

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

February 1, 2002

1:10 p.m.

MEMBERS PRESENT

Representative Norman Rokeberg, Chair
Representative Scott Ogan, Vice Chair
Representative Jeannette James
Representative John Coghill
Representative Kevin Meyer
Representative Ethan Berkowitz

MEMBERS ABSENT

Representative Albert Kookesh

COMMITTEE CALENDAR

HOUSE BILL NO. 329

"An Act requiring that a chemical test be administered to determine the presence of alcohol or a controlled substance after the commission of an offense while operating a motor vehicle, aircraft, or watercraft."

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 30

Relating to an amendment to the Constitution of the United States prohibiting desecration of the Flag of the United States.

- MOVED HJR 30 OUT OF COMMITTEE

PREVIOUS ACTION

BILL: HB 329

SHORT TITLE:CHEMICAL TESTS FOR AUTO ACCIDENTS

SPONSOR(S): JUDICIARY BY REQUEST

Jrn-Date	Jrn-Page		Action
01/16/02	1980	(H)	READ THE FIRST TIME - REFERRALS
01/16/02	1980	(H)	JUD, FIN
01/16/02	1980	(H)	REFERRED TO JUDICIARY
02/01/02		(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HJR 30

SHORT TITLE: DESECRATION OF U.S. FLAG

SPONSOR(S): REPRESENTATIVE(S) KOTT

Jrn-Date	Jrn-Page		Action
01/14/02	1947	(H)	READ THE FIRST TIME - REFERRALS
01/14/02	1947	(H)	STA, JUD
01/22/02	2025	(H)	STA RPT 5DP 1NR
01/22/02	2025	(H)	DP: WILSON, STEVENS, JAMES, FATE,
01/22/02	2025	(H)	COGHILL; NR: HAYES
01/22/02	2026	(H)	FN1: ZERO(H.STA/LAA)
01/22/02	2026	(H)	REFERRED TO JUDICIARY
01/22/02	2034	(H)	COSPONSOR(S): COGHILL
01/22/02		(H)	STA AT 8:00 AM CAPITOL 102
01/22/02		(H)	Moved Out of Committee MINUTE(STA)
02/01/02		(H)	JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

HEATHER M. NOBREGA, Staff
to Representative Norman Rokeberg
House Judiciary Standing Committee
Alaska State Legislature
Capitol Building, Room 118
Juneau, Alaska 99801

POSITION STATEMENT: Presented HB 329 on behalf of the House
Judiciary Standing Committee, sponsor.

CINDY CASHEN
Juneau Chapter
Mothers Against Drunk Driving (MADD)
211 4th Street, Suite 102
Juneau, Alaska 99801

POSITION STATEMENT: Testified in support of HB 329.

LARRY HOULE
3224 Cottonwood Street
Anchorage, Alaska 99508

POSITION STATEMENT: Testified in support of the intent of HB
329 but suggested that it did not go far enough.

JULIA P. GRIMES, Lieutenant
Division of Alaska State Troopers
Department of Public Safety (DPS)

5700 East Tudor Road
Anchorage, Alaska 99507

POSITION STATEMENT: During discussion of HB 329, voiced the department's concerns and responded to questions.

MARTI GREESON, Executive Director
Anchorage Chapter
Mothers Against Drunk Driving (MADD)
3600 Arctic Boulevard, Suite 3
Anchorage, Alaska 99503

POSITION STATEMENT: Testified in support of HB 329.

MARK MEW, Deputy Chief
Anchorage Police Department (APD)
Municipality of Anchorage
45015 Bragaw Street
Anchorage, Alaska 99507

POSITION STATEMENT: During discussion of HB 329, provided testimony on behalf of the Anchorage Police Department (APD) and the Alaska Association of Chiefs of Police (AACP).

MIKE FORD, Attorney
Legislative Counsel
Legal and Research Services Division
Legislative Affairs Agency
Terry Miller Building, Room 329
Juneau, Alaska 99801

POSITION STATEMENT: Spoke as the drafter of HB 329 and responded to questions.

ANNE CARPENETI, Assistant Attorney General
Legal Services Section-Juneau
Criminal Division
Department of Law (DOL)
PO Box 110300
Juneau, Alaska 99811-0300

POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 329.

TAMARA COOK, Director
Office of the Director
Legal and Research Services Division
Legislative Affairs Agency
Terry Miller Building, Room 329
Juneau, Alaska 99801

POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 329.

