

# HB4551



## 95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

**HB4551**

by Rep. Esther Golar

### SYNOPSIS AS INTRODUCED:

720 ILCS 570/402

from Ch. 56 1/2, par. 1402

Amends the Illinois Controlled Substances Act. Makes a technical change in a Section concerning the knowing possession of a controlled or counterfeit substance or controlled substance analog.

LRB095 18605 RLC 44691 b

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 402 as follows:

6 (720 ILCS 570/402) (from Ch. 56 1/2, par. 1402)

7 Sec. 402. Except as otherwise authorized by this Act, it is  
8 unlawful for any ~~any~~ person knowingly to possess a controlled  
9 or counterfeit substance or controlled substance analog. A  
10 violation of this Act with respect to each of the controlled  
11 substances listed herein constitutes a single and separate  
12 violation of this Act. For purposes of this Section,  
13 "controlled substance analog" or "analog" means a substance  
14 which is intended for human consumption, other than a  
15 controlled substance, that has a chemical structure  
16 substantially similar to that of a controlled substance in  
17 Schedule I or II, or that was specifically designed to produce  
18 an effect substantially similar to that of a controlled  
19 substance in Schedule I or II. Examples of chemical classes in  
20 which controlled substance analogs are found include, but are  
21 not limited to, the following: phenethylamines, N-substituted  
22 piperidines, morphinans, ecgonines, quinazolinones,  
23 substituted indoles, and arylcycloalkylamines. For purposes of

1 this Act, a controlled substance analog shall be treated in the  
2 same manner as the controlled substance to which it is  
3 substantially similar.

4 (a) Any person who violates this Section with respect to  
5 the following controlled or counterfeit substances and  
6 amounts, notwithstanding any of the provisions of subsections  
7 (c) and (d) to the contrary, is guilty of a Class 1 felony and  
8 shall, if sentenced to a term of imprisonment, be sentenced as  
9 provided in this subsection (a) and fined as provided in  
10 subsection (b):

11 (1) (A) not less than 4 years and not more than 15  
12 years with respect to 15 grams or more but less than  
13 100 grams of a substance containing heroin;

14 (B) not less than 6 years and not more than 30  
15 years with respect to 100 grams or more but less than  
16 400 grams of a substance containing heroin;

17 (C) not less than 8 years and not more than 40  
18 years with respect to 400 grams or more but less than  
19 900 grams of any substance containing heroin;

20 (D) not less than 10 years and not more than 50  
21 years with respect to 900 grams or more of any  
22 substance containing heroin;

23 (2) (A) not less than 4 years and not more than 15  
24 years with respect to 15 grams or more but less than  
25 100 grams of any substance containing cocaine;

26 (B) not less than 6 years and not more than 30

1 years with respect to 100 grams or more but less than  
2 400 grams of any substance containing cocaine;

3 (C) not less than 8 years and not more than 40  
4 years with respect to 400 grams or more but less than  
5 900 grams of any substance containing cocaine;

6 (D) not less than 10 years and not more than 50  
7 years with respect to 900 grams or more of any  
8 substance containing cocaine;

9 (3) (A) not less than 4 years and not more than 15  
10 years with respect to 15 grams or more but less than  
11 100 grams of any substance containing morphine;

12 (B) not less than 6 years and not more than 30  
13 years with respect to 100 grams or more but less than  
14 400 grams of any substance containing morphine;

15 (C) not less than 6 years and not more than 40  
16 years with respect to 400 grams or more but less than  
17 900 grams of any substance containing morphine;

18 (D) not less than 10 years and not more than 50  
19 years with respect to 900 grams or more of any  
20 substance containing morphine;

21 (4) 200 grams or more of any substance containing  
22 peyote;

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;

26 (6) 200 grams or more of any substance containing

1           amphetamine or any salt of an optical isomer of  
2           amphetamine;

3           (6.5) (blank);

4           (7) (A) not less than 4 years and not more than 15  
5           years with respect to: (i) 15 grams or more but less  
6           than 100 grams of any substance containing lysergic  
7           acid diethylamide (LSD), or an analog thereof, or (ii)  
8           15 or more objects or 15 or more segregated parts of an  
9           object or objects but less than 200 objects or 200  
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          (B) not less than 6 years and not more than 30  
15          years with respect to: (i) 100 grams or more but less  
16          than 400 grams of any substance containing lysergic  
17          acid diethylamide (LSD), or an analog thereof, or (ii)  
18          200 or more objects or 200 or more segregated parts of  
19          an object or objects but less than 600 objects or less  
20          than 600 segregated parts of an object or objects  
21          containing in them or having upon them any amount of  
22          any substance containing lysergic acid diethylamide  
23          (LSD), or an analog thereof;

