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Drivers License Suspension for Offenses Not Involving a Motor Vehicle in Illinois: An Irrational Application of the Rational Basis Test

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Drivers License Suspension for Offenses Not Involving a Motor Vehicle in Illinois: An Irrational Application of the Rational Basis Test

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I. INTRODUCTION

Consider the following hypothetical scenario: Tim is a twenty-eight year old drug dealer living in a suburb of Chicago. He makes his money by selling small amounts of cannabis and other controlled substances throughout his community and the surrounding neighborhoods. At least once a week, he must drive into the city to purchase the drugs he needs to keep his business going. After restocking his supply, he goes through several communities selling what he can, and taking the rest back to his hometown. While walking to the corner store the next day, he is approached by an undercover officer who solicits a small amount of cannabis. Tim agrees and is promptly arrested for unlawful delivery of a controlled substance.

Danny is a nineteen year old from the same suburb as Tim, although he is only home for a few days, as he is on leave from the military. His friends have planned a surprise barbeque to welcome him back and thank

him for his service. Danny celebrates with his family and friends, until a local police officer stops by on a noise complaint made by a neighbor. Danny answers the door and explains the situation, but the officer smells alcohol on his breath and asks to see his identification. Danny, who is under the age of twenty-one, receives a citation for underage consumption of alcohol.

In the following weeks, Danny receives a letter from the Illinois Secretary of State's office informing him that he will have his license suspended. Irate, Danny talks to an attorney about the license suspension and explains that he did not intend to drive that night, and that he was cited in a house, not in or near a vehicle. The attorney does a little research and is surprised by what he finds. He discovers that the Illinois Supreme Court has recently found suspensions, like Danny's, to be constitutional even when no vehicle is involved, and gives Danny the bad news that fighting the suspension may not be worthwhile.[1] On the other hand, Tim the drug dealer, who is represented by the same attorney, catches a break because in doing research on Danny's case, he found that an Illinois court has held that suspending the license of someone who is arrested for delivery of a controlled substance is unconstitutional, as long as no vehicle was involved.[2]

This Comment discusses how Illinois courts treat substantive due process challenges to state statutes that require an offender's driver's license to be revoked or suspended when no motor vehicle is involved.[3] In Illinois, the most prominent case dealing with this issue is *Illinois v. Lindner*, in which the Illinois Supreme Court found that because no vehicle was involved in the offense, license revocation could not be rationally related to highway safety, thus making the statute unconstitutional.[4] The focus of this portion of the Comment is the misapplication of the due process analysis that was laid out in *Lindner*.[5] While the courts in Illinois have followed the

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1. *See* People v. Boeckmann, 932 N.E.2d 998, 1004 (Ill. 2010) (holding that a suspension of the minor defendant's driving privileges did not violate due process because it was rationally related to the state interest of safe operation of motor vehicles, even though no motor vehicle was involved in the offense and the defendant had no intention of driving).

2. People v. Lawrence, 565 N.E.2d 322, 323 (Ill. App. Ct. 1990) (holding that the revocation of driving privileges for the offense of unlawful delivery of a controlled substance is "an unreasonable and arbitrary exercise of state powers").

3. *See id.* at 322-24.

4. People v. Lindner, 535 N.E.2d 829, 833 (Ill. 1989) ("Keeping off the roads drivers who have committed offenses not involving vehicles is not a reasonable means of ensuring that the roads are free of drivers who operate vehicles unsafely or illegally.").

5. *Compare Lawrence*, 565 N.E.2d at 323 (reversing the trial court's decision that held the principles found in *People v. Lindner*, 535 N.E.2d 829 (Ill. 1989), did not apply to the offense of delivery of a controlled substance, and reiterating the conclusion that revoking driving privileges for crimes that did not involve a vehicle is unreasonable), *with Boeckmann*, 932 N.E.2d at 1004 (finding that suspension of a minor's driver's license for consumption of alcohol is rationally related to safe roadways despite no vehicle being involved),

principles developed in *Lindner* when dealing with adults charged with delivery of a controlled substance, the courts have deviated from this standard in cases that involve minors consuming alcohol and possessing fake identification.[6] This Comment advocates for a more uniform application of due process analysis, whether or not someone under the age of twenty-one is involved. Another issue stemming from the courts' decision to uphold license suspension for these minors is the treatment of proportionate penalty and double jeopardy claims.[7] This Comment argues that the courts in Illinois have mishandled these types of claims, and that at least a more in-depth analysis should be provided before a ruling on the merits.

Part II of this Comment begins with the basic background information on substantive due process, cruel and unusual punishment, and double jeopardy as applied to these types of statutes. This is followed by a discussion of how other states have dealt with statutes requiring the suspension of driver's licenses when no vehicle is involved in the offense. In Part III, case law regarding these statutes in Illinois is examined for both general offenses and offenses by people under twenty-one years of age. Part IV analyzes how a more uniform application of due process may be attained in Illinois. Next, in Part V, whether the state's current license suspension procedure for offenders under twenty-one years of age is being properly analyzed under the proportional penalties clause of the Illinois Constitution and the standards of double jeopardy are examined.[8] Finally, Part VI provides a direction in which the law in Illinois should be headed.

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and Freed v. Ryan, 704 N.E.2d 746, 749 (Ill. App. Ct. 1998) (holding that a license suspension for a person under twenty-one years old who uses false identification claiming to be over twenty-one to enter a bar is related to highway safety).

6. *See Lawrence*, 565 N.E.2d at 323; Horvath v. White, 832 N.E.2d 366, 373 (Ill. App. Ct. 2005).

7. *See Freed*, 704 N.E.2d at 748 (demonstrating the proportionate penalty and double jeopardy claims being brought by minors).

8. *See* ILL. CONST. art. I, § 10 ("No person shall be compelled in a criminal case to give evidence against himself nor be twice put in jeopardy for the same offense."); ILL. CONST. art. I, § 11 ("All penalties shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship. No conviction shall work corruption of blood or forfeiture of estate.").

II. BACKGROUND

A. DUE PROCESS, DOUBLE JEOPARDY, AND CRUEL AND UNUSUAL PUNISHMENT

There is no doubt that in today's society, a driver's license is an important part of many people's lives.[9] Although driving is usually described as a privilege and not a right, the use of either term does not have an effect on whether it is protected under due process.[10] The right or privilege to drive is protected through both procedural and substantive due process.[11] While driving is a significant right to many and has become more important in recent times, courts do not consider it a fundamental right.[12] When dealing with a non-fundamental right, the standard of review used by the judiciary is the rational basis test.[13] "Under the rational basis test, a statute will be upheld if it bears a rational relation to a legitimate legislative purpose and is neither arbitrary nor discriminatory."[14] There is also a presumption of constitutionality that must be overcome by the party challenging the law in order to prevail on the claim.[15] Thus, when dealing with a statute that mandates suspension of a driver's license for an offense where no vehicle is involved, substantive due process requires the court to determine the legislature's interest in passing the law, find a rational relationship between the statute and the interest, and it must not be arbitrary or discriminatory.[16]

These statutes that call for the suspension of driving privileges are also frequently challenged as being cruel and unusual punishment, as well as violating double jeopardy principles.[17] Protection against cruel and unusual

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9. *See* Bell v. Burson, 402 U.S. 535, 539 (1971) ("Once licenses are issued . . . their continued possession may become essential in the pursuit of a livelihood. Suspension . . . adjudicates important interests of the licensees.").

10. *See* Max Kravitz, *Ohio's Administrative License Suspension: A Double Jeopardy and Due Process Analysis*, AKRON L. REV., Winter 1996, at 138-40 (1996) (describing how both rights and privileges can be protected under due process and that a driver's license is a protected interest no matter what it is labeled).

11. *Bell*, 402 U.S. at 539 (describing that licenses are protected by procedural due process); People v. Lindner, 535 N.E.2d 829, 831 (Ill. 1989) (describing substantive due process protection of driver's licenses).

12. *Lindner*, 535 N.E.2d at 831 (citing Illinois v. Orth, 530 N.E.2d 210, 214 (Ill. 1988)) ("The interest in a driver's license, while important, is not fundamental in the constitutional sense.")

13. Harris v. Manor Healthcare Corp., 489 N.E.2d 1374, 1382 (Ill. 1986) (describing the rational basis test).

14. *Id.*

15. *Id.*

16. *See Lindner*, 535 N.E.2d at 832.

17. *See, e.g.*, Johnson v. Hearing Exam'rs Office, 838 P.2d 158, 177-80 (Wyo. 1992) (analyzing a state statute that required license suspension for minors convicted of

punishment comes from the Eighth Amendment to the United States Constitution, while double jeopardy was established in the Fifth Amendment.[18] Individual states often have incorporated both of these clauses into their own constitutions, which provide for essentially the same protections.[19] Illinois has included both protections in its state constitution, although the section referring to cruel and unusual punishment is commonly noted as the proportionate penalties clause.[20] A key determination that a court must make before examining whether or not the law constitutes cruel and unusual punishment or double jeopardy is that the state action must be considered punishment.[21] If the state action is punishment, then the analysis can continue, but if the action is civil and remedial, then it cannot be found to violate double jeopardy or cruel and unusual punishment.[22] The relevant application for cruel and unusual punishment to these statutes is that the punishment of license suspension is not proportional to the crime committed.[23] The United States Supreme Court has recognized several factors that must be analyzed in order to determine whether the punishment is proportional to the criminal act.[24] Double jeopardy is protection against being punished more than once for a single offense.[25] These two principles will only be relevant in Illinois as they are applied to the statutes dealing with minors

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possession or consumption of alcohol and finding that it violated double jeopardy principles as well as the prohibition of cruel and unusual punishment).

