

2026 IL 131382

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

(Docket No. 131382)

THE PEOPLE OF THE STATE OF ILLINOIS, Appellant, v.
GERMAN CRUZ AGUILAR, Appellee.

Opinion filed September 24, 2026.

JUSTICE OVERSTREET delivered the judgment of the court, with opinion.

Chief Justice Neville and Justices Holder White, Cunningham, Rochford, O'Brien, and Tailor concurred in the judgment and opinion.

OPINION

¶ 1 The State filed a two-count information, charging defendant, German Cruz Aguilar, with aggravated driving under the influence of alcohol (DUI), alleging that he drove while under the influence of alcohol while he “did not possess a driver’s license.” 625 ILCS 5/11-501(d)(1)(H) (West 2020); *id.* § 11-501(a)(1), (2) (“[a] person shall not drive *** any vehicle” with a blood alcohol concentration of 0.08

or more or while under the influence of alcohol); *id.* § 11-501(d)(1)(H) (simple DUI under section 11-501(a) is aggravated if the person “did not possess a driver’s license”). The circuit court granted defendant’s motion to dismiss the information for failing to state an offense (725 ILCS 5/114-1(a)(8) (West 2020)) but granted the State leave to file additional counts with specificity. The State subsequently filed counts III and IV, charging defendant with aggravated DUI, alleging that he drove while under the influence of alcohol while he “did not possess a driver’s license, in that [his] license, while not expired, was suspended pursuant to a financial responsibility insurance suspension.”¹ See 625 ILCS 5/11-501(a)(1), (2), (d)(1)(H) (West 2020). Defendant again filed a motion to dismiss the information on the basis that the charge does not state an offense. 725 ILCS 5/114-1(a)(8) (West 2020). The circuit court entered an order dismissing counts III and IV with prejudice.

¶ 2 The appellate court affirmed, agreeing with the reasoning in the unpublished decision of *People v. Hartema*, 2019 IL App (4th) 170021-U, and finding that the State’s argument relied on judicial *dicta* in *People v. Rosenbalm*, 2011 IL App (2d) 100243, that conflicts with the plain language of section 11-501(d)(1)(H) of the Illinois Vehicle Code (625 ILCS 5/11-501(d)(1)(H) (West 2020)) and renders superfluous section 11-501(d)(1)(G) of the Vehicle Code (*id.* § 11-501(d)(1)(G)) (DUI under section 11-501(a) is aggravated if driving privileges were suspended for a violation of subsection (a), section 11-501.1, paragraph (b) of section 11-401, or for reckless homicide). 2024 IL App (5th) 220651, ¶¶ 1, 22, 24. For the following reasons, we affirm the appellate court’s judgment and modify the circuit court’s judgment to reflect that the dismissal is without prejudice.

¹“Financial Responsibility Insurance (SR-22) monitors the insurance of problem drivers and authorizes the Secretary of State’s office to suspend [the driver’s license] upon cancellation or expiration.” Financial Responsibility (SR-22) Insurance, Driver Services, Off. of Ill. Sec’y of State, <https://www.ilsos.gov/departments/drivers/drivers-license/sr-22-uninsured-crashes/finressr22.html> (last visited Nov. 25, 2024) [<https://perma.cc/CK2P-4GCU>]. It is “required in Illinois for individuals with safety responsibility suspensions, unsatisfied judgment suspensions, revocations, mandatory insurance supervisions and individuals who receive three or more convictions for mandatory insurance violations.” *Id.*

