

May 5, 1981

LB 76

think there is not only a vagueness in this bill but an over abundance of punishment placed upon those charged with a misdemeanor because a heavier sentence would be placed on them than those who committed a felony. I hope that the lawyers will listen to this. LB 76, the blue copy on page 2 has new language in subsection 3 beginning at line 16 and going through line 20. We are talking in this subsection about fleeing to avoid arrest for commission of a misdemeanor and if you flee in such a case the offense of which you are guilty of as a result of that flight, is a misdemeanor. Do you know what part of the punishment is for fleeing in a misdemeanor case? The courts shall as part of the judgement of conviction order such person not to operate any motor vehicle for any purpose for a period of two years. So for a misdemeanor you lose your right to drive for two years. Now go down to the next section, subdivision 4. Operating a motor vehicle to avoid arrest under subsection 2 of this section is a Class IV felony. But the Class IV felony does not carry a two year revocation of your driving privileges. So you are faced with a mandatory sentence in the case of a misdemeanor which is more severe than the punishment for a felony. Now for those of you who may not be aware of what the punishments are aside from those imposed in this bill, I will tell you. The punishment in the misdemeanor subdivision is to change from a Class III misdemeanor to a Class I. A Class III misdemeanor carries a punishment of from no time to three months maximum and up to a \$500 fine but there is no minimum sentence. That would be changed to a Class I misdemeanor which is a zero to one year term of imprisonment and up to a \$1,000 fine. So in neither case of the misdemeanor is there a minimum sentence. You need not be given any time in prison or lockup. You need not be given any fine but a judge can give you up to one year and a \$1,000 fine in the misdemeanor section. On top of that is the mandatory loss of driving privileges for two years. Now in subsection 4 where you will be guilty of a Class IV felony, again, there is no minimum in terms of the imprisonment, from zero to five years or a \$10,000 fine but again you need not be fined anything or given any time in jail and there is no mandatory loss of driving privileges. So let me give you a concrete example. Senator DeCamp flees in a situation to avoid arrest under a law which would be a felony so his fleeing constitutes a felony. I flee or am alleged improperly to have fled to avoid arrest on a misdemeanor so I am charged with a misdemeanor. The judge decides that he will not fine or imprison either one of us but I who am charged with a misdemeanor am required to lose my driving privileges for two years. Senator DeCamp charged with a felony and convicted will not lose any driving privileges. That is where the inequity of the pun-

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