

March 22, 1988

LB 377

on now?

SENATOR McFARLAND: No, I'd like it as the second.

PRESIDENT: All right.

SENATOR McFARLAND: I introduced as the first one a motion to strike Section 3, and then after that I introduced this second amendment.

PRESIDENT: Okay. Do you find that one, Mr. Clerk?

CLERK: Yes, sir.

PRESIDENT: Okay. On your second one then, Senator McFarland.

SENATOR McFARLAND: I'd like to...this is the amendment that would strike the entire Section 3. It is an amendment that would do away with this bargaining and dealing to increase the penalty for a refusal to submit to an intoxilyzer test from the present six-month penalty of suspension to a one-year suspension, and it would leave the present system now in effect. I think Senator Hall mentioned that originally his bill, that there really is no argument about his bill that he introduced, and that was a bill, as I understand it, that said that if you were convicted for a DWI offense, and then if 10 years passed or more, and then you were suddenly charged with DWI again, that it would only be regarded as a first offense because of the lapse of time. I don't think anyone has quarrelled with that at all. The problem is that the Transportation Committee has added an amendment that doesn't make sense, that is inconsistent and is part of another separate bill that they tacked onto it as a way to try, I think, I suspect, to try to get the Defense Attorneys Association to say, well, we'll let you pass your portion of the bill if you'll pass our portion of the bill, we'll cut this deal and then we'll get this thing passed. My amendment would strike the entire part of that second bill because I don't think it is wise policy. I think it is based on a lot of false assumptions. I'd like to reiterate them here for the record, whether anyone is listening or not. The false assumption is that the only way you can get a conviction is if you force the particular driver to take an intoxilyzer exam. And there is nothing farther from the truth. As a matter of fact, State Patrol officers in particular are very skilled at giving tests that will determine whether a person is intoxicated or not, not on the basis of any