¶ 3

I. BACKGROUND

¶ 4

A. Charges and Circuit Court Judgment

¶ 5

On December 21, 2020, defendant's driver's license was suspended because he failed to comply with the financial responsibility (SR-22) insurance requirement of the Vehicle Code. See 625 ILCS 5/7-211(b) (West 2020). On April 30, 2021, while his license was suspended, defendant allegedly drove while under the influence of alcohol. On June 10, 2021, the State filed a two-count information against defendant. Count I alleged that on April 30, 2021, defendant drove a motor vehicle at a time when the alcohol concentration in his blood or breath was 0.08 or more, while he "did not possess a driver's license," in violation of section 11-501(a)(1) and (d)(1)(H) of the Vehicle Code. *Id.* § 11-501(a)(1), (d)(1)(H) (West 2020). Count II alleged that on April 30, 2021, defendant drove a motor vehicle at a time when he was under the influence of alcohol while he "did not possess a driver's license," in violation of section 11-501(a)(2) and (d)(1)(H) of the Vehicle Code. *Id.* § 11-501(a)(2), (d)(1)(H).

¶ 6

On May 31, 2022, defendant filed a motion to dismiss on the basis that the information did not state an offense. 725 ILCS 5/114-1(a)(8) (West 2020). Defendant asserted that on April 30, 2021, he was driving with a license that was suspended due to his failure to comply with an SR-22 insurance requirement. He argued that the aggravated DUI charges should be dismissed because, in two recent Champaign County cases, the circuit court concluded that aggravated DUI charges under subsection (H) of section 11-501(d)(1) of the Vehicle Code (625 ILCS 5/11-501(d)(1)(H) (West 2020)) could not be based solely on a driver's license suspension resulting from insurance-related issues.

¶ 7

In both Champaign County cases, the circuit court relied on *Hartema*, 2019 IL App (4th) 170021-U (a 2019 unpublished decision that addressed a statutory construction issue involving subsections (G) and (H) of section 11-501(d)(1) of the Vehicle Code). Defendant argued that, under *Hartema*, there was no basis for the aggravated DUI charges under subsection (H). 625 ILCS 5/11-501(d)(1)(H) (West 2020).

¶ 8

On July 5, 2022, the State filed a response, arguing that counts I and II were valid because defendant did not "possess" a driver's license on April 30, 2021. The

State cited *Rosenbalm*, 2011 IL App (2d) 100243, ¶ 3, in which the defendant was charged with aggravated DUI because he did not possess a driver's license, in that he was driving under the influence while his driver's license was expired. The State relied on *Rosenbalm*'s statement that it is the permission to drive—not the physical driver's license card—that an individual must possess to legally drive in Illinois. *Id.* ¶ 10. According to the State, defendant did not “possess” a driver's license because his license was suspended on the date of the offense.

¶ 9 On August 16, 2022, the circuit court granted defendant's motion to dismiss counts I and II without prejudice and granted the State leave to file additional counts with specificity to prove that “defendant did not possess a driver's license.” The same date, the State filed counts III and IV, repeating the charges in counts I and II but further alleging that defendant did not possess a driver's license because, although his license was not expired, it was suspended due to a financial responsibility insurance suspension, in violation of section 11-501(a)(1), (a)(2), and (d)(1)(H) of the Vehicle Code. 625 ILCS 5/11-501(a)(1), (2), (d)(1)(H) (West 2020).

¶ 10 On September 15, 2022, defendant filed a motion to dismiss counts III and IV for failing to state an offense (725 ILCS 5/114-1(a)(8) (West 2020)), again citing the unpublished decision in *Hartema* and maintaining that subsection (H) does not support a felony DUI charge based on an unexpired driver's license that is suspended because of an insurance violation. The State adopted the arguments from its earlier response to the motion to dismiss counts I and II.

¶ 11 The circuit court entered a written order on September 20, 2022, noting the parties stipulated that defendant “possessed” a driver's license to the extent that he had obtained the license through proper procedures and it was not expired on the date of the offense. The parties further stipulated that defendant's right to “use” the driver's license was suspended on that date because of the SR-22 violation. The circuit court construed subsection (H) together with subsection (G), which enumerates the offenses and corresponding suspensions that elevate a simple DUI from a Class A misdemeanor to a Class 4 felony. See 625 ILCS 5/11-501(d)(1)(G), (2)(A) (West 2020). The circuit court observed that suspensions resulting from SR-22 insurance violations are not included in subsection (G).

