

SENATOR BURROWS: Mr. Chairman, members of the body, this amendment would simply strike the penalty clause where it makes failure to have the device a Class 5 misdemeanor. I think by striking the penalty clause we are committing the Legislature in supporting the idea by passing the bill without a penalty clause to the idea that people should use these protective devices whenever practical, and the situations that come up that make the bill as is impossible to enforce creating a breach of law where on a long trip you could not keep the child in the device, some children would get out, to make that a breach of law with a penalty I think is rather ridiculous. I don't think we should go on record as being against protective devices and this allows us to stamp the endorsement of the Legislature on using protective devices. I think it might be very reasonable to further amend and possibly advise police officers which they could do under this bill, advise parents with the merits of protective devices for small children and go at it in a passive route. I don't think the bill has the votes to advance, in fact I am sure it does not in its existing form. But to put the Legislature on record or come up with other amendments to promote the use of these protective devices, I think still is in order, and I think the issue here is a mandate making a person perform a misdemeanor for doing things that they can't avoid, like letting the child out of the device to go to sleep or within the car, and to make that a misdemeanor is wrong and wrong in writing law in that direction. So I ask the body to pass this amendment to strike the penalty clause. It simply does that and proceed with the bill. Thank you.

SPEAKER MARVEL: Senator Marsh, we are speaking to the Burrows amendment.

SENATOR MARSH: Mr. Speaker and Senator Burrows. Senator Burrows, it is my understanding that if it does not have some clause that would make it unconstitutional and I would recommend that your amendment change it from a Class 5 misdemeanor to an infraction which is one of the things done with other, and could you ask one of the attorneys in the body about that angle? Senator DeCamp, would you be willing to clarify that issue about why it is necessary to have some kind of a penalty to make it constitutional?

SPEAKER MARVEL: Senator DeCamp, do you yield?

SENATOR DeCAMP: Well, I don't think it is necessary to have a penalty to make it constitutional but without a penalty it becomes