



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4334

Introduced 1/5/2022, by Rep. Kambium Buckner

SYNOPSIS AS INTRODUCED:

410 ILCS 710/5

410 ILCS 710/10 new

720 ILCS 600/2

from Ch. 56 1/2, par. 2102

Amends the Overdose Prevention and Harm Reduction Act. Provides that any governmental or nongovernmental entity described under specified provisions or any entity that provides medical care or health services may distribute fentanyl test strips to the public to test for the presence of fentanyl, a fentanyl analogue, or a drug adulterant within a controlled substance. Makes other changes. Amends the Drug Paraphernalia Control Act. Provides that "drug paraphernalia" does not include equipment, products, or materials to analyze or test for the presence of fentanyl, a fentanyl analogue, or a drug adulterant within a controlled substance. Effective immediately.

LRB102 22590 CPF 31732 b

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Overdose Prevention and Harm Reduction Act
5 is amended by changing Section 5 and by adding Section 10 as
6 follows:

7 (410 ILCS 710/5)

8 Sec. 5. Needle and hypodermic syringe access program.

9 (a) Any governmental or nongovernmental organization,
10 including a local health department, community-based
11 organization, or a person or entity, that promotes
12 scientifically proven ways of mitigating health risks
13 associated with drug use and other high-risk behaviors may
14 establish and operate a needle and hypodermic syringe access
15 program. The objective of the program shall be accomplishing
16 all of the following:

17 (1) reducing the spread of HIV, AIDS, viral hepatitis,
18 and other bloodborne diseases;

19 (2) reducing the potential for needle stick injuries
20 from discarded contaminated equipment; and

21 (3) facilitating connections or linkages to
22 evidence-based treatment.

23 (b) Programs established under this Act shall provide all

1 of the following:

2 (1) Disposal of used needles and hypodermic syringes.

3 (2) Needles, hypodermic syringes, and other safer drug
4 consumption supplies, at no cost and in quantities
5 sufficient to ensure that needles, hypodermic syringes, or
6 other supplies are not shared or reused.

7 (3) Educational materials or training on:

8 (A) overdose prevention and intervention; and

9 (B) the prevention of HIV, AIDS, viral hepatitis,
10 and other common bloodborne diseases resulting from
11 shared drug consumption equipment and supplies.

12 (4) Access to opioid antagonists approved for the
13 reversal of an opioid overdose, or referrals to programs
14 that provide access to opioid antagonists approved for the
15 reversal of an opioid overdose.

16 (5) Linkages to needed services, including mental
17 health treatment, housing programs, substance use disorder
18 treatment, and other relevant community services.

19 (6) Individual consultations from a trained employee
20 tailored to individual needs.

21 (7) If feasible, a hygienic, separate space for
22 individuals who need to administer a prescribed injectable
23 medication that can also be used as a quiet space to gather
24 composure in the event of an adverse on-site incident,
25 such as a nonfatal overdose.

26 (8) If feasible, access to on-site drug adulterant

1 testing supplies such as reagents, test strips, or
2 quantification instruments that provide critical real-time
3 information on the composition of substances obtained for
4 consumption.

5 (c) Notwithstanding any provision of the Illinois
6 Controlled Substances Act, the Drug Paraphernalia Control Act,
7 or any other law, no employee or volunteer of or participant in
8 a program established under this Act shall be charged with or
9 prosecuted for possession of any of the following:

10 (1) Needles, hypodermic syringes, or other drug
11 consumption paraphernalia obtained from or returned,
12 directly or indirectly, to a program established under
13 this Act.

14 (2) Residual amounts of a controlled substance
15 contained in used needles, used hypodermic syringes, or
16 other used drug consumption paraphernalia obtained from or
17 returned, directly or indirectly, to a program established
18 under this Act.

19 (3) Drug adulterant testing supplies such as reagents,
20 test strips, or quantification instruments obtained from
21 or returned, directly or indirectly, to an allowable
22 entity or a program established under this Act.

23 (4) Any residual amounts of controlled substances used
24 in the course of testing the controlled substance to
25 determine the chemical composition and potential threat of
26 the substances obtained for consumption that are obtained

1 from or returned, directly or indirectly, to a program
2 established under this Act.