¶ 12 The circuit court therefore concluded that the plain language of subsection (H) does not elevate a Class A misdemeanor DUI to a Class 4 felony when defendant's driver's license was not expired but suspended because of the SR-22 violation. The circuit court determined that the State relied on *dicta* from *Rosenbalm*, 2011 IL App (2d) 100243, ¶ 10, concerning what it means to "possess" a driver's license and agreed with the reasoning in the unpublished decision in *Hartema*, 2019 IL App (4th) 170021-U. The circuit court dismissed counts III and IV with prejudice.

¶ 13 B. Appellate Court Judgment

¶ 14 The appellate court considered whether to follow *Rosenbalm*'s holding that a driver with a suspended, revoked, or expired license does not "possess" a driver's license for purposes of subsection (H). 2024 IL App (5th) 220651, ¶¶ 15-16. The appellate court concluded that *Rosenbalm*'s interpretation conflicted with the plain language of subsection (H) when read together with subsection (G). *Id.* ¶¶ 17, 22. It further concluded that *Hartema*, although unpublished, correctly construed subsections (G) and (H) and that subsection (H) does not apply to drivers whose licenses are suspended for reasons not identified in subsection (G). *Id.* ¶¶ 20-22. The appellate court found *Rosenbalm*'s holding was judicial *dicta* and erroneous and affirmed the circuit court's judgment. *Id.* ¶ 22.

¶ 15 We allowed the State's petition for leave to appeal, pursuant to Illinois Supreme Court Rule 315(a) (eff. Dec. 7, 2023).

¶ 16 II. ANALYSIS

¶ 17 The State raises two issues on appeal, which we restate as follows: (1) whether the circuit court properly dismissed counts III and IV of the information and (2) whether the circuit court's judgment should be modified to dismiss counts III and IV without prejudice. The dispositive question underlying this appeal is whether subsection (H) (625 ILCS 5/11-501(d)(1)(H) (West 2020)) elevates a DUI from a Class A misdemeanor to a Class 4 felony when the defendant's Illinois driver's license is otherwise valid but is suspended for a financial responsibility (SR-22) insurance violation.

¶ 18 A. Propriety of the Dismissal of Counts III and IV

¶ 19 The first issue is whether the circuit court properly dismissed counts III and IV of the information.

¶ 20 1. Principles of Statutory Interpretation

¶ 21 This issue requires us to interpret provisions of the Vehicle Code. The primary goal of statutory interpretation is to ascertain and give effect to the legislature's intent. *People v. Reed*, 2025 IL 130595, ¶ 25. The best indicator of that intent is the language of the statute, given its plain and ordinary meaning. *Id.* We look at the entire statute, construing words and phrases not in isolation but together with other relevant provisions. *Id.* When we interpret a statute, each word, clause, and sentence is given a reasonable meaning where possible, and no part of the statute may be rendered meaningless or superfluous. *Id.*

¶ 22 We may not “depart from the plain language and meaning of the statute by reading into it exceptions, limitations, or conditions that the legislature did not express.” *People v. Woodard*, 175 Ill. 2d 435, 443 (1997). In construing the statute, we bear in mind the presumption that the legislature did not intend to create absurd, inconvenient, or unjust results. *Reed*, 2025 IL 130595, ¶ 26. Because issues involving statutory interpretation are purely legal questions, we review those issues *de novo*. See *People v. Stapinski*, 2015 IL 118278, ¶ 35.