18. U.S. CONST. amend. V ("Nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb . . . ."); U.S. CONST. amend. VIII ("Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.").

19. *See, e.g.*, *Johnson*, 838 P.2d at 177-80.

20. ILL. CONST. art. I, § 10 (defining the protections under double jeopardy); ILL. CONST. art. I, § 11 (defining the prohibition against cruel and unusual punishment); *See* Horvath v. White, 832 N.E.2d 366, 374 (Ill. App. Ct. 2005) (referring to the proportionate penalties clause).

21. *See* Rowe v. Dep't of Licensing, 946 P.2d 1196, 1197 (Wash. Ct. App. 1997).

22. *See* People v. Boeckmann, 932 N.E.2d 998, 1007 (Ill. 2010) (finding that license suspension could not constitute cruel and unusual punishment because "suspension of defendants' driving privileges . . . is not a direct action by the government to inflict punishment.").

23. *Johnson*, 838 P.2d at 177.

24. Solem v. Helm, 463 U.S. 277, 278 (1983) (stating that the factors to be considered for proportionality are "(i) the gravity of the offense and the harshness of the penalty; (ii) the sentences imposed on other criminals in the same jurisdiction . . . and (iii) the sentences imposed for commission of the same crime in other jurisdictions.").

25. *See Johnson*, 838 P.2d at 178-80. The minors were punished the first time for violating the city ordinance, and the subsequent administrative license suspension constituted a second punishment for the same offense. *Id.*

for alcohol related offenses, given that the drug and sex offense statutes have been held unconstitutional on due process grounds.[26]

B. DUE PROCESS APPLIED TO ADULT OFFENDERS OUTSIDE OF ILLINOIS

The most common way that states have found statutes requiring revocation or suspension of a driver's license for offenses not involving vehicles to be constitutional on due process grounds is when the offense is drug related.[27] There are currently ten states with decisions reflecting this position.[28] Among these states, the offense at issue is most often possession of a controlled substance or a substantially similar violation.[29] All of these state courts apply a similar due process analysis to the one previously mentioned—they determine the legitimate state interest and then find a rational relationship between this interest and the statute.[30]

Each of the courts began by finding a legitimate state interest in either deterring criminal acts or in punishing those who violated the statute.[31] The courts had no trouble in the second step of the due process analysis of determining whether there was rational relationship between punishing and deterring offenders with suspension of their licenses.[32] Four of the states also found that these statutes implicated the legitimate state interest of

26. *See* People v. Lindner, 535 N.E.2d 829, 832 (Ill. 1989) (finding the statute unconstitutional as applied to the class of sex offenders); People v. Lawrence, 565 N.E.2d 322, 323 (Ill. App. Ct. 1990) (finding the statute unconstitutional as applied to persons convicted of delivery of a controlled substance); *Boeckmann*, 932 N.E.2d at 1007 (determining whether the statute constituted cruel and unusual punishment after determining suspension did not violate minor's rights to due process).

27. *See* Jeffrey T. Walter, Annotation, *Validity and Application of Statute or Regulation Authorizing Revocation or Suspension of Driver's License for Reason Unrelated to use of, or Ability to Operate, Motor Vehicle*, 18 A.L.R. (5th) § 2(a), at 542 (1994).

28. *See* Illinois v. Zinn, 843 P.2d 1351, 1354-55 (Colo. 1993); Lite v. State, 617 So. 2d 1058, 1060 (Fla. 1993); Quiller v. Bowman, 425 S.E.2d 641, 643 (Ga. 1993); Mitchell v. State, 659 N.E.2d 112, 115-16 (Ind. 1995); State v. Bell, 572 N.W.2d 910, 912 (Iowa 1997); Rushworth v. Registrar of Motor Vehicles, 596 N.E.2d 340, 344 (Mass. 1992); State v. Fonseca, 665 N.E.2d 685, 687 (Ohio 1995); Plowman v. Commonwealth, 635 A.2d 124, 127 (Pa. 1993); Walton v. Commonwealth, 485 S.E.2d 641, 642-43 (Va. 1997); State v. Wolfe, No. 94-2663-CR, 1995 WL 228329, at *2 (Wis. Ct. App. Apr. 19, 1995).

29. *See, e.g.*, *Quiller*, 425 S.E.2d at 642 (holding that defendant had violated the Georgia Controlled Substances Act for possession of a controlled substance).

30. *See, e.g.*, *Lite*, 617 So. 2d at 1059-60 (describing the rational basis test to be applied in analyzing the due process protections of a non-fundamental right).

31. *E.g.*, *Mitchell*, 659 N.E.2d at 116 (determining the legislature's intended interest, the court stated there was a "legitimate state interest in punishing lawbreakers and deterring lawbreaking").

32. *See id.* (finding a rational relationship). The court simply states that the "statute only applies to those that have been convicted of one of the enumerated offenses," thus showing a relation to punishment and deterrence. *Id.*

highway safety.[33] These courts found a rational relationship despite the fact that no vehicle was involved, because "the legislature could reasonably assume that a person who possesses illegal substances would use those substances and could operate a motor vehicle while under the influence of said substances."[34] Thus, the relationship between the statute and the interest does not have to necessarily be direct, but merely rationally related.[35] Only two of these ten state decisions dealt with the final step of the due process analysis of whether or not the law is arbitrary or discriminatory.[36] Both of these courts came to the same conclusion that the laws were not arbitrary, but did so in different ways.[37] In *Lite v. State*, the Supreme Court of Florida found that "Florida law does not require that there be a direct relationship between the type of punishment and the offense itself."[38] While in *Plowman v. Commonwealth*, the Supreme Court of Pennsylvania concluded that the law is not arbitrary if there are identifiable benefits created by the legislation, and several benefits were discovered by the court.[39] In summary, the states that allow for license suspension or revocation for drug related offenses when no vehicle is involved have had no problem in finding that the legitimate state interests of punishment, deterrence, and highway safety are rationally related to these statutes, and generally are neither arbitrary nor discriminatory.[40]

C. DUE PROCESS, DOUBLE JEOPARDY, AND CRUEL AND UNUSUAL PUNISHMENT APPLIED TO MINOR OFFENDERS OUTSIDE OF ILLINOIS

A number of states have statutes in place which suspend or revoke the driver's licenses of persons under twenty-one years of age or eighteen years

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33. *See Quiller*, 425 S.E.2d at 643; *Rushworth*, 596 N.E.2d at 344; *Walton*, 485 S.E.2d at 643; State v. Wolfe, No. 94-2663-CR, 1995 WL 228329, at *2 (Wis. Ct. App. Apr. 19, 1995).

34. *Walton*, 485 S.E.2d at 643.

35. *See id.* There is no direct relationship between the offense and driving, but it is rational that someone who possesses drugs may use them, and then while under the influence may drive which effects highway safety. *Id.*

36. *See* Lite v. State, 617 So. 2d 1058, 1060 (Fla. 1993); Plowman v. Commonwealth, 635 A.2d 124, 127 (Pa. 1993).

37. *See Lite*, 617 So. 2d at 1060; *Plowman*, 635 A.2d at 127.

38. *Lite*, 617 So. 2d at 1060.

39. *Plowman*, 635 A.2d at 127. The court notes that the punishment for first time drug offenders is likely only a small fine, and that license suspension could act as a deterrent to drug use because would be offenders will think about the consequence of losing their license. *Id.* This deterrent effect is enough of a potential benefit for the court to conclude that this legislation is not arbitrary. *Id.*

40. *See Walton*, 485 S.E.2d at 642-43 (noting the legislature's interests of punishment, deterrence, and highway safety); *Lite*, 617 So. 2d at 1060 (concluding that the statute is not an arbitrary measure created by the legislature).

of age for offenses not involving a vehicle.[41] These statutes primarily involve alcohol or the use of false identification in an attempt to obtain alcohol, and similar to the statutes previously discussed that involved adults, the use or possession of controlled substances.[42] In applying the substantive due process analysis to these statutes, punishment and deterrence were often cited as the state interest that the legislatures were trying to promote.[43] Along with punishment and deterrence, highway safety was another legitimate interest found by courts to be engaged by this type of legislation.[44] In finding the same legitimate state interests that were implicated by the statutes dealing with adult offenses, courts again used the same logic to conclude that the laws dealing with minors were also rationally related.[45] Thus,

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41. *See, e.g.*, MINN. STAT. § 171.171 (2010). The statute states:

> The commissioner shall suspend for a period of 90 days the license of a person who:
> (1) is under the age of 21 years and is convicted of purchasing or attempting to purchase an alcoholic beverage in violation of section 340A.503 if the person used a license, Minnesota identification card, or any type of false identification to purchase or attempt to purchase the alcoholic beverage.

Id.

42. *E.g.,* MINN. STAT. § 171.171 (2010) (describing offenses including attempting to purchase alcohol with false identification while being under twenty-one years of age, as well as attempting to buy tobacco with false identification while being under eighteen years of age); IDAHO CODE ANN. § 18-1502 (d)(1) (2010) (listing offenses including suspension for offenses of possession, consumption, procurement, or attempted procurement of alcohol for persons under twenty-one years of age); WASH. REV. CODE § 46.20.265 (2010) (listing offenses including suspension for juveniles for offenses involving alcohol, controlled substances, and firearms).

