

will cause it to be a similar offense. Is it a similar offense because the elements of driving impaired on the streets of, let's say, the City of Minden, or whatever, the elements are what determines it to be a similar offense or is it the penalties?

SENATOR LINDSAY: It'd be the elements.

SENATOR KRISTENSEN. Okay, so if the penalties are substantially different, that doesn't matter as long it's over the...if it is under the six months, then it doesn't matter, of imprisonment. In other words, we don't have a problem; if the city ordinance goes over six months, it doesn't matter what they say, they have a jury trial automatically.

SENATOR LINDSAY: Constitutionally, right.

SENATOR KRISTENSEN: Right. And I am just trying to understand the argument, the argument here is that it's one of fairness. That the cities...

SENATOR LINDSAY: The argument here is that there are cases, and including most recently, cases that city ordinances are passed for the sole purpose of getting rid of a jury trial. And that is the only reason the city ordinance is passed.

SENATOR KRISTENSEN: Okay, and I take it that given in this discussion, is that everybody understands that jury trials take longer, are more expensive, but that's not our issue or discussion. The point here is fairness of treatment.

SENATOR LINDSAY: That would be one of the two elements. One is the fairness of treatment, and one is the city circumventing what the state mandate is, or the state policy which had been set.

SENATOR KRISTENSEN: But I understand that cities certainly have the opportunity to choose to make local ordinances as they choose. That's correct as well...

SENATOR LINDSAY: Absolutely.

SENATOR KRISTENSEN: And if they choose as a policy...I guess I want to understand the difference between legally what I am after, because if a city chooses, let's just say that it is