The
26 fine for violation of this subsection (h) shall not be more

1 than \$75,000.

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

7 (j) (Blank).

8 (Source: P.A. 99-371, eff. 1-1-16; 99-585, eff. 1-1-17.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.