43. *In re* Maricopa, Cnty. Juvenile Action No. JV-114428, 770 P.2d 394, 397 (Ariz. Ct. App. 1989) ("[D]enying a juvenile his or her means of transportation would serve to deter juvenile drug abuse . . . ."); State v. Bennett, 125 P.3d 522, 527-28 (Idaho 2005) ("The legislature could elect this form of punishment in the belief that it would deter underage drinking . . . ."); Commonwealth v. Strunk, 582 A.2d 1326, 1329 (Pa. Super. Ct. 1990) ("[B]oth deterrence and punishment represent legitimate state interests . . . .").

44. State v. Neidermeyer, 14 P.3d 264, 268 (Alaska 2000) (explaining the legislatures interest, the court notes, "a chain of rational inferences can be forged to link underage drinking to dangerous driving"); Illinois v. Valenzuela, 5 Cal. Rptr. 2d 492, 494 (Cal. App. Dep't Super. Ct. 1991) ("[T]he Legislature's intent to reduce the incidence of injuries and deaths occurring as a result of automobile accidents caused by minors under the influence of alcohol or illegal drugs."); *Bennett*, 125 P.3d at 528 ("potentially act as a deterrent to unlawful drinking and driving").

45. *See Strunk*, 582 A.2d at 1330 (finding that minors place a high value on their driver's license and that license suspension will act as better deterrent than a fine). This reasoning is very similar to the thinking in *Plowman v. Commonwealth*, 635 A.2d 124, 127 (Pa. 1993), where the court determined that license suspension would serve as a better deterrent than a small fine to first time drug offenders. *See also Neidermeyer*, 14 P.3d at 268 (finding a rational relationship the court notes there is no need for a direct relationship, "[t]hough this inferential nexus may be tenuous, it is nonetheless rational."). This logic is

the majority of courts have found there are several legitimate state interests that are logically related to license suspension for minors convicted of alcohol and drug related offenses, and that the minors could not overcome "the heavy burden of proving that the legislature acted irrationally . . . ."[46]

Although the majority of courts agree that these statutes do not violate a minor's due process rights, less consistency exists throughout the United States when dealing with double jeopardy and cruel and unusual punishment for these crimes.[47] The first issue that must be addressed in applying these two principles is "whether suspension of the defendants' driving privileges is a direct action by the government to inflict punishment[,]" and this is where the courts begin to divide.[48] Courts in Alaska, Oregon, Pennsylvania, and Wyoming have held that license suspension is considered punishment, while California has held that license suspension is remedial and civil.[49] The three courts that went on to decide whether these statutes violated the constitutional standards split on the issue, with Pennsylvania and Oregon holding that that it was not cruel and unusual punishment, while Wyoming held that it violated double jeopardy, as well as cruel and unusual punishment.[50] To reiterate, states that have statutes requiring sus-

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similar to that in *Walton v. Commonwealth*, where the court found that a vehicle does not have to be involved in the offense for there to be a rational relationship to highway safety. *Walton*, 485 S.E.2d at 643.

46. *See, e.g.*, *Neidermeyer*, 14 P.3d at 267.

47. *See Strunk*, 582 A.2d at 1330-33 (holding that the punishment of license suspension is not grossly disproportionate to the offense of underage consumption or possession of alcohol); *Valenzuela*, 5 Cal.Rptr.2d at 493 (finding that license suspension is remedial not penal and therefore cannot be regarded as cruel and unusual punishment); Johnson v. Hearing Exam'r Office, 838 P.2d 158,177-80 (Wyo. 1992) (holding that license suspension for underage possession or consumption of alcohol violated both double jeopardy and cruel and unusual punishment).

48. People v. Boeckmann, 932 N.E.2d 998, 1007 (Ill. 2010).

49. *Compare Neidermeyer*, 14 P.3d at 272 ("AS 28.15.183 must be viewed as imposing a criminal penalty."), and State v. Day, 733 P.2d 937, 939 (Or. Ct. App. 1987) (failing to explicitly state that the statute is punitive, the court moves to the next step of the analysis which implies the punitive nature), and *Strunk*, 582 A.2d at 1330-33 (failing to explicitly state that the statute is punitive the court moves to the next step of the analysis which implies the punitive nature), and *Johnson*, 838 P.2d at 179 ("It was certainly not intended to be remedial."), *with Valenzuela*, 5 Cal. Rptr. 2d at 493 ("[S]uspension . . . is not penal in nature. It is a remedial measure designed to ensure public safety on the streets and highways." (citing Beamon v. Dep't of Motor Vehicles, 4 Cal. Rptr. 396, 403 (Cal. Dist. Ct. App. 1960))).

50. *Compare Day*, 733 P.2d at 939 ("[L]oss of driving privileges for conviction of minor in possession is not a disproportionate penalty when compared to the loss of liberty that can be imposed for other offenses."), and *Strunk*, 582 A.2d at 1332 ("[A] 90-day driver's license suspension is not an excessive penalty."), *with Johnson*, 838 P.2d at 177-80 (holding that license suspension does not meet the required proportionality between offense and punishment to make it constitutional, and that the suspension was also second punishment in violation of double jeopardy principles).

pension of minors' driver's licenses for offenses not involving a vehicle have generally held those laws to overcome substantive due process challenges, but there is no consensus among the states on whether license suspension or revocation violates double jeopardy or constitutes cruel and unusual punishment.[51]

III. ILLINOIS CASE LAW

A. STATUTES APPLYING TO ADULT SEX AND DRUG OFFENSES

The Supreme Court of Illinois first reviewed a substantive due process challenge to a statute requiring driver's license revocation for an offense that did not involve a vehicle in *Illinois v. Lindner*.[52] This case involved a defendant who had been charged with multiple counts of aggravated criminal sexual abuse and criminal sexual assault.[53] An Illinois statute required license revocation upon conviction of a number of sex and drug related offenses, including the abovementioned offenses of which the defendant was convicted.[54] The trial court found this statute unconstitutional because it deprived the defendant of due process of law to which the state took issue and chose to appeal.[55] On direct appeal to the Illinois Supreme Court, the court began by stating that the standard of review would be the rational basis test, as there was no fundamental right involved, and that the main disagreement between the parties was the legitimate state interest implicated by the statute.[56] The court then looked to the intent of the legislature through the text of the surrounding code sections and determined that "the public interest is the safe and legal operation and ownership of motor vehi-

51. *See, e.g.*, *Strunk*, 582 A.2d at 1329-33 (affirming that license suspension did not violate substantive due process, and did not constitute cruel and unusual punishment).

52. *See* People v. Lindner, 535 N.E.2d 829, 830 (Ill. 1989).

53. *Id.*

54. ILL. REV. STAT., ch. 95 1/2, ¶ 6-205(b)(2) (1987). The statute states:

> (b)The Secretary of state shall also forthwith revoke the license or permit of any driver in the following situations: . . . 2. Of any driver, upon receiving notice from the clerk of the court of the
> conviction of such driver for the commission of any of the following sex offenses: criminal sexual assault, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, juvenile pimping, soliciting for a juvenile prostitute and the manufacture, sale or delivery of controlled substances or instruments used for illegal drug use or abuse.

Id.

55. *See Lindner*, 535 N.E.2d at 830.

56. *Id.* at 831-32.

cles."[57] The court's next step in the due process analysis was to find whether this statute was rationally related to the state interest that had been identified.[58] The court found that "[b]ecause a vehicle was not involved in any way in the commission of the offenses for which defendant was convicted, the revocation of his license bears no relationship, much less a reasonable one, to the public interest we have identified."[59] In the final phase of the due process analysis, the court concluded that the law was arbitrary in that there was no reason for the legislature to impose license revocation for these offenses, and not impose the same penalty for numerous other crimes that did not involve motor vehicles.[60] Thus, the statute was held unconstitutional because there was no rational relationship found between the law and the state interest of highway safety, and choosing certain offenses that did not involve vehicles, while not including others "is an unreasonable and arbitrary exercise of the State's police power."[61]

Although the court had already found the statute unconstitutional, it entertained the State's argument that the legislature's purpose in passing the statute could have been punishment for this class of offenders.[62] The court stated, for the sake of argument, that it would consider license revocation a punishment, despite prior decisions holding that it was a civil measure.[63] This argument was not found to be persuasive by the court as it found that revocation would be an "additional penalty for a criminal offense" that still lacked a rational relationship, and was no less arbitrary.[64]

A dissenting opinion was written by Justice Miller, in which he found the majority's view of the purported legislative interest to be too narrow.[65] Justice Miller specifically noted that the code section relied upon by the majority as the legislature's supposed interest was in place long before the

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57. *Id.* at 833 ("[T]he interest in keeping the roads free of two kinds of drivers: those who threaten the safety of others and those who have abused the privilege to drive by doing so illegally . . . or by using a vehicle to commit a criminal act.").

58. *Id.*

59. *Lindner*, 535 N.E.2d at 833.

60. *Id.* ("[T]he means chosen are arbitrary, not only because the offenses specified in section 6-205(b)(2) have no connection to motor vehicles, but also because the inclusion of those offenses and no others is arbitrary.").

61. *Id.*

62. *Id.*

63. *Id.* ("[W]e will assume *arguendo* that revocation after conviction constitutes punishment, notwithstanding our decisions which have held that summary suspension of a license before a trial on the merits is an administrative function and not a punishment." (citing People v. Esposito, 521 N.E.2d 873, 877 (Ill. 1988))).

64. *Lindner*, 535 N.E.2d at 834 (explaining the statutes arbitrary nature, "[i]f the legislature may punish these offenses with revocation, nothing prohibits it from imposing that penalty for violating *any* provision of the Criminal Code, and that would plainly be irrational").