LINDA SYLVESTER, Staff
to Representative Pete Kott
Alaska State Legislature
Capitol Building, Room *
Juneau, Alaska 99801

POSITION STATEMENT: Presented HJR 30 on behalf of the sponsor,
Representative Pete Kott.

JOSEPH CRAIG
American Legion;
and Citizens Flag Alliance
2323 1st Avenue
Ketchikan, Alaska 99901

POSITION STATEMENT: Testified in support of HJR 30.

ACTION NARRATIVE

TAPE 02-7, SIDE A
Number 0001

CHAIR NORMAN ROKEBERG called the House Judiciary Standing Committee meeting to order at 1:10 p.m. Representatives Rokeberg, Ogan, Coghill, Meyer, and Berkowitz were present at the call to order. Representative James arrived as the meeting was in progress.

HB 329 - CHEMICAL TESTS FOR AUTO ACCIDENTS

Number 0052

CHAIR ROKEBERG announced that the first order of business would be HOUSE BILL NO. 329, "An Act requiring that a chemical test be administered to determine the presence of alcohol or a controlled substance after the commission of an offense while operating a motor vehicle, aircraft, or watercraft."

Number 0098

HEATHER M. NOBREGA, Staff to Representative Norman Rokeberg, House Judiciary Standing Committee, Alaska State Legislature, presented HB 329 on behalf of the House Judiciary Standing Committee, sponsor. She explained that the current law says that if a person who was driving a vehicle is under arrest for suspicion of intoxication after being in an accident, then the arresting officer has discretion regarding when a chemical test can be administered. She added that the chemical test could be

administered for either the presence of alcohol or a controlled substance.

MS. NOBREGA relayed that HB 329 would remove the requirement that the arrest be because of suspected intoxication, so that if a person is under arrest for any reason related to the accident, the chemical test would be mandatory. She noted that in members' packets is a proposed committee substitute that would expand what the chemical test would be for; in addition to testing for the presence of alcohol, the test would also be used to determine the presence of any substance that impairs the person's ability to drive. She mentioned that this expansion was requested by several people, one of whom is a police officer, who thought that the term "controlled substances" was too narrow.

Number 0274

REPRESENTATIVES BERKOWITZ, OGAN, and MEYER moved to adopt the proposed committee substitute (CS) for HB 329, version 22-LS1234\C, Ford, 1/25/02, as a work draft. There being no objection, Version C was before the committee.

REPRESENTATIVE OGAN noted that Version C contains the phrase "an accident that causes death or physical injury to another person", but does not specify that the injury be a serious one; thus the test could be mandated even if the accident only resulted in a bump on the head or a sprained finger. He opined that this language is too inclusive. He suggested that the legislation should specify that the injury be a serious one. He then asked if mandating the chemical test bypasses "the search warrant issue," or violates the Fourth Amendment of the U.S. Constitution or the Alaska State Constitution with regard to improper search and seizure

MS. NOBREGA said that according to her understanding, this would be a search incident to an arrest, so there would have to be an arrest first. Under the "search incident to an arrest doctrine," some searches can be performed, so the arresting officer can have the chemical test performed and then get a warrant for the results of that test, she added.

MS. NOBREGA, in response to questions, explained that before the May 2000 Alaska Court of Appeals' decision in Blank v. State, the implied consent statute, AS 28.35.031(g), said in part:

A person who operates ... a motor vehicle ... shall be considered to have given consent to a chemical test ... if the person is involved in a motor vehicle accident that causes death or serious physical injury to another person. The test ... may be administered at the discretion of the law enforcement officer

MS. NOBREGA pointed out that in this subsection, there is no requirement that an arrest take place first. However, the Blank decision, she noted, found subsection (g) to be unconstitutional because, in that case, since there was no arrest and there was no "articulable" suspicion that this person had been drinking, the search was illegal. She indicated that in the Blank case there was no probable cause to test because "it was just too general that every driver be tested." In Blank, she added, it was also decided that, "our Supreme Court requires the formality of an arrest before a search like this can be administered." She noted that the proposed change to AS 28.35.035(a), via HB 329, still stipulates that an arrest take place before the defendant is searched.

Number 0612

REPRESENTATIVE OGAN asked whether a search warrant would still be needed after a person is arrested. He also asked whether being arrested waives a person's rights regarding unreasonable searches and seizures as stated in Article I, Section 14, of the Alaska State Constitution, or the right of privacy as stated in Section 22.

