



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 2/6/2004, by Michael J. Madigan

**SYNOPSIS AS INTRODUCED:**

720 ILCS 570/401

from Ch. 56 1/2, par. 1401

Amends the Illinois Controlled Substances Act. Makes a technical change in a Section concerning the illegal manufacture or delivery or possession with intent to manufacture or deliver controlled substances.

LRB093 18672 RLC 44399 b

1 AN ACT concerning methamphetamine.

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: (i) manufacture or deliver, or  
9 possess with intent to manufacture or deliver, a controlled or  
10 counterfeit substance or controlled substance analog or (ii)  
11 possess any methamphetamine manufacturing chemical listed in  
12 paragraph (z-1) of Section 102 with the intent to manufacture  
13 methamphetamine or the salt of an optical isomer of  
14 methamphetamine or an analog thereof. A violation of this Act  
15 with respect to each of the controlled substances listed herein  
16 constitutes a single and separate violation of this Act. For  
17 purposes of this Section, "controlled substance analog" or  
18 "analog" means a substance which is intended for human  
19 consumption, other than a controlled substance, that has a  
20 chemical structure substantially similar to that of a  
21 controlled substance in Schedule I or II, or that was  
22 specifically designed to produce an effect substantially  
23 similar to that of a controlled substance in Schedule I or II.  
24 Examples of chemical classes in which controlled substance  
25 analogs are found include, but are not limited to, the  
26 following: phenethylamines, N-substituted piperidines,  
27 morphinans, ecgonines, quinazolinones, substituted indoles,  
28 and arylcycloalkylamines. For purposes of this Act, a  
29 controlled substance analog shall be treated in the same manner  
30 as the controlled substance to which it is substantially  
31 similar.

32 (a) Any person who violates this Section with respect to

1 the following amounts of controlled or counterfeit substances  
2 or controlled substance analogs, notwithstanding any of the  
3 provisions of subsections (c), (c-5), (d), (d-5), (e), (f), (g)  
4 or (h) to the contrary, is guilty of a Class X felony and shall  
5 be sentenced to a term of imprisonment as provided in this  
6 subsection (a) and fined as provided in subsection (b):

7 (1) (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 heroin, 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 heroin, 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 heroin, 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 any  
21 substance containing heroin, 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  
27 years with respect to 100 grams or more but less than  
28 400 grams of a substance containing cocaine, or an  
29 analog thereof;

30 (C) not less than 12 years and not more than 50  
31 years with respect to 400 grams or more but less than  
32 900 grams of a substance containing cocaine, or an  
33 analog thereof;

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

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

5 (B) not less than 9 years and not more than 40  
6 years with respect to 100 grams or more but less than  
7 400 grams of a substance containing morphine, or an  
8 analog thereof;

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

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

16 (4) 200 grams or more of any substance containing  
17 peyote, or an analog thereof;

18 (5) 200 grams or more of any substance containing a  
19 derivative of barbituric acid or any of the salts of a  
20 derivative of barbituric acid, or an analog thereof;

21 (6) 200 grams or more of any substance containing  
22 amphetamine or any salt of an optical isomer of  
23 amphetamine, or an analog thereof;

24 (6.5) (A) not less than 6 years and not more than 30  
25 years with respect to 15 grams or more but less than  
26 100 grams of a substance containing methamphetamine or  
27 any salt of an optical isomer of methamphetamine, or an  
28 analog of methamphetamine ~~thereof~~;

29 (B) not less than 9 years and not more than 40  
30 years with respect to 100 grams or more but less than  
31 400 grams of a substance containing methamphetamine or  
32 any salt of an optical isomer of methamphetamine, or an  
33 analog thereof;

34 (C) not less than 12 years and not more than 50  
35 years with respect to 400 grams or more but less than  
36 900 grams of a substance containing methamphetamine or

1 any salt of an optical isomer of methamphetamine, 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 methamphetamine or any salt of an  
6 optical isomer of methamphetamine, or an analog  
7 thereof.

8 (6.6) (A) not less than 6 years and not more than 30  
9 years for the possession of any methamphetamine  
10 manufacturing chemical set forth in paragraph (z-1) of  
11 Section 102 with intent to manufacture 30 grams or more  
12 but less than 150 grams of any substance containing  
13 methamphetamine, or salt of any optical isomer of  
14 methamphetamine, or an analog thereof;

15 (B) not less than 6 years and not more than 40  
16 years for the possession of any methamphetamine  
17 manufacturing chemical set forth in paragraph (z-1) of  
18 Section 102 with intent to manufacture 150 grams or  
19 more but less than 500 grams of any substance  
20 containing methamphetamine, or salt of an optical  
21 isomer of methamphetamine, or an analog thereof;