65. *Id.* at 835 (Miller, J., dissenting).

section requiring revocation of sex offender's driver's licenses was codified.[66] The lone dissent by Justice Miller also argued that the legislature had an interest in reducing the mobility of certain offenders, because doing so could decrease opportunities to find victims and take away a means of evading police.[67] For these reasons, Justice Miller would have upheld the statute requiring license revocation.[68]

In *Illinois v. Lawrence*, an Illinois appellate court reaffirmed that the *Lindner* decision did not just apply to sex offenses, it applied to all of the sex and drug offenses listed in the particular code section.[69] In *Lawrence*, the defendant pled guilty to multiple counts of unlawful delivery of a controlled substance, and following his prison sentence, his license was revoked.[70] After his release from prison, the defendant was arrested for driving with a revoked license, which caused his probation stemming from his prior conviction to also be revoked.[71] The defendant's argument in the trial court that license revocation was improper based on *Lindner* was not persuasive, as the court found that *Lindner* only applied to sex offenses listed in the statute.[72] The appellate court reversed, finding that although revocation for this offense could be rationally related to the legitimate state interest in deterring crime, "[t]he choice of this offense and no others remains an arbitrary decision of the legislature."[73] Thus, the appellate court held that *Lindner* called for the entire code section to be overruled, therefore neither the defendant's license revocation was proper, nor was his probation revocation based on the improper arrest for driving with a revoked license.[74]

B. STATUTES APPLYING TO MINOR ALCOHOL RELATED OFFENSES

The first Illinois case that dealt with license suspension for persons under twenty-one years old when no vehicle was involved was *Freed v. Ryan*.[75] In this case a nineteen year old Northern Illinois University student tried to use the state identification card of a twenty-four year old to enter a

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66. *Id.* at 836 (Miller, J., dissenting) ("[T]he statement of purpose now found in section 6-204(a) predates the enactment of the statute at issue here.").

67. *Id.* (Miller, J., dissenting).

68. *Id.* at 837 (Miller, J., dissenting).

69. People v. Lawrence, 565 N.E.2d 322, 323 (Ill. App. Ct. 1990) ("*Lindner* overruled section 6-205(b)(2) in its entirety without regard for the specific offense as an unreasonable and arbitrary exercise of state powers.").

70. *Id.*

71. *Id.*

72. *Id.*

73. *Id.*

74. *Lawrence*, 565 N.E.2d at 323. The defendant's arrest was improper since license revocation as part of the initial sentence was found to be unconstitutional. *Id.* Therefore, the defendant was re-released on probation. *Id.*

75. Freed v. Ryan, 704 N.E.2d 746, 747 (Ill. App. Ct. 1998).

bar and, upon being refused admittance, a nearby police officer cited the student for violating a city ordinance that forbade minors from using false identification to obtain alcohol.[76] The punishment provision of the ordinance called for a small fine as well as court supervision, but the police department also forwarded a report of the incident to the Illinois Secretary of State who then informed the minor that his license would be suspended pursuant to the Illinois Vehicle Code.[77] The plaintiff contested the suspension on substantive due process grounds and argued that the suspension violated double jeopardy.[78] The trial court upheld the license suspension, and the plaintiff appealed.[79]

The appellate court began the due process analysis by determining that the public interest was the same as found in *Lindner* of "the safe and legal operation and ownership of motor vehicles."[80] Moving onto the next step of the analysis, the court found license suspension to be rationally related to this legitimate interest based on the premise that "the legislature could rationally speculate that license holders under twenty-one years old may use false identification in an attempt to gain access to alcohol and that such conduct would lead on balance to an increase in drunken driving."[81] To distinguish this case from *Lindner*, the court mentioned that the crimes being deterred were "directly related" to highway safety, while in *Lindner* there was no such direct relationship found.[82] In conclusion, the court found there was no violation of due process because the legitimate interest of highway safety was rationally related to suspending the licenses of persons under twenty-one who obtain alcohol through the use of false identification. Because they could drive after drinking alcohol, and driving while intoxicated is directly related to highway safety, there was therefore no violation of due process.[83]

The appellate court quickly rejected the plaintiff's claims that the statute violated double jeopardy and the proportional penalty clause of the Illi-

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76. *Id.*
77. *Id.*; 625 ILL. COMP. STAT. 5/6-206 (1994) states:
    (a) The Secretary of State is authorized to suspend or revoke the driving privileges of any person
    without preliminary hearing upon a showing of the person's records or other sufficient
    evidence that the person . . . (10) Has possessed, displayed, or attempted to fraudulently use any
    license, identification card, or permit not issued to the person.
78. *Freed*, 704 N.E.2d at 747.
79. *Id.*
80. *Id.* at 749.
81. *Id.*
82. *Id.*
83. *See Freed*, 704 N.E.2d at 749-50.

nois Constitution, because of the holding in *Lindner* "that summary suspension of driving privileges before a trial on the merits is not punishment."[84] As previously noted, if license suspension is not considered a punishment, then it fails to meet a required element of both double jeopardy and the proportional penalties clause of the Illinois Constitution.[85]

The next case in Illinois that dealt with this issue is *Horvath v. White*.[86] This case was similar to *Freed v. Ryan* in that a nineteen-year-old college student who possessed false identification was arrested for an alcohol related offense with no vehicle involved, and subsequently brought an action claiming that suspension of his license violated both due process and the proportional penalties clause of the Illinois Constitution.[87] The plaintiff's constitutional challenges to the statute were rejected at both an initial administrative hearing, as well as in the trial court.[88]

On appeal, the court cited the state interest found in *Freed v. Ryan* of maintaining safe roadways.[89] It then recited the holding in *Freed v. Ryan* that license suspension for this offense is rationally related to highway safety because it keeps intoxicated minors from off of state roadways.[90] The court then further discussed the issues of the case in an attempt to distinguish this situation from the findings in *Lindner* and *Lawrence* where license suspension for certain sex and drug offenses not involving motor vehicles were found to violate due process.[91] The court reasoned that unlike the crimes in *Lindner* and *Lawrence,* there is a direct relationship between minors using false identification and highway safety, therefore the law does not offend due process of the law.[92] The court assumed that minors who possess false identification will use this to obtain alcohol, and subsequently

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84. *Id.* at 748 (citing People v. Lindner, 535 N.E.2d 829, 833 (Ill. 1989)).

85. *Id.*

86. *See* Horvath v. White, 832 N.E.2d 366, 369 (Ill. App. Ct. 2005).

87. *Compare Freed*, 704 N.E.2d at 747 (describing the facts of the case and the causes of action), *with Horvath*, 832 N.E.2d at 369 (describing a similar situation involving a minor and the use of false identification relating to alcohol along with the minor's subsequent due process and proportional penalties claims).

88. *Horvath*, 832 N.E.2d at 369-70.

89. *Id.* at 371 ("The primary public interest intended to be protected by the Code is the safe and legal operation and ownership of motor vehicles.") (citing *Freed,* 704 N.E.2d at 749)).

90. *Id.* at 372 ("The statutory provision here that permits suspension of driving privileges is a legitimate means to deter and remove dangerous drivers from the highway and is, therefore, not irrational." (citing *Freed*, 704 N.E.2d at 749)).

91. *Id.* at 373.

92. *Horvath*, 832 N.E.2d at 373 ("In contrast, the behavior the State seeks to deter here is directly related to the safe and legal operation of motor vehicles; specifically, prohibiting underage individuals from acquiring and consuming alcohol and driving while intoxicated.").

these minors will drive while under the influence of alcohol.[93] Although the court also mentioned how in *Lawrence* that license suspension for the particular offense and not others was found to be an arbitrary decision by the legislature, the court failed to elaborate on how that holding could affect the case at hand.[94] Citing *Freed v. Ryan*, the court swiftly rejected the minor's proportional penalty clause argument based on prior holdings that found administrative license suspension was not considered punishment.[95]

In the most recent decision in this line of cases, the Illinois Supreme Court reviewed the constitutionality of license suspension for the offense of consumption of alcohol by a minor.[96] In *Illinois v. Boeckmann*, the defendants were cited for underage consumption of alcohol, and subsequently challenged the suspension of their licenses on due process and proportional penalty grounds.[97] At the trial level, the court found the code sections authorizing license suspension to be unconstitutional based on the precedent set out in *Lindner*, and subsequently the Illinois Secretary of State appealed the decision directly to the Illinois Supreme Court.[98]

In following the doctrine of stare decisis, the Illinois Supreme Court identified the same legitimate state interest of highway safety as identified in the *Lindner* decision.[99] Next, the court looked to determine if there was rational relationship between the offense and the identified state interest.[100] In finding a relationship, the court noted, "[p]reventing young people from driving after consuming alcohol unquestionably furthers the public interest . . . ."[101] The court's analysis did not find a direct relationship between the offense and the public interest, but rather a series of rational inferences the legislature could have drawn to show a correlation.[102] The court then looked

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93. *See id.*

94. *See id.* at 373-74.

95. *Id.* at 375.

96. People v. Boeckmann, 932 N.E.2d 998, 998-99 (Ill. 2010).

97. *Id.* at 1000-01.

98. *Id.* at 1000 ("The circuit court of Clinton County declared unconstitutional section 6-206(a)(43) of the Illinois Vehicle Code . . . .").

99. *Id.* at 1002 ("[T]he challenged provisions were intended to protect the public interest in 'the safe and legal operation and ownership of motor vehicles.'" (quoting Illinois v. Lindner, 535 N.E.2d 829, 833 (Ill. 1989))).