3 In addition to any other applicable immunity or limitation
4 on civil liability, a law enforcement officer who, acting on
5 good faith, arrests or charges a person who is thereafter
6 determined to be entitled to immunity from prosecution under
7 this subsection (c) shall not be subject to civil liability
8 for the arrest or filing of charges.

9 (d) Prior to the commencing of operations of a program
10 established under this Act, the governmental or
11 nongovernmental organization shall submit to the Illinois
12 Department of Public Health all of the following information:

13 (1) the name of the organization, agency, group,
14 person, or entity operating the program;

15 (2) the areas and populations to be served by the
16 program; and

17 (3) the methods by which the program will meet the
18 requirements of subsection (b) of this Section.

19 The Department of Public Health may adopt rules to
20 implement this subsection.

21 (Source: P.A. 101-356, eff. 8-9-19.)

22 (410 ILCS 710/10 new)

23 Sec. 10. Fentanyl test strips. To further promote harm
24 reduction efforts, any governmental or nongovernmental entity
25 described under subsection (a) of Section 5 or any entity that

1 provides medical care or health services may distribute
2 fentanyl test strips to the public to test for the presence of
3 fentanyl, a fentanyl analogue, or a drug adulterant within a
4 controlled substance.

5 Section 10. The Drug Paraphernalia Control Act is amended
6 by changing Section 2 as follows:

7 (720 ILCS 600/2) (from Ch. 56 1/2, par. 2102)

8 Sec. 2. As used in this Act, unless the context otherwise
9 requires:

10 (a) The term "cannabis" shall have the meaning ascribed to
11 it in Section 3 of the Cannabis Control Act, as if that
12 definition were incorporated herein.

13 (b) The term "controlled substance" shall have the meaning
14 ascribed to it in Section 102 of the Illinois Controlled
15 Substances Act, as if that definition were incorporated
16 herein.

17 (c) "Deliver" or "delivery" means the actual, constructive
18 or attempted transfer of possession, with or without
19 consideration, whether or not there is an agency relationship.

20 (d) "Drug paraphernalia" means all equipment, products and
21 materials of any kind, other than methamphetamine
22 manufacturing materials as defined in Section 10 of the
23 Methamphetamine Control and Community Protection Act and
24 cannabis paraphernalia as defined in Section 1-10 of the

1 Cannabis Regulation and Tax Act, which are intended to be used
2 unlawfully in planting, propagating, cultivating, growing,
3 harvesting, manufacturing, compounding, converting,
4 producing, processing, preparing, testing, analyzing,
5 packaging, repackaging, storing, containing, concealing,
6 injecting, ingesting, inhaling or otherwise introducing into
7 the human body a controlled substance in violation of the
8 Illinois Controlled Substances Act or the Methamphetamine
9 Control and Community Protection Act or a synthetic drug
10 product or misbranded drug in violation of the Illinois Food,
11 Drug and Cosmetic Act. It includes, but is not limited to:

12 (1) kits intended to be used unlawfully in
13 manufacturing, compounding, converting, producing,
14 processing or preparing a controlled substance;

15 (2) isomerization devices intended to be used
16 unlawfully in increasing the potency of any species of
17 plant which is a controlled substance;

18 (3) testing equipment intended to be used unlawfully
19 in a private home for identifying or in analyzing the
20 strength, effectiveness or purity of controlled
21 substances;

22 (4) diluents and adulterants intended to be used
23 unlawfully for cutting a controlled substance by private
24 persons;

25 (5) objects intended to be used unlawfully in
26 ingesting, inhaling, or otherwise introducing cocaine or a

1 synthetic drug product or misbranded drug in violation of
2 the Illinois Food, Drug and Cosmetic Act into the human
3 body including, where applicable, the following items:

4 (A) water pipes;

5 (B) carburetion tubes and devices;

6 (C) smoking and carburetion masks;

7 (D) miniature cocaine spoons and cocaine vials;

8 (E) carburetor pipes;

9 (F) electric pipes;

10 (G) air-driven pipes;

11 (H) chillums;

12 (I) bongs;

13 (J) ice pipes or chillers;

14 (6) any item whose purpose, as announced or described
15 by the seller, is for use in violation of this Act.

16 "Drug paraphernalia" does not include equipment, products,
17 or materials to analyze or test for the presence of fentanyl, a
18 fentanyl analogue, or a drug adulterant within a controlled
19 substance.

20 (Source: P.A. 101-593, eff. 12-4-19.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.