24          (C) not less than 8 years and not more than 40  
25          years with respect to: (i) 400 grams or more but less  
26          than 900 grams of any substance containing lysergic

1 acid diethylamide (LSD), or an analog thereof, or (ii)  
2 600 or more objects or 600 or more segregated parts of  
3 an object or objects but less than 1500 objects or 1500  
4 segregated parts of an object or objects containing in  
5 them or having upon them any amount of any substance  
6 containing lysergic acid diethylamide (LSD), or an  
7 analog thereof;

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

16 (7.5) (A) not less than 4 years and not more than 15  
17 years with respect to: (i) 15 grams or more but less  
18 than 100 grams of any substance listed in paragraph  
19 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
20 (25), or (26) of subsection (d) of Section 204, or an  
21 analog or derivative thereof, or (ii) 15 or more pills,  
22 tablets, caplets, capsules, or objects but less than  
23 200 pills, tablets, caplets, capsules, or objects  
24 containing in them or having upon them any amount of  
25 any substance listed in paragraph (1), (2), (2.1), (3),  
26 (14.1), (19), (20), (20.1), (21), (25), or (26) of

1 subsection (d) of Section 204, or an analog or  
2 derivative thereof;

3 (B) not less than 6 years and not more than 30  
4 years with respect to: (i) 100 grams or more but less  
5 than 400 grams of any substance listed in paragraph  
6 (1), (2), (2.1), (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, or (ii) 200 or more  
9 pills, tablets, caplets, capsules, or objects but less  
10 than 600 pills, tablets, caplets, capsules, or objects  
11 containing in them or having upon them any amount of  
12 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  
15 derivative thereof;

16 (C) not less than 8 years and not more than 40  
17 years with respect to: (i) 400 grams or more but less  
18 than 900 grams of any substance listed in paragraph  
19 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
20 (25), or (26) of subsection (d) of Section 204, or an  
21 analog or derivative thereof, or (ii) 600 or more  
22 pills, tablets, caplets, capsules, or objects but less  
23 than 1,500 pills, tablets, caplets, capsules, or  
24 objects containing in them or having upon them any  
25 amount of any substance listed in paragraph (1), (2),  
26 (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or

1 (26) of subsection (d) of Section 204, or an analog or  
2 derivative thereof;

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

14 (8) 30 grams or more of any substance containing  
15 pentazocine or any of the salts, isomers and salts of  
16 isomers of pentazocine, or an analog thereof;

17 (9) 30 grams or more of any substance containing  
18 methaqualone or any of the salts, isomers and salts of  
19 isomers of methaqualone;

20 (10) 30 grams or more of any substance containing  
21 phencyclidine or any of the salts, isomers and salts of  
22 isomers of phencyclidine (PCP);

23 (10.5) 30 grams or more of any substance containing  
24 ketamine or any of the salts, isomers and salts of isomers  
25 of ketamine;

26 (11) 200 grams or more of any substance containing any



1 substance classified as a narcotic drug in Schedules I or  
2 II, or an analog thereof, which is not otherwise included  
3 in this subsection.

4 (b) Any person sentenced with respect to violations of  
5 paragraph (1), (2), (3), (7), or (7.5) of subsection (a)  
6 involving 100 grams or more of the controlled substance named  
7 therein, may in addition to the penalties provided therein, be  
8 fined an amount not to exceed \$200,000 or the full street value  
9 of the controlled or counterfeit substances, whichever is  
10 greater. The term "street value" shall have the meaning  
11 ascribed in Section 110-5 of the Code of Criminal Procedure of  
12 1963. Any person sentenced with respect to any other provision  
13 of subsection (a), may in addition to the penalties provided  
14 therein, be fined an amount not to exceed \$200,000.

15 (c) Any person who violates this Section with regard to an  
16 amount of a controlled substance other than methamphetamine or  
17 counterfeit substance not set forth in subsection (a) or (d) is  
18 guilty of a Class 4 felony. The fine for a violation punishable  
19 under this subsection (c) shall not be more than \$25,000.

20 (d) Any person who violates this Section with regard to any  
21 amount of anabolic steroid is guilty of a Class C misdemeanor  
22 for the first offense and a Class B misdemeanor for a  
23 subsequent offense committed within 2 years of a prior  
24 conviction.

25 (Source: P.A. 94-324, eff. 7-26-05; 94-556, eff. 9-11-05;  
26 95-331, eff. 8-21-07.)