

AN ACT concerning criminal law.

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

Section 5. The Illinois Controlled Substances Act is amended by changing Sections 406 and 410 and by adding Section 406.2 as follows:

(720 ILCS 570/406) (from Ch. 56 1/2, par. 1406)

Sec. 406. (a) It is unlawful for any person:

(1) who is subject to Article III knowingly to distribute or dispense a controlled substance in violation of Sections 308 through 314 of this Act; or

(2) who is a registrant, to manufacture a controlled substance not authorized by his registration, or to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person; or

(3) to refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this Act; or

(4) to refuse an entry into any premises for any inspection authorized by this Act; or

(5) knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or

other structure or place, which is resorted to by a person unlawfully possessing controlled substances, or which is used for possessing, manufacturing, dispensing or distributing controlled substances in violation of this Act.

Any person who violates this subsection (a) is guilty of a Class A misdemeanor for the first offense and a Class 4 felony for each subsequent offense. The fine for each subsequent offense shall not be more than \$100,000. In addition, any practitioner who is found guilty of violating this subsection (a) is subject to suspension and revocation of his professional license, in accordance with such procedures as are provided by law for the taking of disciplinary action with regard to the license of said practitioner's profession.

(b) It is unlawful for any person knowingly:

(1) to distribute, as a registrant, a controlled substance classified in Schedule I or II, except pursuant to an order form as required by Section 307 of this Act; or

(2) to use, in the course of the manufacture or distribution of a controlled substance, a registration number which is fictitious, revoked, suspended, or issued to another person; or

(3) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge; or

(4) to furnish false or fraudulent material

information in, or omit any material information from, any application, report or other document required to be kept or filed under this Act, or any record required to be kept by this Act; or

(5) to make, distribute or possess any punch, die, plate, stone or other thing designed to print, imprint or reproduce the trademark, trade name or other identifying mark, imprint or device of another, or any likeness of any of the foregoing, upon any controlled substance or container or labeling thereof so as to render the drug a counterfeit substance; or

(6) (blank) ~~to possess without authorization, blank prescription forms or counterfeit prescription forms;~~ or

(7) (Blank).

Any person who violates this subsection (b) is guilty of a Class 4 felony for the first offense and a Class 3 felony for each subsequent offense. The fine for the first offense shall be not more than \$100,000. The fine for each subsequent offense shall not be more than \$200,000.

(c) A person who knowingly or intentionally violates Section 316, 317, 318, or 319 is guilty of a Class A misdemeanor.

(Source: P.A. 91-576, eff. 4-1-00.)

(720 ILCS 570/406.2 new)

Sec. 406.2. Unauthorized possession of prescription form.

(a) A person commits the offense of unauthorized possession of prescription form when he or she knowingly:

- (1) alters a properly issued prescription form;
- (2) possesses without authorization a blank prescription form or counterfeit prescription form; or
- (3) possesses a prescription form not issued by a licensed prescriber.

(b) Knowledge shall be determined by an evaluation of all circumstances surrounding possession of a blank prescription or possession of a prescription altered or not issued by a licensed prescriber.

(c) Sentence. Any person who violates subsection (a) is guilty of a Class 4 felony for the first offense and a Class 3 felony for each subsequent offense. The fine for the first offense shall be not more than \$100,000. The fine for each subsequent offense shall not be more than \$200,000.

(d) For the purposes of this Section, "licensed prescriber" means a prescriber as defined in this Act or an optometrist licensed under the Illinois Optometric Practice Act of 1987.

(720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

Sec. 410. (a) Whenever any person who has not previously been convicted of, or placed on probation or court supervision for any offense under this Act or any law of the United States or of any State relating to cannabis or controlled substances, pleads guilty to or is found guilty of possession of a

controlled or counterfeit substance under subsection (c) of Section 402 or of unauthorized possession of prescription form under Section 406.2, the court, without entering a judgment and with the consent of such person, may sentence him to probation.

(b) When a person is placed on probation, the court shall enter an order specifying a period of probation of 24 months and shall defer further proceedings in the case until the conclusion of the period or until the filing of a petition alleging violation of a term or condition of probation.

(c) The conditions of probation shall be that the person:

- (1) not violate any criminal statute of any jurisdiction;
- (2) refrain from possessing a firearm or other dangerous weapon;
- (3) submit to periodic drug testing at a time and in a manner as ordered by the court, but no less than 3 times during the period of the probation, with the cost of the testing to be paid by the probationer; and
- (4) perform no less than 30 hours of community service, provided community service is available in the jurisdiction and is funded and approved by the county board.

(d) The court may, in addition to other conditions, require that the person:

- (1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of probation;

- (2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical or psychiatric treatment; or treatment or rehabilitation approved by the Illinois Department of Human Services;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(6-5) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

(7) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home.

(e) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided.

(f) Upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the

proceedings against him.

(g) A disposition of probation is considered to be a conviction for the purposes of imposing the conditions of probation and for appeal, however, discharge and dismissal under this Section is not a conviction for purposes of this Act or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(h) There may be only one discharge and dismissal under this Section, Section 10 of the Cannabis Control Act, or Section 70 of the Methamphetamine Control and Community Protection Act with respect to any person.

(i) If a person is convicted of an offense under this Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act within 5 years subsequent to a discharge and dismissal under this Section, the discharge and dismissal under this Section shall be admissible in the sentencing proceeding for that conviction as evidence in aggravation.

(Source: P.A. 94-556, eff. 9-11-05.)