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LB 209

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Section 5 deals with a matter that Senator Bromm and I had touched on. So I'm going to state what it is, and then Senator Bromm will see why I'm striking that section. If you turn to page 11 of the bill, you will see a big chunk of language in lines 6 through 18 which is being stricken. If Section 5 were eliminated from the green copy of the bill, all of that language would remain untouched, as far as being amended by this bill. Senator Bromm and I have had discussions. And what has bothered me about taking this language out is a set of circumstances where injustice appears to exist. I'm going to read the language that would be stricken. "A person whose operator's license is subject to revocation pursuant to subsection (3) of section 60-6,205"...and if you want to see that subsection, turn to page 4 in the green copy, starting in line 10. Because that is the subsection of 60-6,205 that is being cross-referenced here. But to continue with the reading: this person shall have all proceedings dismissed or his or her operator's license immediately reinstated without payment of the reinstatement fee upon receipt of suitable evidence by the director that (a) within the thirty-day period following the date of arrest the prosecuting attorney responsible for the matter declined to file a complaint alleging this violation, (b) the charge was dismissed, or (c) the defendant, at trial, was found not guilty of violating such section. Then it tells the director to adopt and promulgate rules and regulations to establish standards for what the presentation of suitable evidence of compliance would mean. I would argue that a person against whom no complaint is filed by the prosecutor should not suffer a punishment as though not only charged, but found guilty. If the prosecutor feels there is not enough evidence to file a charge...and that could go to the police officer making an arrest that is actually invalid. So the prosecutor, conserving the court's time, and being interested, as the code of responsibility requires of a lawyer who is a public prosecutor, not just to seek a finding of guilt, but to seek justice in complying with that ethical requirement, if the prosecutor felt there was not sufficient evidence, then no charge would be filed. If that were in fact the case, the person should not be treated as though he or she were guilty.