¶ 23 2. Vehicle Code

¶ 24 We begin with the relevant provisions of the Vehicle Code. Section 11-501(a) sets forth the simple DUI offense, that a person shall not drive a vehicle with a blood alcohol concentration level of 0.08 or more or while under the influence of alcohol. 625 ILCS 5/11-501(a)(1), (2) (West 2020). Section 11-501(c)(1) provides that it is a Class A misdemeanor for a person to violate section 11-501(a). *Id.* § 11-501(c)(1). Subsection (H) elevates a violation of section 11-501(a) from a Class A misdemeanor to a Class 4 felony (*id.* § 11-501(d)(2)(A)) where “the person committed the violation while he or she did not possess a driver’s license or permit or a restricted driving permit or a judicial driving permit or a monitoring device

driving permit” (*id.* § 11-501(d)(1)(H)). Subsection (H) therefore focuses on whether the person possessed one of the specified licenses or permits at the time of the DUI.

¶ 25 Subsection (G) likewise elevates a violation of section 11-501(a) from a Class A misdemeanor to a Class 4 felony (*id.* § 11-501(d)(2)(A)), but only where “the person committed a violation of subsection (a) during a period in which the defendant’s driving privileges are revoked or suspended” (*id.* § 11-501(d)(1)(G)) for specified prior offenses, including a prior DUI offense or similar provision (*id.* § 11-501(a)), refusing or failing chemical testing (*id.* § 11-501.1), leaving the scene of a motor vehicle accident involving personal injury or death (*id.* § 11-401(b)), or reckless homicide (720 ILCS 5/9-3 (West 2020)). See 625 ILCS 5/11-501(d)(1)(G) (West 2020). Thus, subsection (G) expressly identifies offenses resulting in suspension that independently elevate a DUI to an aggravated DUI.

¶ 26 a. Statutory Language

¶ 27 The State argues that defendant was properly charged under subsection (H). According to the State, subsection (H)’s prohibition against driving under the influence without “possessing” a driver’s license encompasses situations in which a defendant’s license is suspended. See *id.* § 11-501(d)(1)(H). The State maintains that the phrase “possess a driver’s license” should be interpreted broadly to mean that a person whose driver’s license is suspended does not “possess a driver’s license.” In support, the State relies on the principle that statutory language should be given “the fullest, rather than the narrowest, possible meaning to which it is susceptible.” *People v. Simpson*, 2015 IL 116512, ¶ 29. We acknowledge that principle but note that this court has also established that “a broad interpretation *** does not allow us to ignore the clear and unambiguous language” of a statute. *Van Dyke v. White*, 2019 IL 121452, ¶ 55.

¶ 28 The State points to the Vehicle Code’s definitions of “driver’s license” as “[a]ny license to operate a motor vehicle issued under the laws of this State” (625 ILCS 5/1-116.1 (West 2020)) and “license to drive” as including both a license or permit and the underlying privilege to operate a motor vehicle, “whether or not such person holds a valid license or permit” (*id.* § 1-138(2)). Based on these definitions and

Illinois case law, the State contends that a driver's license encompasses both the physical license card and the legal privilege to drive.

¶ 29 The State also relies on the Vehicle Code's definition of "suspension" as the temporary withdrawal of a person's license or driving privilege by the Secretary of State. *Id.* § 1-204. Because a suspended driver must surrender the physical license (*id.* § 6-209), the State asserts that a suspended driver possesses neither the physical license nor the legal driving privilege. Thus, the State maintains that defendant did not "possess" a driver's license during the suspension period and therefore committed aggravated DUI under subsection (H) by driving under the influence while his license was suspended.

¶ 30 Defendant responds that the circuit court properly dismissed counts III and IV because the State failed to allege a violation of subsection (H). Defendant maintains that he still "possessed" a driver's license even though his license was suspended for failing to maintain proof of financial responsibility. According to defendant, subsection (H) only applies to individuals who do not possess a driver's license or permit at all, not to those whose licenses are merely suspended, because subsection (H) does not require the license to be "valid."

¶ 31 Defendant further argues that subsection (G) specifically identifies the license suspensions that elevate a simple DUI offense to aggravated DUI. Because his suspension was based on a reason not listed in subsection (G), defendant contends that it cannot support an aggravated DUI charge under either subsection (G) or (H). He also argues that the State's interpretation of subsection (H) would render subsection (G) superfluous. We agree.

