

SENATOR WITEK: Yeah.

SENATOR LINDSAY: That, you are getting into a fact question that would be decided by the jury or by the trier of facts. You have, in the situation you are talking about where someone intentionally runs someone over and then consumes alcohol, this law is irrelevant to that issue. The first question is, what will you charge them with, and what can you convict them of? If you can prove that's what occurred, you can charge them with, if it is intentionally and premeditated, first degree murder, or if you can't get the premeditation, then with second degree murder. So that is irrelevant to the statutes. The question is, what can you prove in that case?

SENATOR WITEK: So we wouldn't be complicating that at all by adopting this or giving this...I guess, you know not having...not being that familiar with a lot of the penalties that we've already got in place, I'm not wanting to complicate that situation where...I understand people getting into a vehicle drunk and hitting someone. The funeral I just attended, that is what it was. A 14-year-old boy was killed by, I believe, a drunk driver. There was probably not intention at the time when the individual got into the vehicle, although your judgement would be, you would have alcohol in your blood, so you'd have no good judgment. So to me, I guess the intention, what we are trying to prove here is that when...when did they intend to kill somebody and when, you know, I guess there is two different levels of intention here.

SENATOR LINDSAY: Well, actually what Senator Chambers is saying is because of that he is saying there is two different levels of intention, and that's why he's saying motor vehicle homicide while under the influence should not be included.

SPEAKER WITHEM: One minute.

SENATOR LINDSAY: What is, in the case that you are talking about, where the intention is, and that's true. I think most people get into a car and they don't in...when they are driving drunk, don't intend to go out and run someone over. It is usually just the opposite, hoping to avoid police detection.

SENATOR WITEK: But couldn't he just have claimed that?