22 (C) not less than 6 years and not more than 50  
23 years for the possession of any methamphetamine  
24 manufacturing chemical set forth in paragraph (z-1) of  
25 Section 102 with intent to manufacture 500 grams or  
26 more but less than 1200 grams of any substance  
27 containing methamphetamine, or salt of an optical  
28 isomer of methamphetamine, or an analog thereof;

29 (D) not less than 6 years and not more than 60  
30 years for the possession of any methamphetamine  
31 manufacturing chemical set forth in paragraph (z-1) of  
32 Section 102 with intent to manufacture 1200 grams or  
33 more of any substance containing methamphetamine, or  
34 salt of an optical isomer of methamphetamine, or an  
35 analog thereof;

36 (7) (A) not less than 6 years and not more than 30

1 years with respect to: (i) 15 grams or more but less  
2 than 100 grams of a substance containing lysergic acid  
3 diethylamide (LSD), or an analog thereof, or (ii) 15 or  
4 more objects or 15 or more segregated parts of an  
5 object or objects but less than 200 objects or 200  
6 segregated parts of an object or objects containing in  
7 them or having upon them any amounts of any substance  
8 containing lysergic acid diethylamide (LSD), or an  
9 analog thereof;

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

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

30 (D) not less than 15 years and not more than 60  
31 years with respect to: (i) 900 grams or more of any  
32 substance containing lysergic acid diethylamide (LSD),  
33 or an analog thereof, or (ii) 1500 or more objects or  
34 1500 or more segregated parts of an object or objects  
35 containing in them or having upon them any amount of a  
36 substance containing lysergic acid diethylamide (LSD),

1 or an analog thereof;

2 (7.5) (A) not less than 6 years and not more than 30  
3 years with respect to: (i) 15 grams or more but less  
4 than 100 grams of a substance listed in paragraph (1),  
5 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
6 (25), or (26) of subsection (d) of Section 204, or an  
7 analog or derivative thereof, or (ii) 15 or more pills,  
8 tablets, caplets, capsules, or objects but less than  
9 200 pills, tablets, caplets, capsules, or objects  
10 containing in them or having upon them any amounts of  
11 any substance listed in paragraph (1), (2), (2.1), (3),  
12 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
13 subsection (d) of Section 204, or an analog or  
14 derivative 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 listed in paragraph (1),  
18 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
19 (25), or (26) of subsection (d) of Section 204, or an  
20 analog or derivative thereof, or (ii) 200 or more  
21 pills, tablets, caplets, capsules, or objects but less  
22 than 600 pills, tablets, caplets, capsules, or objects  
23 containing in them or having upon them any amount of  
24 any substance listed in paragraph (1), (2), (2.1), (3),  
25 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
26 subsection (d) of Section 204, or an analog or  
27 derivative thereof;

28 (C) not less than 12 years and not more than 50  
29 years with respect to: (i) 400 grams or more but less  
30 than 900 grams of a substance listed in paragraph (1),  
31 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
32 (25), or (26) of subsection (d) of Section 204, or an  
33 analog or derivative thereof, or (ii) 600 or more  
34 pills, tablets, caplets, capsules, or objects but less  
35 than 1,500 pills, tablets, caplets, capsules, or  
36 objects containing in them or having upon them any

1 amount of any substance listed in paragraph (1), (2),  
2 (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or  
3 (26) of subsection (d) of Section 204, or an analog or  
4 derivative thereof;

5 (D) not less than 15 years and not more than 60  
6 years with respect to: (i) 900 grams or more of any  
7 substance listed in paragraph (1), (2), (2.1), (3),  
8 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
9 subsection (d) of Section 204, or an analog or  
10 derivative thereof, or (ii) 1,500 or more pills,  
11 tablets, caplets, capsules, or objects containing in  
12 them or having upon them any amount of a substance  
13 listed in paragraph (1), (2), (2.1), (3), (14.1), (19),  
14 (20), (20.1), (21), (25), or (26) of subsection (d) of  
15 Section 204, or an analog or 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  
27 of ketamine, or an analog thereof;

28 (11) 200 grams or more of any substance containing any  
29 other controlled substance classified in Schedules I or II,  
30 or an analog thereof, which is not otherwise included in  
31 this subsection.