100. *Id.*

101. *Boeckmann*, 932 N.E.2d at 1003.

102. *Id.* The court stated:

> [T]he General Assembly may have believed that a young person who has a driver's license and consumes alcohol illegally may take the additional step of driving after consuming alcohol. It is reasonable to believe a young person disobeying the law against underage consumption of alcohol may also lack the judgment to decline to drive after drinking.

Id.

to distinguish this case from the holdings found in *Lindner*.[103] To do so, the court discussed how *Lindner* does not stand for the narrow proposition that if no vehicle is involved, then a summary license suspension violates due process.[104] Instead, the court stated that *Lindner* created the broader analysis of "whether the revocation of driving privileges bears a rational relationship to the public interest."[105] To apply this analysis, the court stated that the sex offense in *Lindner* had no impact on the defendant's ability to drive, but consumption of alcohol would impact the minor's driving ability, thus a rational relationship to highway safety is established.[106] In conclusion, the court found that although the defendants had no intention of driving, there is still a rational relationship between license suspension for the offense of consumption of alcohol by a minor with the state interest of highway safety.[107]

In response to the defendants' proportional penalty argument the court began by stating that the initial determination to invoke this clause was whether license suspension can be considered punishment.[108] The court then stated that it had previously held summary license suspension not to be considered punishment because the goal is to promote highway safety.[109] Therefore, with the purpose of summary license suspension being remedial, it could not be found to violate the proportional penalties clause, as it only applies to criminal punishment.[110] The opinion written by Justice Kilbride was only joined by Justice Fitzgerald.[111]

Justice Garman authored a special concurrence, which was joined by Justice Thomas.[112] In coming to the same conclusion on the constitutionality of the statute as Justice Kilbride, the concurring justices disagreed with the identified state interest.[113] The concurrence went on to state that "*Lindner* should be overruled to the extent that it so narrowly defines the public purpose . . . [,]" and that the trial court's decision should be upheld if the

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103. *Id.*
104. *Id.*
105. *Id.*
106. *Boeckmann*, 932 N.E.2d at 1003.
107. *Id.* at 1004.
108. *Id.* at 1007 ("The critical determination, therefore, is whether suspension of the defendants' driving privileges is a direct action by the government to inflict punishment.").
109. *Id.* ("[W]e have previously stated statutory summary suspension of a driver's license is not penal in nature because it is intended to protect the public rather than punish a licensee." (citing People v. Esposito, 521 N.E.2d 873, 877 (Ill. 1998))).
110. *Id.*
111. *Boeckmann*, 932 N.E.2d at 1007.
112. *Id.*
113. *Id.* at 1008 (Garman, J., concurring) ("In my opinion, *Lindner* defined the public purpose . . . too narrowly and failed to recognize that different public purposes might be served by different statutory provisions . . . .")

legitimate state interest found in *Lindner* were to be used.[114] The concurring justices then went on to criticize the far-reaching attempt by the lead opinion to logically connect underage drinking with the highway safety, stating that "the lead opinion has saved *Lindner* by rendering it meaningless."[115] Finally, the concurrence explained a broader analysis in finding the public interest, noting it does not have to be explicitly stated by the legislature.[116] The opinion concludes with the idea that the legislature's interest may have been to encourage compliance of liquor laws by minors, and that the statute is constitutional on these grounds.[117]

Justice Freeman was joined by Justice Burke in dissent.[118] The dissenting justices agreed with the concurrence authored by Justice Garman, in the idea that the lead opinion "renders *Lindner* meaningless."[119] Although, since *Lindner* being overruled was not argued in this case, the dissenting justices would have followed the precedent laid out in *Lindner* and found the statute to be a violation of the minors' right to due process.[120]

IV. A MORE UNIFORM DUE PROCESS APPLICATION IN ILLINOIS

A. THE IDEAL RESOLUTION FOLLOWING *BOECKMANN*

Currently in Illinois, courts' interpretations of substantive due process do not allow a person that is convicted of delivery of a controlled substance to lose his license as punishment for this crime as long as a vehicle was not involved in the commission.[121] On the other hand, courts have held that due process allows license suspension for a minor in possession of false identification or who consumes alcohol, even if no vehicle was involved in the

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114. *Id.* at 1009, 1011 (Garman, J., concurring) ("The trial court, however, properly applied *Lindner* and found that very narrow purpose . . . was not met.").

115. *Boeckmann*, 932 N.E.2d at 1011. Justice Garman expands from the rationale stated in the lead opinions:

> [T]he lead opinion concludes that because an individual may commit one crime, he may lack the judgment to decline to commit another crime. Under this reasoning, the legislature could provide that a conviction of domestic battery is grounds for the suspension of the offender's driver's license because his anger issues make him likely to succumb to road rage . . . .

Id.

116. *Id.* at 1012 (Garman, J., concurring) ("It is entirely appropriate for the court to consider what purpose the legislature might have intended to serve."))

117. *Id.* at 1014-15 (Garman, J., concurring).

118. *Id.* at 1015-16 (Garman, J., concurring).

119. *Id.* at 1015.

120. *Boeckmann*, 932 N.E.2d at 1016.

121. People v. Lawrence, 565 N.E.2d 322, 323 (Ill. App. Ct. 1990) (holding that the defendant who was guilty of delivery of a controlled substance could not have his license revoked as this would violate due process rights under the precedent found in *Lindner*).

crime.[122] The ideal resolution to this contradictory state of the law in Illinois is for the courts to find that due process allows license suspension for these controlled substance violators along with the minor offenders.[123] There are several reasons why the position that Illinois courts have taken in these controlled substance cases should be reversed.[124] First, the decision in *Lawrence* was based on an interpretation of *Lindner* that has subsequently been found obsolete by the Illinois Supreme Court.[125] In *Lawrence*, the Fifth District Appellate Court relied on the proposition found in *Lindner* that if no vehicle is involved in the offense then the statute could not rationally be related to the state interest of maintaining safe roadways.[126] More recently, in *Boeckmann*, the two justices who formed the lead opinion held that *Lindner* stood for a broader analysis than "simply determining whether a vehicle was involved in the offense."[127] While concurring in the result, two different justices came to the conclusion that the court in *Lindner* had misidentified the state interest implicated by the legislature.[128] Both the lead opinion and the concurrence found that the statute had violated the due process clause through a different means of analysis,[129] and either analysis applied to the issue in *Lawrence* would necessitate a holding that the law is constitutional.

The justices in the lead opinion began their due process analysis by identifying the state interest of highway safety, and related it to license suspension for minors who consumed alcohol through a series of logically associated conclusions that the legislature could have construed.[130] If the

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122. *See Boeckmann*, 932 N.E.2d at 1007 (holding that a statute requiring license suspension for minors cited for consumption of alcohol by a minor does not offended due process even if no vehicle was involved in the offense); Horvath v. White, 832 N.E.2d 366, 373-74 (Ill. App. Ct. 2005) (holding that a statute requiring license suspension for minors cited for possessing false identification did not violate due process).

123. *See infra* Part IV.A (developing the arguments on why the *Lawrence* decision should be reversed).

124. *See Boeckmann*, 932 N.E.2d at 1011 (explaining how the interpretation of the holding in *Lindner* has changed); *see also supra* Part II.B. (describing how a number of states have found license suspension for controlled substance offenders does not to violate due process rights when no vehicle was involved in the offense).

125. *See Boeckmann*, 932 N.E.2d at 1003. The lead opinion held that "the rationale in *Lindner* is broader than simply determining whether a vehicle was involved in the offense." *Id.* While the concurring opinion held that the public interest in *Lindner* was not identified properly. *Id.* at 1008 (Garman, J., concurring).

126. *Lawrence*, 565 N.E.2d at 323 ("To prohibit persons from driving merely because they have committed an offense which did not even involve the use of a motor vehicle is not a reasonable way to ensure that motor vehicles will be owned and operated safely and legally.") (citing People v. Lindner, 535 N.E.2d 829, 833 (Ill. 1989))).

127. *Boeckmann*, 932 N.E.2d at 1003.

128. *Id.* at 1008-10 (Garman, J., concurring).

129. *See id.* at 1003-10.

130. *Id.* at 1003. The court stated:

court concluded that a person under twenty-one who broke the law by consuming alcohol may also break the law by driving under the influence in the future, and this creates a rational relation to highway safety, then the court should conclude that a person unlawfully delivering a controlled substance may also drive under the influence in the future, which similarly relates to highway safety.[131] Similarly, a court could hold that a person who broke the law by delivering a controlled substance, has provided a means for the receiver of those substances to possibly drive while under the influence of drugs, which also forms a logical connection to highway safety. These analogies show one route the courts could take in reversing their position on license suspension for the offense of delivery of a controlled substance, based on the lead opinion in the recent Illinois Supreme Court decision in *Boeckmann.*[132]

The statute in *Lawrence* may also be found constitutional under the analysis developed by the concurring justices in *Boeckmann*.[133] The concurring opinion emphasizes that the court in *Lindner* too narrowly defined the state interest of highway safety, and asserts that the legislature could have had different objectives in mind when codifying the legislation.[134] Justice Garman states that *Lindner* was misguided as the court focused on "*the* public interest" instead of "*a* legitimate interest," further explaining that there does not have to be a pinpointed interest and that the court could uphold the law on a hypothetical legitimate state interest under the rational basis test, if the court so chooses.[135] To close, the concurrence found the statute constitutional based on a rational relationship between the punishment of license suspension and the state interest of encouraging minors to comply with the Liquor Control Act.[136] Applying this rationale to *Lawrence*, the state interest of "repressing the commission of such crimes," which was rejected by the appellate court in *Lawrence*, could provide a

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> [T]he General Assembly may have believed that a young person who has a driver's license and consumes alcohol illegally may take the additional step of driving after consuming alcohol. It is reasonable to believe a young person disobeying the law against underage consumption of alcohol may also lack the judgment to decline to drive after drinking.