MS. NOBREGA, in response, relayed that in the Blank decision, the court said that while the Fourth Amendment of the U.S. Constitution may not require an arrest before a search is performed, the Alaska State Constitution does require that formality. She noted that according to her recollection, there are two times a search can be conducted: A search can be performed after an arrest, and a search can be performed after a warrant is issued. She added, however, that there are certain searches that are allowed after an arrest that do not require a warrant.

REPRESENTATIVE OGAN asked, "Like ... they can search the person for weapons and immediately secure the area and that kind of thing, but bodily invasions like a ... blood test, ... did they delineate that in the [court] decision?"

MS. NOBREGA replied that the court addressed the issue of "warrantless" searches and when they are allowed; the court said that having the arrest take place first did ensure that the person suspected is protected from any arbitrary denial of the right to privacy. Thus, according to the court with regard to the Blank case, the arrest was really the important requirement before the search was performed. She added that she did not recall the court specifically saying that there must be an arrest and a warrant issued before the search is performed.

REPRESENTATIVE BERKOWITZ said that he wished he could recall more regarding implied consent. He acknowledged that the Blank case clearly involved alcohol, but noted that HB 329 mandates that an intrusive test - drawing blood - be performed even in situations where there is no indication that alcohol or any other substance is involved. He asked whether this is an accurate interpretation of HB 329.

Number 0908

MS. NOBREGA said that is an accurate interpretation of HB 329 but reminded members that a person still has to be arrested as a result of an accident first.

REPRESENTATIVE BERKOWITZ said he suspects that would raise questions regarding the propriety of performing that kind of intrusive search without having a warrant and without having probable cause to support such a search. He posited that according to HB 329, "you could [have] someone [arrested] for an assault and then draw blood, even if there is no indication that alcohol was a factor," which, he added, raises some Fourth Amendment questions.

Number 0997

CINDY CASHEN, Juneau Chapter, Mothers Against Drunk Driving (MADD), said that MADD supports HB 329. She explained that MADD recognizes that it is a privilege to operate a motorized vehicle and is of the opinion that anyone who drives a motor vehicle should be given a chemical test for the purpose of determining the alcohol content of his/her blood in the event of a crash. She added that MADD feels this will assist victims of drunk driving. "When an officer or trooper is able to give a blood alcohol [concentration (BAC) test] stemming from an arrest due to probable cause," she offered, "this will determine whether the incident is an accident or crash; there is a significant difference in these two words where alcohol is concerned." She

noted that the MADD Alaska chapters are of the opinion that HB 329 will provide for better care of victims of drunk drivers, and she urged members to pass it.

Number 1020

LARRY HOULE testified via teleconference and said that while he supports the intent of HB 329, he would also suggest that it does not go far enough. To illustrate this point, he relayed his personal experience:

On August 11th, there was a situation where there was a motor vehicle headed eastbound on O'Malley Road, and the vehicle turned in front of a "People Mover" bus. The passenger in the backseat was ejected from the vehicle and died within 24 hours of the accident, in the hospital. The passenger in the front seat was actually in a coma for 22 days and is now back at school -- these were three teenage kids. The driver was taken to the hospital, admitted to the hospital, a blood sample was taken, but no [toxicology] and no chemical testing was accomplished on the driver of the vehicle. ... The passenger in the backseat of the car, again, died within 24 hours.

There's a situation here where there was no arrest on the scene, in fact, it took over 120 days for the driver to even be cited; the citation was failure to yield to oncoming traffic. What I'm suggesting is that the standard of an arrest is too low for a blood [toxicology] or chemical testing. In a situation where you have a certain level of accident where there was an emergency-room admission, or where there is a death on the scene or in close proximity to the scene, I'm suggesting that there needs to be a consideration for a [toxicology] on the driver. ... I believe strongly in the right to privacy and our Fourth Amendment to the [U.S.] Constitution and Section 22 of the Alaska [State] Constitution, but I also believe strongly in the rights of the dead victims in this particular case.

MR. HOULE:

So, I would encourage the bill to be passed as it's written but I think that we need to look at additional considerations for a different standard - a reasonable

standard - for blood [toxicology] in light of accidents where an arrest is not made at that scene. Like I said, it took 120 days for the citation. What if the arrest had come 120 days after the fact? What happens to the blood sample? What happens ... if there isn't even a blood sample taken? So, I'm not as eloquent as I probably should [be] on this issue but it's [a] very emotional one to me, and I do applaud the chairman and his committee for this effort thus far.

