

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

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

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

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

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

20 (D) not less than 15 years and not more than
21 60 years with respect to 900 grams or more of any
22 substance containing heroin, or an analog thereof;

23 (2) (A) not less than 6 years and not more than 30
24 years with respect to 15 grams or more but less than
25 100 grams of a substance containing cocaine, or an
26 analog thereof;

27 (B) not less than 9 years and not more than 40
28 years with respect to 100 grams or more but less
29 than 400 grams of a substance containing cocaine, or
30 an analog thereof;

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

1 (D) not less than 15 years and not more than
2 60 years with respect to 900 grams or more of any
3 substance containing cocaine, or an analog thereof;

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

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

12 (C) not less than 12 years and not more than
13 50 years with respect to 400 grams or more but less
14 than 900 grams of a substance containing morphine,
15 or an analog thereof;

16 (D) not less than 15 years and not more than
17 60 years with respect to 900 grams or more of a
18 substance containing 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;

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

32 (B) not less than 9 years and not more than 40
33 years with respect to 100 grams or more but less
34 than 400 grams of a substance containing

1 methamphetamine or any salt of an optical isomer of
2 methamphetamine, or an analog thereof;

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

8 (D) not less than 15 years and not more than
9 60 years with respect to 900 grams or more of any
10 substance containing methamphetamine or any salt of
11 an optical isomer of methamphetamine, or an analog
12 thereof.

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

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

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

34 (D) not less than 6 years and not more than 60

1 years for the possession of any methamphetamine
2 manufacturing chemical set forth in paragraph (z-1)
3 of Section 102 with intent to manufacture 1200 grams
4 or more of any substance containing methamphetamine,
5 or salt of an optical isomer of methamphetamine, or
6 an analog thereof;

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

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

28 (C) not less than 12 years and not more than
29 50 years with respect to: (i) 400 grams or more but
30 less than 900 grams of a substance containing
31 lysergic acid diethylamide (LSD), or an analog
32 thereof, or (ii) 600 or more objects or 600 or more
33 segregated parts of an object or objects but less
34 than 1500 objects or 1500 segregated parts of an

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

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

12 (7.5) (A) not less than 6 years and not more than 30
13 years with respect to: (i) 15 grams or more but less
14 than 100 grams of a substance listed in paragraph
15 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1),
16 (21), (25), or (26) of subsection (d) of Section
17 204, or an analog or derivative thereof, or (ii) 15
18 or more pills, tablets, caplets, capsules, or
19 objects but less than 200 pills, tablets, caplets,
20 capsules, or objects containing in them or having
21 upon them any amounts of any substance listed in
22 paragraph (1), (2), (2.1), (3), (14.1), (19), (20),
23 (20.1), (21), (25), or (26) of subsection (d) of
24 Section 204, or an analog or derivative thereof;

25 (B) not less than 9 years and not more than 40
26 years with respect to: (i) 100 grams or more but
27 less than 400 grams of a substance listed in
28 paragraph (1), (2), (2.1), (3), (14.1), (19), (20),
29 (20.1), (21), (25), or (26) of subsection (d) of
30 Section 204, or an analog or derivative thereof, or
31 (ii) 200 or more pills, tablets, caplets, capsules,
32 or objects but less than 600 pills, tablets,
33 caplets, capsules, or objects containing in them or
34 having upon them any amount of any substance listed

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

4 (C) not less than 12 years and not more than 50
5 years with respect to: (i) 400 grams or more but
6 less than 900 grams of a substance listed in
7 paragraph (1), (2), (2.1), (3), (14.1), (19), (20),
8 (20.1), (21), (25), or (26) of subsection (d) of
9 Section 204, or an analog or derivative thereof, or
10 (ii) 600 or more pills, tablets, caplets, capsules,
11 or objects but less than 1,500 pills, tablets,
12 caplets, capsules, or objects containing in them or
13 having upon them any amount of any substance listed
14 in paragraph (1), (2), (2.1), (3), (14.1), (19),
15 (20), (20.1), (21), (25), or (26) of subsection (d)
16 of Section 204, or an analog or derivative thereof;

17 (D) not less than 15 years and not more than 60
18 years with respect to: (i) 900 grams or more of any
19 substance listed in paragraph (1), (2), (2.1), (3),
20 (14.1), (19), (20), (20.1), (21), (25), or (26) of
21 subsection (d) of Section 204, or an analog or
22 derivative thereof, or (ii) 1,500 or more pills,
23 tablets, caplets, capsules, or objects containing in
24 them or having upon them any amount of a substance
25 listed in paragraph (1), (2), (2.1), (3), (14.1),
26 (19), (20), (20.1), (21), (25), or (26) of
27 subsection (d) of Section 204, or an analog or
28 derivative thereof;

29 (8) 30 grams or more of any substance containing
30 pentazocine or any of the salts, isomers and salts of
31 isomers of pentazocine, or an analog thereof;

32 (9) 30 grams or more of any substance containing
33 methaqualone or any of the salts, isomers and salts of
34 isomers of methaqualone, or an analog thereof;

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

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

8 (11) 200 grams or more of any substance containing
9 any other controlled substance classified in Schedules I
10 or II, or an analog thereof, which is not otherwise
11 included in this subsection.