Id.

131. *See id.* (describing the rational relationship between license suspension and highway safety).

132. *See Boeckmann*, 932 N.E.2d at 1003.

133. *See id.* at 1012-15 (Garman, J., concurring).

134. *Id.* at 1008 (Garman, J., concurring) ("[D]ifferent public purposes might be served by different statutory provisions that mandate or permit the revocation or suspension of a driver's license.").

135. *Id.* at 1011-13 (Garman, J., concurring).

136. *Id.* at 1015 (Garman, J., concurring).

basis for a finding of the law's constitutionality.[137] The legislature could have reasonably thought that reducing these offenders' transportation options may limit their ability to further commit crimes of this nature.[138] The concurring opinion further shows that the decision in *Lawrence* was based on an archaic interpretation of *Lindner*, and now needs to be brought in line with the more recent Illinois Supreme Court holding in *Boeckmann*.[139]

The court in *Lawrence* held that the statute violated due process not only because of the lack of a relationship between the state interest and license suspension, but because the choice of suspension for "this offense and no others remains an arbitrary decision of the legislature."[140] This statement by the court is questionable not only because this offense was in a code section that listed seven separate offenses that would call for license suspension,[141] but there is precedent holding similar types of actions by the legislature to be constitutional.[142] In *Williamson v. Lee Optical*, the United States Supreme Court, while reviewing a statute under due process, stated "the law need not be in every respect logically consistent with its aims to be constitutional;" and continued, "[i]t is enough that there is an evil at hand for correction, and that it might be thought that the particular legislative measure was a rational way to correct it."[143] Through passing the legislation that required license revocation for these offenses, the Illinois Legislature took one step to resolve a problem by increasing punishment, and this process of taking one rational step at a time to correct the problem is by no means a violation of due process.[144] This issue, if not a violation of due

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137. *See* People v. Lawrence, 565 N.E.2d 322, 323 (Ill. App. Ct. 1990).

138. *See supra* Part I (introducing Tim the hypothetical drug dealer, an example of the type of offender whose illegal activities would be substantially burdened by the loss of his license).

139. *See Boeckmann*, 932 N.E.2d at 1003-15 (explaining how the *Lindner* decision should be interpreted when dealing with statutes of this kind).

140. *Lawrence*, 565 N.E.2d at 323.

141. ILL. REV. STAT., ch. 95 1/2, ¶ 6-205(b)(2) (1987) states:

> (b) The Secretary of State shall also forthwith revoke the license or permit of any driver in the following situations: . . .
> 2. Of any driver, upon receiving notice from the clerk of the court of the conviction of such driver for the commission of any of the following sex offenses: criminal sexual assault, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, juvenile pimping, soliciting for a juvenile prostitute and the manufacture, sale or delivery of controlled substances or instruments used for illegal drug use or abuse.

Id.

142. *See* Williamson v. Lee Optical, 348 U.S. 483, 487-88 (1955).

143. *Id.*

144. *See id.* at 489 ("[T]he reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind.") (citing Semler v. State Bd. of Dental Exam'rs, 294 U.S. 608, 610 (1935))).

process, should be remedied by the voters as a form of legislative oversight, as it has long been held that "[f]or protection against abuses by the legislatures the people must resort to the polls, not to the courts."[145] Overall, this decision by the legislature to single out not one, but a group of seven offenses, was one step in protecting the public from a group of dangerous sex and drug offenders which is well within the constitutional limits of due process.[146]

The argument that the decision in *Lawrence* should be reversed is substantially furthered by the persuasive authority laid out in other state court decisions throughout the country dealing with this issue.[147] These cases bolster both the lead and concurring opinions in the *Boeckmann* decision which is the current state of the law in Illinois with regards to the issue of license suspension for crimes not involving a motor vehicle.[148] The authority from all ten of the states other than Illinois came to the same conclusion as the concurring opinion in *Boeckmann*, that an interest in either deterrence or punishment could have been implicated by legislature in passing this type of statute, and this variety of legislation is rationally related to achieving these purposes.[149] Four of the ten states also agree with the rationale in the lead opinion of *Boeckmann* that highway safety could have been the interest of the legislature, and that the relationship is not directly found, but rather is developed through a series of logical steps.[150]

Illinois courts should reverse their position on the issue of whether license revocation for controlled substance offenders violates substantive due process.[151] This conclusion is supported by the fact that the *Lawrence* decision is based on precedent that has been interpreted differently by the Illinois Supreme Court in recent years, that labeling the statute in *Lawrence* as arbitrary was misguided as shown by *Williamson v. Lee Optical*, and that the persuasive authority from jurisdictions around the country collectively agree that license suspension for controlled substance offenders where no vehicle is involved does not violate substantive due process.[152]

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145. Munn v. Illinois, 94 U.S. 113, 134 (1876).

146. *See Williamson*, 348 U.S. at 487-89.

147. *See* cases cited *supra* note 25 (listing ten other states that have found similar statutes not to violate due process).

148. *See* cases cited *supra* notes 28 & 30; *see also* People v. Boeckmann, 932 N.E.2d 998, 1006-15 (Ill. 2010).

149. *See supra* note 28 and accompanying text.

150. *Compare supra* notes 30-32 and accompanying text (describing how the legislature could infer that someone who possessed a controlled substance could then possibly drive while under the influence of such substance), *with Boeckmann*, 932 N.E.2d at 1003 (noting how the legislature could assume that a minor who is under the influence of alcohol and in possession of a driver's license may then drive while under the influence of alcohol).

151. *See supra* Part IV.A.

152. *See supra* Part IV.A.

B. THE ALTERNATIVE *LINDNER* BASED RESOLUTION

Although the best option would be for the courts in Illinois to uphold license suspension for minors who abuse alcohol related laws and expand this punishment to the controlled substance offenders described in *Lawrence*,[153] if the courts refuse to expand license suspension to controlled substance offenders, it should also be repealed as a punishment for these minors. The concurring and dissenting justices in the *Boeckmann* decision persuasively argue that there is no good way to distinguish the issue in *Boeckmann* from the issue previously ruled upon in *Lindner*.[154] In both cases, the same state interest of highway safety was said to have been implicated by the legislature.[155] The lead opinion in *Boeckmann* deviated from the analysis in *Lindner* by finding that because the minors had the lack of good judgment in consuming alcohol illegally they "may also lack the judgment to decline to drive after drinking."[156] This deviation is apparent since the court in *Lindner* made no attempt to associate prior bad judgment with future actions, basing their decision almost solely on the lack of a vehicle in the original offense.[157]

The concurring justices in *Boeckmann* argue that the lead opinion's rationale of predicting and punishing future actions based on one's past would lead a court reviewing *Lindner* to the same conclusion as found in *Boeckmann*.[158] The sex and controlled substance offenders at issue in *Lindner*, by committing their crimes, have shown a lack of good judgment just as in *Boeckmann*; and this lack of judgment could reasonably affect their ability to drive safely, putting themselves and other motorists at risk.[159] Because the issues in the two cases are indistinguishable, if the only state interest is highway safety, the concurrence chose to overturn *Lindner* in part

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153. *See supra* Part IV.A.

154. *See Boeckmann*, 932 N.E.2d at 1008-12 (Garman, J., concurring) (asserting that *Lindner* must at least be overruled in part for the statute at issue to be upheld); *See also id.* at 1015 (Freeman, J., dissenting) ("*Lindner* cannot be distinguished in any meaningful way.").

155. *Id.* at 1002 (describing the legitimate state interest as "intended to promote the safe and legal operation and ownership of motor vehicles.").

156. *Id.* at 1003.

157. People v. Lindner, 535 N.E.2d 829, 833 (Ill. 1989).

158. *See Boeckmann*, 932 N.E.2d at 1011 (Garman, J., concurring).

159. *See id.*(objecting to the lead opinions attempt to distinguish the issue at hand from that found in *Lindner*: "In essence, the lead opinion concludes that because an individual may commit one crime, he may lack the judgment to decline to commit another crime. Under this reasoning, the legislature could provide that a conviction for domestic battery is grounds for the suspension of the offender's driver's license because his anger issues make likely to succumb to road rage . . . . [T]he statute at issue in *Lindner* would likely survive this analysis because an individual who would commit acts of sexual assault against his minor stepdaughters cannot be trusted to resist the temptation to lure a child into his car.").
Id.

by finding a different state interest implicated by the legislature.[160] With a different state interest implicated by the statute suspending minors' driver's licenses the justices were able to distinguish *Boeckmann* from *Lindner* and come to a different conclusion as to the constitutionality of the law.[161] Without partially overruling *Lindner*, through finding a different state interest, the concurring justices conceded that the trial court's decision of the law being unconstitutional would be upheld.[162]

The decision in *Boeckmann* thus rests on the concurring justices' problematic decision to break from the doctrine of *stare decisis* and partially overturn *Lindner*, which may be seen as good cause to reverse *Boeckmann* in the future.[163] *Stare decisis* keeps the court from reexamining decisions on points of law it has already ruled upon, and then changing the decision absent good cause or unworkable prior decisions.[164] There must be more than the possibility of a different outcome if the question were one of first impression, in other words, a clear mistake must have been made.[165] Pinpointing the legitimate state interest that was behind the legislature's choice to enact a particular statute is difficult when there is none explicitly stated, and is by no means an exact science.[166] For the concurring justices in *Boeckmann* to overrule *Lindner*, *stare decisis* requires that the court find the legitimate state interest found in *Lindner* to be a mistake.[167] The state interest in *Lindner* has been the issue of much judicial scrutiny, and has remained unchanged throughout the years.[168] The decision by only two justices to label the state interest found in *Lindner* as clearly a mistake defies the doctrine of *stare decisis* which serves to "ensure that the law will not merely change erratically, but will develop in a principled and intelligible fash-

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160. *Id.* at 1015.

