

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

May 16, 2003

LB 208

an individual is charged with this aggravated drunk driving statute, that it does not prevent collateral charges from being filed, such as, you know, attempted manslaughter or felony assault, as a result of the DWI, which is done from time to time. Would this, being a nonlawyer, and I understand you're not a lawyer as well, would this in any way prevent additional or collateral charges being filed with a DWI? Would this...is this intended to be all-encompassing, if you will, for a DWI, and an aggravating circumstance would be an accident, and there's bodily injury?

SENATOR KRUSE: It would not, as I understand it, prevent filing a civil case.

SENATOR SYNOWIECKI: Section (b), Senator Kruse, I don't understand. Can you elaborate on what this provision does? And what I'm speaking of is page 33, beginning in line 5, because I truly don't know what this is going after here.

SENATOR KRUSE: Section (b) is for the repeat offender who has been twice the legal limit. That's why the 0.16 is chosen. This person has been convicted of a 0.16 before, and is now measured for a 0.16 again. And it, again, is after the hard-core offender, the person who not only drives impaired, but very impaired.

SENATOR SYNOWIECKI: Now, this would be an entirely new direction. I know it's commonplace, Senator, that the courts will consider BAC as a determining factor in sentencing, but not necessarily in the charge. Is this...this is kind of...

SENATOR CUDABACK: One minute.

SENATOR SYNOWIECKI: ...going in a new direction, isn't it?

SENATOR KRUSE: This is a new direction that has been recommended by national and others.

SENATOR SYNOWIECKI: So what we're doing here now is taking an individual's blood alcohol level as a determining factor in the charge. And does this in any way recognize the variance in the