

talk on the issue when we adjourned or recessed, adjourned, I guess, for the day to go to hearings. The issue deals with whether or not the 90-minute time frame that is spelled out in the bill in LB 291, the committee amendments, takes and has the blood test that is done, or the test that is done for purposes of determining blood alcohol content. If that test is done within the 90-minute window in the bill, then it is presumed to be accurate. In other words, the burden shifts from the state or the prosecutor going forward to determine that that test in this case is having to prove that it is valid for the defendant, the individual who is picked up now having to prove that the test is in some way invalid and they have to overcome a presumption, a presumption that is spelled out in the statutes that says this test is valid. Because it was done within a 90-minute window, this test is valid. The example yesterday that was given by Senator Kristensen was one of a defendant attorney and he argued that this was a loophole, if you will, that defendant attorneys were getting through somehow by arguing that the blood test was invalid, that, in other words, at the time the test was taken or the time that I was stopped, the time that I was driving, for example, the blood alcohol level was not over the legal limit and that there was enough time that transpires between the time the individual was stopped with regard to operating the vehicle to the time when the test was taken that the blood alcohol level now exceeded the legal limit. The exaggerated example that Senator Kristensen gave was an individual who was stopped and 30 minutes later the test was taken and they argued that at that they were stopped their blood alcohol level was below .10 and that, at the time of the test, 30 minutes later it now all of a sudden was at .20. That's not going to be the case. That is not what is going to happen here. Any, I think, defense attorney that had an individual who was looking at a .20 is not going to argue the validity of the test when it was taken within 30 minutes of the stop. First of all, you're going to see very few tests that take place within 30 minutes of the stop. It is not going to happen. As Senator Kristensen rightly said in his opening on this issue, that the prosecutors wanted to have three hours so that three hours could transpire from the time of the stop to the taking of the test and that test would still be presumed to be accurate. What happens when the body consumes alcohol? When the body consumes alcohol it is ingested and it goes through the system and it, in a gradual way, is absorbed into the blood. It doesn't happen automatically. You don't go out and have a drink and all of a sudden have one ounce of alcohol in your overall blood level.