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SENATOR CHAMBERS: So one person can go before the judge and be convicted of motor vehicular homicide while under the influence and get no jail time. The next person can come up and be convicted of refusal to take the test and will get a mandatory seven days in jail.

SENATOR KRISTENSEN: Unless they get probation and then they would not get jail.

SENATOR CHAMBERS: So then mandatory doesn't mean mandatory.

SENATOR WARNER: One minute.

SENATOR KRISTENSEN: Never does it mean that if you're going to receive probation. Correct.

SENATOR CHAMBERS: So then when we talk about these mandatory minimums that are being put into this bill with new provisions it doesn't really mean mandatory.

SENATOR KRISTENSEN: It does, if you don't get probation it does and certainly if you have other reasons for not landing on probation, then the penalty is increased and I think rightfully so.

SENATOR CHAMBERS: But the point I'm making is although it says mandatory, it doesn't really mean that. The judge has discretion not to impose that jail time.

SENATOR KRISTENSEN: Yes, that's true and you can get probation. That's a common phenomenon of criminal law that we've had for...even longer than you've been alive.

SENATOR CHAMBERS: But the fact remains that the person who committed the felony could get off with no jail time and the person who refused to take the test could get seven days in jail.

SENATOR KRISTENSEN: Yes, that's true.

SENATOR CHAMBERS: How do you think people watching that would view the seriousness with which the court views the two offenses?