

SENATOR KRISTENSEN: Yes.

SENATOR CHAMBERS: Senator Kristensen, were you a county attorney?

SENATOR KRISTENSEN: Yes, I think we can get through all that, sure.

SENATOR CHAMBERS: Okay. Now when we come to a criminal statute, is a criminal statute liberally or strictly construed?

SENATOR KRISTENSEN: Strictly construed by its terms.

SENATOR CHAMBERS: Does that mean that the terminology has to be clear so that a person looking at it will know what conduct is innocent and what conduct is prohibited and, therefore, would carry a punishment?

SENATOR KRISTENSEN: The Supreme Court has told us that in looking at criminal statutes that the actor will have to know specifically what is illegal and what is not and what is prohibited and they will look at what the terms of the statute says in terms of a prohibited act, not just saying that something...if you do something that is wrong, you're guilty of a crime. You have to specifically say what you do wrong.

SENATOR CHAMBERS: Would you turn to page 11 in the bill, and everything prohibited, if it is done, constitutes an element of the crime because it is a criminal statute. An athlete agent shall not knowingly publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisement. What would constitute a fraudulent or misleading advertisement?

SENATOR KRISTENSEN: You would have to show the...it would basically be a fraud issue. You would have to show the intent to make it fraudulent, you'd have to show the fact it was infraudulent itself and you'd have to show that they did something to cause the advertisement to be specifically known to the person. In other words, you'd have to give the advertisement to them, you'd have to show they intended to do that and they had to show they intended it was false, not just that it happened to be false and they gave it to them.