

SENATOR BEYER: Yes.

SENATOR HARTNETT: It seems like with this bill, 799, that a kick...it starts operating when a person refuses to take the test, I am stopped for DWI and I refuse to take a test, how often does that occur in actual practice, do you know, Senator Beyer?

SENATOR BEYER: LB 799 kicks it in whether they refuse or whether they take the test and are tested, either way.

SENATOR HARTNETT: Either way?

SENATOR BEYER: Right now, it is an implied consent. If they refuse to take the test, their license is suspended administratively.

SENATOR HARTNETT: So, regardless, if I am stopped for DWI, whether I take the test or not take the test...

SENATOR BEYER: Or take the test or not take the test, and if you take the test and you are over .10, your license will be suspended, which goes back to a little bit of what Senator Bernard-Stevens said. It is...you have broken the law when you are tested over .10.

SENATOR HARTNETT: But what if I am below it, if I have refused to take the test, I get my license...

SENATOR BEYER: You get your license suspended but there is no proof whether you were or were not below,...

SENATOR HARTNETT: I see.

SENATOR BEYER: Under the implied consent. When you take the test, they would not arrest you if you were not over .10, so there would be no arrest. So it is really when I refuse to take the test, then I start losing it, but this bill kicks in the process here?

SENATOR BEYER: Well, that is already in law now.

SENATOR HARTNETT: Is it? Okay.

SENATOR BEYER: Implied consent.