

It is absorbed and it is absorbed progressively. One drink builds on a second drink. A second drink builds on a third drink and it compounds. It does not happen at the time that it is taken. An individual could walk into an establishment over lunch. They could have three drinks in the time frame of one hour. They could walk out, take a breathalyzer test or have a blood test done. They would not show necessarily if it was done in a quick enough time frame that there was any blood alcohol level at all; the example that Senator Lindsay gave at the close of the day with regard to the test and the verification methods that are used and the accuracy of it and the whole issue that resolved around the genesis of the breathalyzer. These kinds of things have to be taken into consideration when you're looking at whether or not we're going to turn this whole thing on its head and say that someone is guilty before they have an opportunity to prove their innocence or rather the burden shifts from the state going forward saying that here a crime has been committed and now we have to prove it. Here's how we prove it. To the defendant, the accused now having to prove their innocence and that's exactly what you do through the 90-minute test and the presumption that we put in statute with it. The amendment just strips that out of the bill. The amendment strips that out of the bill. The example that is going to come into play and where this is going to work rather than the example that Senator Kristensen gave, is one where an individual, much like Senator Lindsay talked about, had a couple of drinks, maybe this individual had enough to drink that at some point, when that gradual progression of the alcohol into the blood stream takes place, that they may be over the limit and that's a whole other issue in terms of how do you determine whether you're over the limit. That's why these standards are arbitrary at best and ridiculous at worst, but in this case you have an individual who probably is somewhere around a .09 and .08 and that individual at the time that they are stopped necessarily was not operating a vehicle in an illegal manner. They were under the legal limit, they were operating fine.

SPEAKER BAACK: Time, Senator Hall.

SENATOR HALL: At the time the test was taken, this individual would show up over the legal limit and we're going to have a presumption in place that says that's okay. I would argue that it is ridiculous at best and we should remove it from the bill.

SPEAKER BAACK: Thank you, Senator Hall. Senator Kristensen,