

opposition to leaving in this presumption. This is...I guess what I'd like to do is start off the story that comes out of North Platte, Senator Bernard-Stevens' district. This is an actual case that occurred in 1991. A guy gets pulled over for DWI, he is administered a breathalyzer test and Intoxilyzer test and he gets a .17. He says, that can't be, I haven't had enough to drink, I want another test. And in North Platte there is a procedure where you can pay \$35 and get another test taken so he pays the \$35 and gets another test. This time he gets a .14. Says, it's still too high, I haven't had enough to drink. Pays another \$35, gets the test taken again, .10. Says that still doesn't sound right, I've had two drinks and it has been two hours. I want a blood test. Takes a blood test, 0.0. He didn't have alcohol in him. Yet under this bill as written, he is guilty of DWI unless he can go out and prove that he was innocent and that is what this section does. It shifts the burden of proof and let's not be swayed by any of the other stuff, bottom line is, and I've talked to several lawyers on the floor to see if I was missing something and went out in the lobby. What this section does, it shifts the burden of proof to the accused. Think about what we are doing here, think about what we're doing. We are making the innocent person or supposedly innocent person prove that the machinery was dysfunctional, overcome a presumption. We are making the accused prove that the Intoxilyzer does not work accurately. Does anybody know why the Intoxilyzer was invented, by the way? Not for DWIs. It was invented to test pollutants for cities and somebody decided, hey, this might work for alcohol for DWIs. That is not what it was intended for. Intoxilyzer 4011 they found was misreading acetone as alcohol so they came up with a 4011A. They found it was misreading something else so they came up with 4011AS and that is what we're on now. We've just got to keep going and figuring out which things it's misreading as alcohol and in the meantime we're leaving behind a lot of innocent people who are getting convicted of DWI or pleading to it because they can't argue with that test. And what we want to do is strengthen their position, the state's position and give that...so that we've got people who are working with an Intoxilyzer which scientists are split over. The scientists that deal with this machine say it doesn't work right. Sure, you'll find some that say it works correctly. You find an awful lot that say it doesn't work right and it's about half and half. And yet we have already gotten it to the point where this faulty machine is presumed or, excuse me, you get guilt presumed because of this faulty machine. I suggest that we are not