

notice of revocation, in that notice of revocation we talked about putting in the advisement of what their procedural requirements were going to be. And then we added in "and the rights of the arrested person". Because of the State v. Smith decision, the rights of the arrested person leads to this vague, who knows how far those rights may be. So what we're doing is statutorily going back and saying, look, all we're going to advise you of, statutorily as our requirement, is that you only be advised that refusal is a separate crime that you can be charged for, period, end of advisement. To be consistent then I think when you give that notice of revocation, I don't want the court to come back and say, ah, but you've also got to advise them of these rights over here. And to be consistent I took the rights of the arrested person out there as well. And you're just going to give them the procedural rights, so we don't have this vague definition of what those rights may be.

SENATOR WILL: So you think that might be a logical extension of State v. Smith, that they might interpret this phraseology with respect to the revocation notice to extend to the same substantially long list of rights that that case resulted in?

SENATOR KRISTENSEN: Senator Will, that was not...when we passed and added this provision of the law, that was not our intent to have the State v. Smith interpretation. I believe that was a wrong interpretation by the court. I want to make sure that they have very clear that we're not going to give them that language to go and make a similar decision. Our intent is that right now all you're going to advise them of is their consequence...or their...yes, consequence that a separate crime of refusal can be charged. So I want to take that away from the court to make another wrong interpretation of our legislative intent.

SENATOR WILL: Okay, thank you, Senator Kristensen. I just wanted to make it clear that obviously no one on this floor is opposed to...

PRESIDENT ROBAK: One minute.

SENATOR WILL: ...or is in favor of drunken driving and is opposed to having substantial penalties on the books for it. But this is a serious matter. It is criminal law. It's something that I believe 4,000 a people a year, in Douglas