

sexual assault, first degree; arson, first degree; assault on an officer, first degree; using explosives to commit a felony and conspiracy. Not one of these acts can be committed...not one of these crimes can be committed without specific knowledge and intent. Those are the crimes that are in the original bill to trigger this new language. A group who are very strongly opposed to drunk driving prevailed upon the committee to offer what we're talking about now which is that you would elevate motor vehicular homicide for the purpose of invoking the habitual criminal statute, you would elevate it to the level of all of these intentional acts. When we're talking about the criminal law we should never blur the distinction between that conduct which is intentional and that which is not. The Legislature has defined these offenses. Senator Witek had asked some questions earlier about a person who would, while not under the influence, run over somebody then quickly consume alcohol. Let's say somebody looked far enough ahead to plan that, all of these things are a matter of proof. And when somebody who is versed in the law, such as Senator Matzke or even the uncooperative Senator Abboud who is not here right now, or Senator Lindsay, or anybody else, says that it's a fact question what they're saying is that before you can say that the requirements of the law has been met...have been met, you've got to lay out the particular occurrences or facts that took place in that situation to which you're going to apply the law. And before you can say that this law applies, you have to have sufficient facts to show that the person's conduct fit within the range of that which the law is designed to cover. If the law requires specific intent and knowledge and it can be shown that the person either didn't know what he or she was doing or didn't intend to do it then that particular law which requires both of those, and criminal laws do, the crime has not been committed no matter how angry people may be. So, since motor vehicular homicide is defined as unintentionally causing the death of another, we should not elevate it to the level of an intentional act. I'm saying that if you intend to use this unintentional act as though it were intentional, there would have to be two occurrences of it. There is no way, under any law, that we can say if a person has two automobile accidents in which people die that because there was a second accident and somebody died that accident is going to be converted to manslaughter. That cannot be done. You could have thirty accidents and if each one were found to be an accident, the fact that it happened thirty times over does not make the thirtieth one any more serious than the first one in the eyes of the law.