

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 17, 2003 LB 209

SENATOR CHAMBERS: When the decision is handed down.

SENATOR BOURNE: So the court would come down and they would say, whoever it is, Mr. J.Q. Citizen, your license is revoked. They are going to appeal, but there has to be grounds for an appeal. Maybe the breathalyzer was wrong, the blood test was wrong. Is that correct?

SENATOR CHAMBERS: Yes, or that there were procedures not followed correctly and applied during the proceeding.

SENATOR BOURNE: The police officer perhaps didn't pull the individual over with probable cause, things...I mean, there could be any grounds for an appeal. Is that correct?

SENATOR CHAMBERS: That's correct.

SENATOR BOURNE: Okay. And then there is latitude on behalf of the court. The district court may stay the revocation. Is that correct?

SENATOR CHAMBERS: That's the new language, but they cross-refer to another section of statute which lists four or five elements, all of which must be found before the court is allowed to grant a stay. The court has no discretion.

SENATOR BOURNE: That section is 84-917, and what you're saying, if that person appealing meets any...or, excuse me, meets all of those criteria, the district court must grant the stay.

SENATOR CHAMBERS: Well, it says the court may grant a stay.

SENATOR BOURNE: Okay, but I thought that you had said that if they meet those criteria that a stay is given. The stay is still discretionary, even if they meet those criteria found in 84?

SENATOR CHAMBERS: Yes. Yes, because it says the court may...

SENATOR BOURNE: Okay.