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LB 568

compel a police officer to arrest a person for drunk driving? How does your bill accomplish that?

SENATOR HABERMAN: The bill would accomplish it the same way they are doing it now, Senator Chambers. It is up to the police officer.

SENATOR CHAMBERS: So the answer is that you cannot compel them to make the arrest. Isn't that true?

SENATOR HABERMAN: That is true in any crime.

SENATOR CHAMBERS: Now, how can you compel the prosecutor, should the officer make the arrest, to charge the person with drunk driving rather than reckless or negligent driving?

SENATOR HABERMAN: Because the bill doesn't have any plea bargain and you cannot reduce the offense, and it says you have to go back and search the record. If he is arrested for one DWI, you must try him for the second DWI. If he is arrested for the second DWI, you must try him for the third DWI.

SENATOR CHAMBERS: Senator Haberman, I understand that if the person is charged with a given offense, you cannot bargain that charge down to a lesser one. How can your bill compel a prosecutor to make a charge of DWI in the first place? In other words, how can your bill control the prosecutor's discretion?

SENATOR HABERMAN: Well, if the police officer arrests him for DWI and the prosecutor doesn't want to prosecute him for DWI, I guess the only thing we can do is nothing but keep a record of it and get rid of the prosecutor.

SENATOR CHAMBERS: Thank you, Senator Haberman. Members of the Legislature, I can...that's all I wanted to ask you, Senator Haberman. I don't like the amendments, not only Senator Haberman's but none of them. I don't like the bill in any form. The Judiciary Committee bill is a hodgepodge of this and that trying to get something on the floor of the Legislature. It is a reelection year. This is a faddish popular issue throughout the country. It is a bandwagon rolling ready for people to jump on it and it is happening not only here but other places, and you can see the types of inconsistent offerings which show the nature of this issue. Now I think the whole thing is a sham on the public and my two questions to Senator Haberman