

the influence, such as, the use of a breathalyzer test.

SENATOR CONWAY: It is clear if you follow through and you will notice the old language that was crossed out, it referenced down to 39-669 sections of the statutes, and if you go to 39-669, it talks about any duly authorized law enforcement officer, and it does send you into there but it is not a smooth transition, so it is there. It is just kind of cobbled up as you move through the statute books to do that.

SENATOR HANNIBAL: So in reality, the Game and Parks wardens, if you will, if they had breathalyzers on their, in their possession, they could already invoke this situation?

SENATOR CONWAY: That is correct.

SENATOR HANNIBAL: Then I am going to leave for you to answer on your own time why we need this, and I will ask you, instead, a different question, and that question is, we are talking about a motorboat under power in motion, is there any restrictions on the size of the motor?

SENATOR CONWAY: No, there is not.

SENATOR HANNIBAL: So we have a fishing boat, for example, that has a 3 horsepower trolling engine that is maybe a 15 foot wooden or aluminum boat, and you have two fishermen out on a lake, private or public lake, or a private lake or a federal waterway, because it is against the law to drink on state lakes already, but if you are on a private lake or a nonstate lake where alcohol on the premises is legal, you have two fishermen out there and they are trolling around the lake at 1-mile per hour or less fishing and they are going to be camping at that lake site that night, and they aren't going to be in a vehicle, if their blood alcohol content is tested and it tests over .10, they would be guilty of a Class III...Class II misdemeanor, is that correct?

SENATOR CONWAY: That would be correct if, in fact, they were identified as being operating that motorboat while under power, and when tested out, they tested above the .10 level, that is correct.

SENATOR HANNIBAL: Okay, thank you, and, members, I guess that points out, and maybe we already have that situation. Maybe we