

there for probable cause to arrest. But that becomes a determination for the hearing officer, and I think you'll find it is much like any other, the same as you do with implied consent hearings that are currently being conducted now.

SENATOR LINDSAY: And if we go...let's say my license is suspended because the Intoxilyzer was flawed, I go to the...to the director, I appeal to the director. The director says a preponderance of the evidence doesn't...I don't have a preponderance of the evidence, and I appeal that to district court as provided by the APA. Then what becomes the standard, under APA?

SENATOR KRISTENSEN: I assume that becomes then a de novo appeal.

SENATOR LINDSAY: Do you know...My understanding of the APA is that it's where the director acted in an arbitrary and capricious manner. Is that...

SENATOR KRISTENSEN: My...

SENATOR LINDSAY: I may be off on that.

SENATOR KRISTENSEN: I...I...you might well be off on that but, until I can grab that section of the statute, I would disagree with that. But...

SENATOR LINDSAY: Okay.

SENATOR KRISTENSEN: Because my...

SENATOR LINDSAY: If you could, I'd like to hear what that is.

SENATOR KRISTENSEN: ...what (inaudible) my de novo review of that. Yes.

SENATOR LINDSAY: Okay. And is Senator Beyer around?

SPEAKER BAACK: Senator Beyer, would you respond, please.

SENATOR LINDSAY: Senator Beyer, you've passed around an article from Traffic Tech that talks about how many lives we can save with the ALR, 347 lives, or something like that.