¶ 32 As noted, subsection (G) identifies particular offenses that elevate a DUI to an aggravated DUI. Other suspensions, including those for SR-22 violations, are excluded from that list. The State's interpretation would nevertheless make subsection (H) applicable to every license suspension, including suspensions not listed in subsection (G). Under that reading, subsection (G) would have no independent meaning. See *Reed*, 2025 IL 130595, ¶ 25 (each word, clause, and sentence of a statute is given a reasonable meaning, and no part may be rendered meaningless or superfluous). The legislature would not have specified suspension-based offenses in subsection (G) that elevate a misdemeanor DUI to a felony if it

intended, in the very next subsection, for every suspension to do so. Accordingly, the State’s reading renders subsection (G) superfluous.

¶ 33 The State nevertheless argues that the appellate court should have given effect to the plain language of subsection (H) even if doing so renders subsection (G) superfluous. According to the State, the canon against surplusage is an interpretive guide rather than a mandatory rule and should not be employed to adopt an unnatural reading of otherwise clear statutory language. See *Chickasaw Nation v. United States*, 534 U.S. 84, 94 (2001); *Stanley v. City of Sanford*, 606 U.S. 46, 56 (2025). The State further relies on Justice Antonin Scalia and Bryan Garner’s observation that legislatures sometimes draft redundantly and that some degree of surplusage is common in statutory enactments. See Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 176-77 (2012).

¶ 34 Notwithstanding the State’s sources concerning the commonality of surplusage, we decline to adopt the State’s reading, as doing so would require us to ignore the clear and unambiguous language of subsection (G). See *Reed*, 2025 IL 130595, ¶¶ 25, 48, 53, 93. A more reasonable reading is that subsection (H) addresses individuals who never acquired one of the licenses or permits identified in that subsection (625 ILCS 5/11-501(d)(1)(H) (West 2020)), while subsection (G) separately addresses individuals whose licenses are suspended because of the specific offenses enumerated in that subsection (*id.* § 11-501(d)(1)(G)). This reading gives effect to both subsection (H) and subsection (G).

¶ 35 The State also contends that limiting subsection (H) to drivers who have never been issued a license produces an absurd result because the Vehicle Code generally treats driving with a suspended or revoked license more seriously than driving without ever having obtained a license. The State compares section 6-303(a)—which provides that it is a Class A misdemeanor if the person is driving with a suspended or revoked license (*id.* § 6-303(a))—with section 6-601(c)—which provides that it is a Class B misdemeanor “if the person has never been issued a driver’s license” (*id.* § 6-601(c)(2)). We find the State’s comparison inapposite for purposes of our analysis.

¶ 36 A court may consider the consequences of competing statutory interpretations, and it should reject an otherwise reasonable interpretation if it would produce absurd results. *People v. Hoffman*, 2025 IL 130344, ¶ 37. However, the State’s

argument assumes that the legislature could not rationally impose a greater DUI penalty on a person who has never been licensed than on a person whose license was suspended or revoked for a reason not listed in subsection (G).

¶ 37 Yet, the legislature may rationally distinguish between a person who has never obtained a license and a person who once possessed a license but later lost his or her driving privilege for a particular reason. The fact that the Vehicle Code treats certain circumstances differently for purposes of other offenses does not render it irrational for the legislature to select one of those circumstances as an aggravating factor for DUI. Indeed, the State's own examples illustrate the flaw in its position (see 625 ILCS 5/6-303(a), 6-601(c) (West 2020)), as the Vehicle Code contains provisions that treat these circumstances differently depending on the offense at issue.

