

SPEAKER WITHEM: Senator Kristensen.

SENATOR KRISTENSEN: Thank you, Mr. President and members of the Legislature. I rise to oppose the cumulative trauma amendment for the following reasons. And, Senator Will, you and I are going to have to stop meeting like this because every year we seem to have these fights of where we try to get them structured, at least at some point in time, for the body to understand and have some opportunity to vote. This amendment seems so simple, and yet it is so complex. It's only a couple of words, and it seems to make so much sense until you look at what it does. And this state does recognize injuries such as carpal tunnel syndrome, but we call them repetitive injuries, and that you've got to show that there is at least some identifiable beginning of that injury so we know that it...when it occurred, and you have to also show that it occurred during the scope of your employment or while you were doing those sorts of things. What cumulative trauma is going to do is broaden the definition of that occupational disease, and it really gives people two bites at the apple. You can either try to show it that it occurred as a repetitive, or you can go under cumulative trauma. And the problem with that is, we don't know what cumulative trauma is. So many of these injuries can begin, they might be ordinary wear and tear like Senator Janssen. (Laughter) I'm sorry, Senator Janssen, you were the first person I looked at. I'm sorry. But, seriously, they can also be things that began or are added to, accumulated, if you will, in other occupations. I work in a factory. And on the weekends I go and I moonlight or I have a second job and I'm running shop vacs and it damages my ears. But I go to work and the factory's loud. Is that cumulative trauma caused because I was running my shop vac on the weekends for extra money or was it because of the noise in the factory? The key is, you don't know. And what happens is you're going to get more claims. You're going to broaden that definition of what this trauma is and by more claims, those things are going to be done by settlement because it isn't worth the litigation expense to do that. So if you've got more litigation expenses, the money that normally we get paid in is going to go attorney's fees, cost, times. What happens is it isn't worth the time or effort to do it and so we'll settle them. And so money that ordinarily would go into the system for everyone else will be eaten up with other expenses. We've also found California does have such a