

SENATOR CHAMBERS: Now do you see anything in that Section 17 where it starts an athlete agent shall not knowingly, do you see intent anywhere in that prohibition?

SENATOR KRISTENSEN: I don't see the word there. I suppose the issue is going to be did they, do they mean that intent is implied through that? I'm not really sure and I don't think that that might pass the muster on doing that.

PRESIDENT: One minute.

SENATOR KRISTENSEN: I think, Senator Chambers, that the real issue here is back on page 14 when it says, any person who knowingly and intentionally violates the act. I don't think it strictly limits it just to Section 17. I think it means all the sections and if we were strictly dealing with just Section 17, maybe I could make the good arguments that intent is implied. I don't think you can do that with the rest of it.

SENATOR CHAMBERS: Thank you. And, Senator Kristensen made a good point. I'm not dealing with just Section 17. I had indicated that any violation of any part of the act is an element of the crime, and as such, a court is going to strictly construe this and the language must be clear and precise and there must be better definitions than we have here. One of the key terms is not defined. There is more that needs to be discussed with the bill and I shall do that, but because my time is out I'll just mention one other thing. On page 11, the section we were just discussing, you're going to make it a crime to publish a misleading advertisement. You are impinging on a person's freedom of speech, commercial speech, which people know is allowed to contain puffing and you see here you have a boiler plate bill that is not aimed at correcting a problem. If there is a genuine intent to help these athletes and to regulate that conduct of agents which may be unscrupulous it can be done better than this broadsided approach, so if you go ahead and pass this bill that would be better really than my killing it because then you can see how the Legislature was moved along to take a piece of legislation which they had warnings about and enacted it anyway. And to say that if any portion is unconstitutional, the rest of it remains intact, does not work because what the Supreme Court does is to look at other elements of the bill and if any of those provisions that are unconstitutional constitute it an inducement to pass the bill, then even if those parts are excised the bill falls. There is