¶ 38 As defendant points out, the Vehicle Code does not uniformly impose greater penalties on every person whose license has been suspended, revoked, expired, or otherwise rendered invalid. For example, section 6-601(c)(1) makes it a Class A misdemeanor to drive after failing to obtain a driver's license or permit after the expiration of a period of revocation. *Id.* § 6-601(c)(1). Yet the same statute treats other forms of unlicensed driving less severely. Section 6-601(c)(2) makes it a Class B misdemeanor both for a person whose previously issued license has been expired for more than one year and for a person who has never been issued a driver's license or permit. *Id.* § 6-601(c)(2). Moreover, section 6-601(c)(3) imposes only a petty offense penalty on a person holding a temporary visitor's driver's license or permit who cannot provide proof of liability insurance. *Id.* § 6-601(c)(3). These provisions demonstrate that the legislature did not adopt a categorical rule that driving after some form of license invalidity is necessarily more serious than driving without ever having been licensed. To the contrary, the statutory scheme assigns different penalties to different circumstances, with some forms of post-license-invalidity carrying the same or a lesser penalty than driving without ever having been issued a license. Thus, the State's comparison does not establish the general legislative intent it proposes.

¶ 39 The State's position also risks conflating two distinct inquiries. It may be sensible policy to punish more severely a person who commits DUI after the State has withdrawn the person's driving privilege, but whether that policy should be

implemented through subsection (H) is a question for the General Assembly, not this court. A court cannot, in the interest of avoiding absurd results, rewrite a statute simply because a broader construction would appear more consistent with a perceived legislative purpose. See *People v. Pullen*, 192 Ill. 2d 36, 42 (2000) (courts cannot, under the guise of statutory interpretation, correct a perceived legislative oversight by rewriting a statute in a manner inconsistent with the plain language).

¶ 40 In short, a disparity in the treatment of different categories of drivers is not an absurdity. The Vehicle Code contains varying penalties for different forms of unlicensed or invalid driving, undermining the State’s premise that the legislature categorically treats loss of a driving privilege more seriously than never having obtained one. Because defendant’s interpretation does not produce an absurd result that the legislature could not have intended (see *Evans v. Cook County State’s Attorney*, 2021 IL 125513, ¶ 35), we reject the State’s argument that subsection (H) must be construed more broadly to avoid an absurd result.

¶ 41 The State also relies on the legislative history of section 11-501 to argue that the General Assembly intended subsection (H) to apply to DUI offenders whose licenses were suspended. We need not consider the legislative history cited by the State because the language and structure of subsections (G) and (H) are unambiguous. See *Reed*, 2025 IL 130595, ¶ 27 (when statutory language resolves the issue, no need to resort to legislative history to alter or supplement that language).

¶ 42 b. *Rosenbalm*

¶ 43 The State further argues that the circuit court erred by declining to follow *Rosenbalm*, 2011 IL App (2d) 100243. According to the State, *Rosenbalm* established that a person whose driver’s license is suspended does not “possess” a driver’s license within the meaning of subsection (H). *Id.* ¶ 10. The State maintains that, because *Rosenbalm* is a published appellate decision, the circuit court was required to follow its interpretation of subsection (H) and therefore erred by relying on *Hartema*, 2019 IL App (4th) 170021-U, an unpublished Rule 23(b) order.

¶ 44 Rule 23(e) allows the citation of unpublished Rule 23(b) orders “for persuasive purposes” only when filed on or after January 1, 2021. Ill. S. Ct. R. 23(e)(1) (eff.

June 3, 2023). Prior to 2021, Rule 23 provided that nonprecedential orders under Rule 23(c) “may not be cited by any party except to support contentions of double jeopardy, *res judicata*, collateral estoppel or law of the case.” Ill. S. Ct. R. 23(e)(1) (eff. Apr. 1, 2018). *Hartema* was filed in 2019, before Rule 23 was amended to allow citation of the above-mentioned qualifying nonprecedential orders for persuasive purposes. See *Hartema*, 2019 IL App (4th) 170021-U. As such, *Hartema* had no persuasive force when the circuit court relied on it. At the time of the circuit court’s order, *Rosenbalm* was the only precedential authority available.

