

SENATOR LINDSAY: Right, the first offense.

SENATOR CHAMBERS: So if I...if I enter the car with the intent to steal it then that's just a misdemeanor, if I get in the car and actually use it.

SENATOR LINDSAY: Maybe, maybe not. It's a question of what is proven.

SENATOR CHAMBERS: My intent is to take the car because I've taken it.

SENATOR LINDSAY: If that's proven then you would be charged with unauthorized entry, under Section 5. If they can...if they can prove that you intended to commit a misdemeanor or felony when you entered the car then that's what you would be charged with.

SENATOR CHAMBERS: Senator Lindsay, I think you've created an unconstitutional scheme here and it will be good if it stays in. I'm going to tell you why...where there was another exact example. It was fleeing to avoid arrest or something like that and on the same facts you could be charged with a felony or a misdemeanor, and the court said, no, you can't you cannot take the same facts and make it either a felony or a misdemeanor. If a person is not authorized to take that car and they take it then they could be charged with unauthorized use of a propelled vehicle which is a misdemeanor. But you're saying they also could be charged with a Class IV felony from the same facts.

SENATOR LINDSAY: If you...if you could...and I think it depends on what you can prove. If you can prove that they intended to commit the crime...to take the car, then I think it is the...under Section 5, under the new section.

SENATOR CHAMBERS: Here's...here's what a per...here's what the offense of unauthorized use of a propelled vehicle is. If you intentionally exert unauthorized control over another's propelled vehicle by operating it without the owner's consent, if you intend to exert that control, in other words, you get in this car and you intend to drive it off,...

SENATOR LINDSAY: Right.