32 (b) Any person sentenced with respect to violations of  
33 paragraph (1), (2), (3), (6.5), (6.6), (7), or (7.5) of  
34 subsection (a) involving 100 grams or more of the controlled  
35 substance named therein, may in addition to the penalties  
36 provided therein, be fined an amount not more than \$500,000 or



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

8 (c) Any person who violates this Section with regard to the  
9 following amounts of controlled or counterfeit substances or  
10 controlled substance analogs, notwithstanding any of the  
11 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)  
12 to the contrary, is guilty of a Class 1 felony. The fine for  
13 violation of this subsection (c) shall not be more than  
14 \$250,000:

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

17 (2) 1 gram or more but less than 15 grams of any  
18 substance containing cocaine, or an analog thereof;

19 (3) 10 grams or more but less than 15 grams of any  
20 substance containing morphine, or an analog thereof;

21 (4) 50 grams or more but less than 200 grams of any  
22 substance containing peyote, or an analog thereof;

23 (5) 50 grams or more but less than 200 grams of any  
24 substance containing a derivative of barbituric acid or any  
25 of the salts of a derivative of barbituric acid, or an  
26 analog thereof;

27 (6) 50 grams or more but less than 200 grams of any  
28 substance containing amphetamine or any salt of an optical  
29 isomer of amphetamine, or an analog thereof;

30 (6.5) 5 grams or more but less than 15 grams of any  
31 substance containing methamphetamine or any salt or  
32 optical isomer of methamphetamine, or an analog thereof;

33 (7) (i) 5 grams or more but less than 15 grams of any  
34 substance containing lysergic acid diethylamide (LSD), or  
35 an analog thereof, or (ii) more than 10 objects or more  
36 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), (3), (14.1),  
7 (19), (20), (20.1), (21), (25), or (26) of subsection (d)  
8 of Section 204, or an analog or derivative thereof, or (ii)  
9 more than 10 pills, tablets, caplets, capsules, or objects  
10 but less than 15 pills, tablets, caplets, capsules, or  
11 objects containing in them or having upon them any amount  
12 of any substance listed in paragraph (1), (2), (2.1), (3),  
13 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
14 subsection (d) of Section 204, or an analog or derivative  
15 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  
27 analog thereof;

28 (10.5) 10 grams or more but less than 30 grams of any  
29 substance containing ketamine or any of the salts, isomers  
30 and salts of isomers of ketamine, or an analog thereof;

31 (11) 50 grams or more but less than 200 grams of any  
32 substance containing a substance classified in Schedules I  
33 or II, or an analog thereof, which is not otherwise  
34 included in this subsection.

35 (c-5) Any person who violates this Section with regard to  
36 possession of any methamphetamine manufacturing chemical set

1     forth in paragraph (z-1) of Section 102 with intent to  
2     manufacture 15 grams or more but less than 30 grams of  
3     methamphetamine, or salt of an optical isomer of  
4     methamphetamine or any analog thereof, is guilty of a Class 1  
5     felony. The fine for violation of this subsection (c-5) shall  
6     not be more than \$250,000.

7     (d) Any person who violates this Section with regard to any  
8     other amount of a controlled or counterfeit substance  
9     classified in Schedules I or II, or an analog thereof, which is  
10    (i) a narcotic drug, (ii) lysergic acid diethylamide (LSD) or  
11    an analog thereof, or (iii) any substance containing  
12    amphetamine or methamphetamine or any salt or optical isomer of  
13    amphetamine or methamphetamine, or an analog thereof, is guilty  
14    of a Class 2 felony. The fine for violation of this subsection  
15    (d) shall not be more than \$200,000.

16    (d-5) Any person who violates this Section with regard to  
17    possession of any methamphetamine manufacturing chemical set  
18    forth in paragraph (z-1) of Section 102 with intent to  
19    manufacture less than 15 grams of methamphetamine, or salt of  
20    an optical isomer of methamphetamine or any analog thereof, is  
21    guilty of a Class 2 felony. The fine for violation of this  
22    subsection (d-5) shall not be more than \$200,000.

23    (e) Any person who violates this Section with regard to any  
24    other amount of a controlled or counterfeit substance  
25    classified in Schedule I or II, or an analog thereof, which  
26    substance is not included under subsection (d) of this Section,  
27    is guilty of a Class 3 felony. The fine for violation of this  
28    subsection (e) shall not be more than \$150,000.

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

34    (g) Any person who violates this Section with regard to any  
35    other amount of a controlled or counterfeit substance  
36    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) The presence of any methamphetamine manufacturing  
14 chemical in a sealed, factory imprinted container, including,  
15 but not limited to a bottle, box, or plastic blister package,  
16 at the time of seizure by law enforcement, is prima facie  
17 evidence that the methamphetamine manufacturing chemical  
18 located within the container is in fact the chemical so  
19 described and in the amount and dosage listed on the container.  
20 The factory imprinted container is admissible for a violation  
21 of this Section for purposes of proving the contents of the  
22 container.

23 (Source: P.A. 92-16, eff. 6-28-01; 92-256, eff. 1-1-02; 92-698,  
24 eff. 7-19-02; 93-278, eff. 1-1-04.)