12 (b) Any person sentenced with respect to violations of
13 paragraph (1), (2), (3), (6.5), (6.6), (7), or (7.5) of
14 subsection (a) involving 100 grams or more of the controlled
15 substance named therein, may in addition to the penalties
16 provided therein, be fined an amount not more than \$500,000
17 or the full street value of the controlled or counterfeit
18 substance or controlled substance analog, whichever is
19 greater. The term "street value" shall have the meaning
20 ascribed in Section 110-5 of the Code of Criminal Procedure
21 of 1963. Any person sentenced with respect to any other
22 provision of subsection (a), may in addition to the penalties
23 provided therein, be fined an amount not to exceed \$500,000.

24 (c) Any person who violates this Section with regard to
25 the following amounts of controlled or counterfeit substances
26 or controlled substance analogs, notwithstanding any of the
27 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)
28 to the contrary, is guilty of a Class 1 felony. The fine for
29 violation of this subsection (c) shall not be more than
30 \$250,000:

31 (1) 1 gram or more but less than 15 grams of any
32 substance containing heroin, or an analog thereof;

33 (2) 1 gram or more but less than 15 grams of any
34 substance containing cocaine, or an analog thereof;

1 (3) 10 grams or more but less than 15 grams of any
2 substance containing morphine, or an analog thereof;

3 (4) 50 grams or more but less than 200 grams of any
4 substance containing peyote, or an analog thereof;

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

9 (6) 50 grams or more but less than 200 grams of any
10 substance containing amphetamine or any salt of an
11 optical isomer of amphetamine, or an analog thereof;

12 (6.5) 5 grams or more but less than 15 grams of any
13 substance containing methamphetamine or any salt or
14 optical isomer of methamphetamine, or an analog thereof;

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

23 (7.5) (i) 5 grams or more but less than 15 grams 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 derivative
27 thereof, or (ii) more than 10 pills, tablets, caplets,
28 capsules, or objects but less than 15 pills, tablets,
29 caplets, capsules, or objects containing in them or
30 having upon them any amount of any substance listed in
31 paragraph (1), (2), (2.1), (3), (14.1), (19), (20),
32 (20.1), (21), (25), or (26) of subsection (d) of Section
33 204, or an analog or derivative thereof;

34 (8) 10 grams or more but less than 30 grams of any

1 substance containing pentazocine or any of the salts,
2 isomers and salts of isomers of pentazocine, or an analog
3 thereof;

4 (9) 10 grams or more but less than 30 grams of any
5 substance containing methaqualone or any of the salts,
6 isomers and salts of isomers of methaqualone, or an
7 analog thereof;

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

12 (10.5) 10 grams or more but less than 30 grams of
13 any substance containing ketamine or any of the salts,
14 isomers and salts of isomers of ketamine, or an analog
15 thereof;

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

20 (c-5) Any person who violates this Section with regard
21 to possession of any methamphetamine manufacturing chemical
22 set forth in paragraph (z-1) of Section 102 with intent to
23 manufacture 15 grams or more but less than 30 grams of
24 methamphetamine, or salt of an optical isomer of
25 methamphetamine or any analog thereof, is guilty of a Class 1
26 felony. The fine for violation of this subsection (c-5)
27 shall not be more than \$250,000.

28 (d) Any person who violates this Section with regard to
29 any other amount of a controlled or counterfeit substance
30 classified in Schedules I or II, or an analog thereof, which
31 is (i) a narcotic drug, (ii) lysergic acid diethylamide (LSD)
32 or an analog thereof, or (iii) any substance containing
33 amphetamine or methamphetamine or any salt or optical isomer
34 of amphetamine or methamphetamine, or an analog thereof, is

1 guilty of a Class 2 felony. The fine for violation of this
2 subsection (d) shall not be more than \$200,000.

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

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

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

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

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

32 (i) This Section does not apply to the manufacture,
33 possession or distribution of a substance in conformance with
34 the provisions of an approved new drug application or an

1 exemption for investigational use within the meaning of
2 Section 505 of the Federal Food, Drug and Cosmetic Act.

3 (j) The presence of any methamphetamine manufacturing
4 chemical in a sealed, factory imprinted container, including,
5 but not limited to a bottle, box, or plastic blister package,
6 at the time of seizure by law enforcement, is prima facie
7 evidence that the methamphetamine manufacturing chemical
8 located within the container is in fact the chemical so
9 described and in the amount and dosage listed on the
10 container. The factory imprinted container is admissible for
11 a violation of this Section for purposes of proving the
12 contents of the container.

13 (Source: P.A. 91-336, eff. 1-1-00; 91-357, eff. 7-29-99;
14 91-403, eff. 1-1-00; 92-16, eff. 6-28-01; 92-256, eff.
15 1-1-02; 92-698, eff. 7-19-02.)