161. *Id.*

162. *Id.* at 1010 (Garman, J., concurring) ("We must either acknowledge that *Lindner* was badly reasoned . . . or affirm the trial court . . . .").

163. *Id.* at 1016.

164. *See* People v. Colon, 866 N.E.2d 207, 219 (Ill. 2007).

165. *See id.*

166. People v. Lindner, 535 N.E.2d 829, 832-34 (Ill. 1989) (stating the process for finding the legislative interest implicated by the statute and applying that process to the facts).

167. *See Colon*, 866 N.E.2d at 219.

168. *See, e.g.*, *Lindner*, 535 N.E.2d at 835-37 (Miller, J., dissenting) (arguing that the majority misrepresented the state interest implicated by the legislature); Illinois v. Boeckmann, 932 N.E.2d 998, 1002 (Ill. 2010) (reexamining and using the same state interest as identified in *Lindner*); Freed v. Ryan, 704 N.E.2d 746, 749 (Ill. App. Ct. 1998) (using the same state interest as identified in *Lindner* as a matter of first impression for the statute dealing with minors); Horvath v. White, 832 N.E.2d 366, 373 (Ill. App. Ct. 2005) (following the *Horvath* opinion as to the state interest).

ion."[169] In this case, two justices broke away from *stare decisis* on not what seems to be a certain mistake made by the court in *Lindner*, but rather their opinion of a plausible state interest implicated by the legislature.[170] The concurring justices' decision to break away from the doctrine of *stare decisis* itself is not binding precedent as it was only agreed upon by two justices, but their decision to do so brought their holding of the law being constitutional in line with lead opinions.[171] If they had not deviated from *stare decisis* as the majority of the court had found was inappropriate,[172] it is likely the concurring justices would have sided with the dissenters, based on their concession that the trial court had ruled correctly by following the *Lindner* precedent.[173]

The decision in *Boeckmann* divided the court into writing lead, concurring, and dissenting opinions with two justices behind each faction.[174] This split shows the complexity of the issue and how the justices can agree on so much, but in the end come to different conclusions.[175] The lead opinion chose not to overrule *Lindner* in finding the statute constitutional, but rather contorted the precedent to what the remaining four justices considered "meaningless."[176] The concurring opinion then goes on to find the same conclusion as the lead, but does so by overruling *Lindner* without either party even arguing good cause to do so.[177] Finally, the dissent agrees with the trial court and the concurring justices that by following the precedent laid out in *Lindner*, this statute must be found unconstitutional.[178] The dissenters, however, agree with the lead opinion that *stare decisis* prohibits

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169. Chicago Bar Ass'n v. Ill. State Bd. of Elections, 641 N.E.2d 525, 529 (Ill. 1994).

170. *See Boeckmann*, 932 N.E.2d at 1008-11 (Garman, J., concurring) (explaining the justices opinion as to the correct state interest implicated by the legislature).

171. *See id.* at 1010-15.

172. *Id.* at 1005. The two justices in the lead opinion stated their opposition to deviating from stare decisis: "*Lindner* should not be overruled without the benefit of a developed argument by the parties on the issue." *Id.* at 1015-16 (Garman, J., concurring). The dissenting justices also noted no reason had been shown to overrule the precedent set forth in *Lindner*. *Id.* at 1015 (Freeman, J., dissenting).

173. *See id.* at 1011 (conceding that the statute is unconstitutional under the precedent set out in *Lindner*).

174. *Id.* at 1007-16.

175. *See supra* notes 167-70.

176. *Boeckmann*, 932 N.E.2d at 1003-04. The defendant tried to assert that since no vehicle was used in the crime license suspension was unconstitutional based on *Lindner*, but the court stated that "*Lindner* is broader than simply determining whether a vehicle was involved in the offense." *Id.* at 1016 (Freeman, J., dissenting) (commenting on the concurring justices' view of the lead opinions reading of *Lindner* "I agree with her that this analysis renders *Lindner* meaningless").

177. *See id.* at 1016 (Freeman, J., dissenting).

178. *See id.* (Freeman, J., dissenting).

the court from overruling *Lindner* without cause.[179] If a case similar to *Boeckmann* were to be brought up on appeal in the future, a reversal would not be implausible as so little separated the opinions of the justices who found the law constitutional from those who found it unconstitutional.[180]

As previously noted, the best option would be for Illinois to reinstate license suspension as a punishment for crimes such as delivery of a controlled substance, because this would conform to the *Boeckmann* decision which found this punishment does not offend due process for minors who consume alcohol.[181] Conversely, the divisive and troublesome *Boeckmann* opinion could be overturned based on the precedent in *Lindner* that if no vehicle was involved in the crime, then there can be no rational relationship between license suspension and highway safety.[182]

V. THE DOUBLE JEOPARDY AND PROPORTIONAL PENALTIES CLAUSES OF THE ILLINOIS CONSTITUTION

Along with due process challenges to statutes requiring license suspension for minors, the proportional penalties and double jeopardy clauses are also commonly at issue.[183] Although proportional penalty and double jeopardy claims are often brought in these cases, none have been successful in Illinois.[184] For either challenge to succeed the same initial question of "whether suspension of the defendants' driving privileges is a direct action by the government to inflict punishment?" must be answered in the affirmative.[185] In each case where these claims have been brought, the aforementioned question is where the claims have failed, because traditionally in Illinois license suspension has been seen "as being remedial and nonpunitive," therefore it has not been classified as a government action aimed at inflicting punishment.[186]

The first case to reach an appellate court in Illinois where a propor-

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179. *See id.* (Freeman, J., dissenting).

180. The concurrence and dissent agreed that the lead opinion left *Lindner* "meaningless," and that without overturning *Lindner* the statute is unconstitutional. The only difference of opinion was whether or not *stare decisis* requires that *Lindner* not be overturned. *See supra* notes 167-69 and accompanying text.

181. *See supra* Part IV.A.

182. *See* People v. Lindner, 535 N.E.2d 829, 833 (Ill. 1989) ("Because a vehicle was not involved in any way in the commission of the offenses for which defendant was convicted, the revocation of his license bears no relationship, much less a reasonable one, to the public interest we have identified.").

183. *See, e.g.*, Freed v. Ryan, 704 N.E.2d 746, 748 (Ill. App. Ct. 1998).

184. *See, e.g.*, People v. Boeckmann, 932 N.E.2d 998, 1007 (Ill. 2010).

185. *Id.* at 1007; *Freed*, 704 N.E.2d at 748 (explaining that the initial question for both clauses is the same).

186. People v. Lavariega, 676 N.E.2d 643, 645 (Ill. 1997).

tional penalty and double jeopardy claim was brought in regards to a minor using false identification was *Freed v. Ryan*.[187] In *Freed v. Ryan*, the court cited *Lindner* and quickly dismissed the claims because in *Lindner* it was determined that "summary suspension of driving privileges before a trial on the merits is not punishment."[188] Since *Freed v. Ryan*, cases in Illinois dealing with license suspension for minors using false identification and consumption of alcohol, including most recently *Boeckmann*, have cited the proposition from *Lindner* that summary suspension is not considered punishment without any further inquiry.[189] In *Lindner*, the court cited two cases in coming to the conclusion that summary suspension is not considered punishment.[190] Both of these cases deal with summary suspension after the arrest of an adult for driving while under the influence of alcohol.[191] Each of the cases cited in *Lindner* found summary suspension not to be considered punishment also by citing prior driving while under the influence cases that involve adult offenders.[192] Common sense dictates that the legislature had protection of the public in mind, not punishment, when dealing with summary license suspension for people suspected of driving while under the influence of alcohol.[193] These offenders have committed an offense with a vehicle on a public roadway that puts the safety of themselves and others in danger, and thereby relates to highway safety.[194] On the other hand, the minor offenders have committed no crime that involves a vehicle or has put those on roadways in danger, therefore the relation to highway safety or the remedial and non-punitive purpose is unfounded.[195] This lacking relationship should be enough for a court in Illinois to at least entertain a discussion on the initial question for dealing with proportional penalty and double

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187. *See Freed*, 704 N.E.2d at 748.

188. *Id.*

189. *See Boeckmann*, 932 N.E.2d at 1007.

190. People v. Lindner, 535 N.E.2d 829, 833 (Ill. 1989) (citing Illinois v. Esposito, 521 N.E.2d 873, 877 (Ill. 1988); Koss v. Slater, 507 N.E.2d 826, 829 (Ill. 1987)).

191. *See Esposito*, 521 N.E.2d at 875; *Koss*, 507 N.E.2d at 826.

192. *See Esposito*, 521 N.E.2d at 877 (citing People v. Adams, 471 N.E.2d 575, 577 (Ill. 1984)); *Koss*, 507 N.E.2d at 829 (citing People v. Shaffer, 481 N.E.2d 61, 62 (Ill. App. Ct. 1985)).