¶ 45 In *Rosenbalm*, the defendant was convicted of aggravated DUI under subsection (H) based on the allegation that he did not “possess” a driver’s license. *Rosenbalm*, 2011 IL App (2d) 100243, ¶ 3. At the time of the offense, the defendant’s driver’s license had expired while being held as bond in another case. *Id.* ¶¶ 3-4. The *Rosenbalm* court determined that the defendant had forfeited review of his argument regarding the application of subsection (H). *Id.* ¶ 7. However, the court chose to set aside the forfeiture and proceeded to address the merits and concluded that a person whose license was revoked, suspended, or expired did not “possess” a driver’s license because the relevant inquiry was whether the person possessed the State’s permission to drive. *Id.* ¶¶ 8-12.

¶ 46 Assuming, *arguendo*, that this portion of *Rosenbalm*’s holding constitutes *dicta*, we note that, although judicial *dicta* may be entitled to substantial weight, it is not binding precedent and is not to be followed if “found to be erroneous.” *Cates v. Cates*, 156 Ill. 2d 76, 80 (1993). Here, we find *Rosenbalm*’s holding erroneous because it conflicts with the statutory distinction between subsections (G) and (H).

¶ 47 As discussed *supra*, subsection (H) applies when a defendant does not “possess” a driver’s license, while subsection (G) expressly addresses specified offenses involving a license that has been suspended or revoked. *Rosenbalm* effectively equated the absence of the permission to drive with the absence of a driver’s license for purposes of subsection (H). *Rosenbalm*, 2011 IL App (2d) 100243, ¶ 10. In doing so, it extended subsection (H) to license suspensions that the legislature addressed separately in subsection (G). *Id.* ¶ 12. Indeed, *Rosenbalm* acknowledged that its interpretation renders subsection (G) superfluous. *Id.* That interpretation cannot be reconciled with the principle that statutes should be construed so that no provision is rendered meaningless or superfluous. See *Reed*,

2025 IL 130595, ¶ 25. The legislature's decision to separately enumerate suspension and revocation-based offenses in subsection (G), while addressing the absence of a driver's license in subsection (H), demonstrates that the two provisions must be given distinct effect.

¶ 48 For these reasons, we reject as erroneous *Rosenbalm*'s holding that a suspension or revocation necessarily means that a defendant does not "possess" a driver's license for purposes of subsection (H). See *Rosenbalm*, 2011 IL App (2d) 100243, ¶ 10. Subsection (H) applies to individuals who have never acquired a driver's license or one of the specified permits. It does not transform every temporary suspension of an otherwise issued, unexpired license into an aggravated DUI. Such an interpretation would render subsection (G)'s specific suspension-based provisions superfluous.

¶ 49 Here, defendant's license was suspended for an SR-22 violation, a circumstance not among those enumerated in subsection (G). Because subsection (H) does not operate as a catchall for suspensions not identified in subsection (G), defendant's suspension did not fall within the scope of subsection (H). The State therefore failed to plead that defendant committed aggravated DUI under subsection (H). Accordingly, the circuit court properly dismissed counts III and IV for failure to state an offense.

¶ 50 The State further argues that *Rosenbalm*'s interpretation of subsection (H) should be followed because the legislature is presumed to act with knowledge of existing judicial constructions. See *People v. Villa*, 2011 IL 110777, ¶ 36. That principle is inapposite here because legislative inaction cannot overcome statutory language that is unambiguous. See *Blount v. Stroud*, 232 Ill. 2d 302, 325 (2009) ("[W]here the meaning of the statute is unambiguous, we will give little weight to the fact that the legislature did not amend the statute after appellate opinions interpreting the same."). We decline to infer that the legislature's post-*Rosenbalm* silence translates into its acquiescence to *Rosenbalm*'s interpretation that would deprive subsection (G) of its independent meaning and render it superfluous.

¶ 51 B. Dismissal Without Prejudice

¶ 52 The remaining issue is whether the circuit court’s judgment should be modified to dismiss counts III and IV without prejudice. The State requests that relief in the alternative, and we agree that modification is required.

¶ 53 A motion to dismiss under section 114-1(a)(8) of the Code of Criminal Procedure (Code) (725 ILCS 5/114-1(a)(8) (West 2020)) challenges the legal sufficiency of the charging instrument, that is, whether the allegations in the indictment, information, or complaint sufficiently state an offense. *People v. Sheehan*, 168 Ill. 2d 298, 303 (1995). It does not challenge the sufficiency of the State’s evidence. *Id.* Thus, a dismissal under section 114-1(a)(8) is based on a defect in the charging instrument rather than an adjudication on the merits of the State’s case.

¶ 54 The consequence of such a dismissal is governed by section 114-1(e) of the Code, which provides that “[d]ismissal of the charge upon the grounds set forth in subsections (a)(4) through (a)(11) of this Section shall not prevent the return of a new indictment or the filing of a new charge.” 725 ILCS 5/114-1(e) (West 2020). Because subsection (a)(8) falls within the scope of section 114-1(e), a dismissal on that ground does not prevent the return of a new indictment or the filing of a new charge. The circuit court therefore could not give its dismissal under subsection (a)(8) a legal effect that section 114-1(e) expressly precludes.

¶ 55 Our authority to modify the judgment is conferred by Illinois Supreme Court Rule 615(b)(1) (eff. Jan. 1, 1967), which provides that, “[o]n appeal,” the reviewing court may “reverse, affirm, or modify the judgment or order from which the appeal is taken.” The rule thus permits a reviewing court to modify the judgment that is properly before it. See *People v. Young*, 124 Ill. 2d 147, 152 (1988) (explaining that Rule 615(b) sets out the authority of reviewing courts in criminal cases). The judgment before us is the circuit court’s dismissal of counts III and IV. We therefore may modify the judgment to conform its legal effect to the governing statute under Rule 615(b)(1). See *id.*; Ill. S. Ct. R. 615(b)(1) (eff. Jan. 1, 1967).

¶ 56 Defendant characterizes the dismissal with prejudice as the product of the State’s desire to obtain appellate review, but the record does not show that the State requested, induced, or agreed to a dismissal with prejudice. Thus, defendant’s

argument conflates the State’s pursuit of appellate review of the statutory issue with an invitation to enter the challenged judgment. The invited error doctrine applies when a party requests the course of action then later challenges that course of action as erroneous on appeal. *People v. Harvey*, 211 Ill. 2d 368, 385 (2004). The record here does not establish that the State did so.

¶ 57 For these reasons, the circuit court’s designation of its section 114-1(a)(8) dismissal as “with prejudice” cannot stand. We affirm the circuit court’s substantive determination that the charging instrument failed to state an aggravated DUI offense under subsection (H) of the Vehicle Code but modify the judgment to provide that the dismissal of counts III and IV is without prejudice. We exercise the authority to do so under Illinois Supreme Court Rule 615(b)(1) (eff. Jan. 1, 1967).

¶ 58 III. CONCLUSION

¶ 59 For the foregoing reasons, we affirm the judgment of the appellate court. We hold that section 11-501(d)(1)(H) of the Vehicle Code does not elevate a DUI to aggravated DUI when a defendant possesses an unexpired Illinois driver’s license but his or her driving privileges are suspended for an SR-22 violation that is not among the suspension-based offenses enumerated in subsection (G) of the Vehicle Code. We overrule *Rosenbalm* to the extent it holds otherwise. Finally, because the charges were dismissed under section 114-1(a)(8) of the Code, we modify the circuit court’s judgment to provide that the dismissal of counts III and IV is without prejudice.

¶ 60 Appellate court judgment affirmed.

¶ 61 Circuit court judgment affirmed as modified.