193. *See Esposito*, 521 N.E.2d at 877 ("[T]he statutory summary suspension procedure [was] intended to protect the public, not to punish the licensee.").

194. *See id.*

195. *See Boeckmann*, 932 N.E.2d at 1010-11 (Garman, J., concurring). When describing the offense committed by the defendants, Justice Garman wrote:

> [It] is not tied to an offense involving the use of a vehicle, or that individuals who commit this have not demonstrated that they are unfit to safely operate a vehicle, or that such persons have not threatened the safety of others or abused the privilege of driving by doing so illegally.

Id.

jeopardy claims instead of just citing *Lindner* and writing it off.[196]

Persuasive authority from other states also suggests that courts in Illinois need to more thoroughly analyze whether license suspension for minors who violate alcohol related statutes with no vehicle involvement should be considered punishment.[197] Alaska, Oregon, Pennsylvania, and Wyoming have all held that statutes suspending the licenses of minors for alcohol related offenses not involving vehicles are considered punishment.[198] While the courts in Oregon, Pennsylvania, and Wyoming assume suspension is punishment and immediately move onto the next steps of the analysis,[199] the court in Alaska discusses why license suspension in these situations should be considered punishment.[200] The court focuses on the loose connection between the minor's offense and its relation to highway safety.[201] The court admits these teens may be included in some statistical class of more dangerous drivers, but states that their offense "does not necessarily, or even probably, reflect on the arrested minor's fitness to drive."[202] With the conduct being so far removed from the remedial purpose of highway safety, the court concludes that punishment is the true purpose behind the law.[203] These cases address statutes that are very similar to the law at issue in *Boeckmann*; so much so that the cases out of Alaska and Pennsylvania are cited as persuasive authority in the lead opinion justices' decision to uphold the law on due process grounds.[204] Although these two cases go into the analysis of whether suspension is considered punishment and find that it is, the court in *Boeckmann* then fails to address these cases in its shorthanded discussion, which classifies license suspension as non-punitive.[205]

Another tool that can be helpful in determining whether license suspension for these minor offenders was intended to be punishment is to look through the legislative history of the statute.[206] The transcripts from the

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196. *See id.*

197. *See supra* Part II.C.

198. *See supra* note 46.

199. *See* State v. Day, 733 P.2d 937, 939 (Or. Ct. App. 1987); Commonwealth v. Strunk, 582 A.2d 1326, 1330-32 (Pa. Super. Ct. 1990); Johnson v. Hearing Exam'rs Office, 838 P.2d 158, 177-80 (Wyo. 1992).

200. *See* State v. Neidermeyer, 14 P.3d 264, 268-72 (Ala. 2000).

201. *See id.* at 270 ("[T]his roundabout connection is not the direct and necessary link that must exist before an administrative revocation will be considered non-punitive.").

202. *Id.*

203. *Id.* at 271 ("[T]he statute imposes a harsh, mandatory penalty for misconduct that has no necessary or close relation to bad driving, its sanction will naturally be seen not as a remedial measure addressing traffic safety, but as punishment . . . .").

204. *See* People v. Boeckmann, 932 N.E.2d 998, 1004 (Ill. 2010).

205. *See id.* at 1007.

206. *See id.* at 1013-14 (Garman, J., concurring).

Illinois State Senate on this statute show little discourse, with Senator Holmes having the only comments, concluding with "[b]asically, this bill just strengthens the fight on underage drinking."[207] In the Illinois House of Representatives there was more discussion on the bill, but there is no clear evidence of whether punishment or highway safety was intended as the purpose.[208] Nonetheless, the discussion in the House of Representatives may be important if a court in the future is dealing with this question of whether punishment was the goal of the state.[209] In the *Boeckmann* concurrence, the court makes a faulty assumption that would lead a reader to believe that Representative Tom Cross was implying that the statute would lead to less drunken driving by teens.[210] The court cites a portion of the transcript from the House of Representatives where the legislator is speaking about a car crash that killed five teens.[211] The concurring justice assumes that the Representative was implying a person under the age of twenty-one was driving the vehicle who would have had their license suspended if this statute had been in place.[212] This was not the case though; the driver of the one vehicle accident, of which the five teens were passengers, was a twenty-three-year-old woman who was driving under the influence of alcohol.[213] Thus, the assumption made by the court in *Boeckmann* should not be used in the future when analyzing whether this statute implicated

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207. State of Illinois, Senate Transcript, 95th Gen. Ass., Reg. Sess., May 5, 2007, at 29-30, *available at* http://ilga.gov/senate/transcripts/strans95/09500042.pdf.

208. *See* State of Illinois, House Transcript, 95th Gen. Ass., Reg. Sess., April 27, 2007, at 22-28, *available at* http://ilga.gov/house/transcripts/htrans95/09500044.pdf.

209. *See infra* notes 209-11 and accompanying text.

210. *See Boeckmann*, 932 N.E.2d at 1014 (Garman, J., concurring).

211. *Id.* at 1013. Representative Cross stated:

> This is a bill that deals with drinking by teenagers, specifically minors. As we all know, the law says if your under 21 you cannot drink in the State of Illinois. This bill provides that in the event of a court supervision, which I think is a good concept . . . that you would lose your driver's license for a period of three (3) months. That has not been the case when someone receives court supervision. We had a rather tragic incident in Oswego, a couple of months ago, where five (5) young children lost their lives. Alcohol was involved. This is an attempt to address that issue and it has unfortunately been a problem around the state.

State of Illinois, House Transcript, 95th Gen. Ass., Reg. Sess., April 27, 2007, at 21-22, *available at* http://ilga.gov/house/transcripts/htrans95/09500044.pdf)

212. *Boeckmann*, 932 N.E.2d at 1013 (Garman, J., concurring) ("Representative Cross did not specifically state that the driver who caused the accident was a teenager who was then under court supervision for a violation of section 6-20 of the Liquor Control Act, although this fact seems to be implied by his remarks.").

213. *Illinois Woman Sentenced to Fifteen Years in DUI Crash*, DUILAWYER.COM, http://www.duiattorney.com/news/7367-illinois-woman-sentenced-to-fifteen-years-in-dui-crash (last visited January 7, 2010).

punishment or a remedial purpose.[214] Although, no clear purpose is found through the legislative history the statement in the Senate claiming the bill "strengthens the fight on underage drinking" would seem to implicate punishment and not highway safety.[215]

For the reasons stated above, the Supreme Court of Illinois should more prudently analyze whether the purpose behind license suspension for these minor offenders is rooted in highway safety or punishment.[216] The court's prior decisions on the issue gloss over the question, citing precedent that deals with offenses committed while in a vehicle, and are therefore not analogous.[217] Also, courts in a number of other states have come to the conclusion that license suspension in these situations should be considered punitive, as the remedial purpose, if at all evident, is too far removed from the offense.[218] Finally, the court has misinterpreted the legislative history of the statute, which also may have played a role in the decision to find a remedial purpose.[219] Once the court gets past this initial question that has led to the wrongful dismissal of so many claims, it can further analyze whether these statutes are in violation of the Double Jeopardy or the Proportional Penalties Clauses of the Illinois Constitution.

VI. CONCLUSION

The court system of Illinois has misapplied substantive due process analysis when statutes requiring license suspension or revocation for crimes not involving vehicles have been at issue.[220] This misapplication has also led the courts to not properly analyze proportional penalties and double jeopardy claims when brought by minors.[221] The result of the due process analysis error can be found in the contradictory holdings that license revocation for certain controlled substance and sex offenses is unconstitutional, while suspending the licenses of minors convicted of possessing fraudulent identification or consuming alcohol has been held constitutional.[222] The ideal resolution to this contradiction would be for the judiciary to reverse its decision that license revocation for sex and controlled substance offenders violates due process.[223] On the other hand, if the court will not reverse its

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214. *See supra* notes 210-11 and accompanying text.
215. *See* State of Illinois, Senate Transcript, 95th Gen. Ass., Reg. Sess., May 5, 2007, at 29-30, *available at* http://ilga.gov/senate/transcripts/strans95/09500042.pdf.
216. *See supra* Part V.A.
217. *See supra* notes 187-90 and accompanying text.
218. *See supra* notes 195-201 and accompanying text.
219. *See supra* notes 207-11 and accompanying text.
220. *See supra* Part IV.A.
221. *See supra* Part V.
222. *See supra* notes 1-2.
223. *See supra* Part IV.A.

decision in regards to the sex and controlled substance offenses, it should follow precedent and find the law suspending minors' driver's licenses unconstitutional.[224] Either option would better serve the citizens of Illinois as the injustice of an unequal application of the due process of law would be ended.

With the Illinois Supreme Court currently holding that license suspension for minors to be constitutional, offenders have frequently challenged the law through the Double Jeopardy and the Proportionate Penalties Clauses.[225] The court has also erred in dismissing these claims without ever properly inquiring as to whether license suspension for these minors should be considered punishment.[226] Looking to the future, the courts of Illinois need to provide a more equal standard of due process review when dealing with statutes that suspend or revoke a driver's license when no vehicle is involved in the crime. The court should also provide a more probing inquiry into the purposes behind the decision to suspend the licenses of minors convicted of alcohol related offenses. These steps will help provide the citizens of Illinois with the appropriate protections established in the State's Constitution.

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224. *See supra* Part IV.B.
225. *See supra* Part V.A.
226. *See supra* Part V.A.

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