Number 1283

JULIA P. GRIMES, Lieutenant, Division of Alaska State Troopers, Department of Public Safety (DPS), testified via teleconference and said that the DPS agrees with Representative Ogan's point that the language in HB 329 should perhaps be changed to say "serious physical injury", since simply saying "physical injury" would have an inadvertent impact on law enforcement in that it would expand the number of scenarios where this mandated test would be appropriate and could include a situation where there was simply a scratch or a bruise.

CHAIR ROKEBERG remarked that the committee would probably be adopting an amendment to remedy that omission.

LIEUTENANT GRIMES noted that the DPS also has a concern with changing the language from "may" to "shall"; logistically, in remote areas of the state, a person could be placed under arrest for an accident in which someone is hurt or killed, and the ability to actually draw blood or urine is simply not available. The potential is for the four-hour time period to pass before the DPS could get that person to a facility in order to take blood, so even though the DPS's desire would be to get a sample, the department would be in violation of the law. In any ensuing court case, the defense could be raised that there might have been exculpatory evidence in the blood sample that was not drawn.

LIEUTENANT GRIMES mentioned another possible scenario: "Occasionally we have suspect drivers that [are] under arrest for having been in an accident, they're in the hospital but are so combative that the medical personnel, by their policy, will not attempt to draw the blood or urine." Again, this is another scenario in which the DPS would certainly want a sample but cannot obtain it, and thus would be in violation of the law.

REPRESENTATIVE BERKOWITZ asked Lieutenant Grimes whether, from her perspective, the phrase "and that arrest results from an accident" adds anything. "Wouldn't you want to test anyone who's arrested for an offense?" He also noted that last year, the committee adopted the use of the phrase "under the influence" instead of "while intoxicated".

CHAIR ROKEBERG pointed out that the [Senate] has not yet adopted that change.

Number 1453

REPRESENTATIVE BERKOWITZ asked Lieutenant Grimes whether the statute would work for her - and give the DPS more latitude - if it said:

If a person is under arrest for an offense arising out of acts alleged to have been committed while the person was operating a motor vehicle, aircraft, or watercraft under the influence, a chemical test may be administered to determine the amount of alcohol in the person's

LIEUTENANT GRIMES said that she supposed it would. As it is, she noted, the protocol [handed down] from the Department of Law (DOL) to law enforcement involves obtaining blood and urine from anyone involved in an accident where someone is hurt or killed, "and that is certainly something we do every time we can."

REPRESENTATIVE BERKOWITZ asked: "So, you'd do this anyway?"

LIEUTENANT GRIMES replied: "We certainly try to do it. Of course we have scenarios where the suspect is under arrest, and then scenarios where the suspect driver is not under arrest." When the driver is not under arrest, [the troopers] obtain a search warrant for the sample, "but we still get the sample if we can."

REPRESENTATIVE BERKOWITZ asked whether, if law enforcement suspects that the evanescent evidence - the blood alcohol concentration - is going to disappear over time, it would be considered exigent circumstances, which would allow law enforcement to draw blood without a warrant.

LIEUTENANT GRIMES said that is correct, but noted that it is also because current statute states that law enforcement does not need the consent of the person arrested if he/she were

driving and an accident resulted; "we draw the blood because they have no right to refuse it."

REPRESENTATIVE BERKOWITZ: So it's the implied consent.

Number 1637

MARTI GREESON, Executive Director, Anchorage Chapter, Mothers Against Drunk Driving (MADD), testified via teleconference and said that in addition to the testimony given by Ms. Cashen, she wanted to speak on a couple of other issues. On the issue of needing the arrest to have occurred [before the test is administered], she said that because Alaska doesn't have enough [law enforcement] officers that are trained to recognize when someone is under the influence of drugs or other substances, law enforcement may not have enough probable cause to make the arrest until the results of the test are known. She also said that MADD encourages inclusion of testing for drugs, inhalants, and other substances. In conclusion, she said that MADD supports HB 329.

Number 1715

MARK MEW, Deputy Chief, Anchorage Police Department (APD), Municipality of Anchorage, testified via teleconference. He said that in addition to speaking on behalf of the APD, he is also speaking as the secretary for the Alaska Association of Chiefs of Police (AACP). He said that "all of us in law enforcement took a look at [HB 329] and weren't exactly sure what to make of it," and that he is having trouble deciding what problem [HB 329] is attempting to solve. He posited that perhaps it is to allow for tests to be conducted for substances other than alcohol. He noted, however, that as Lieutenant Grimes has indicated, if someone is under arrest for committing a crime and there has been an accident and APD believes the person is intoxicated, APD is going to get a search warrant; "we're going to get the sample, either way."

MR. MEW then posited that perhaps that is not the issue; that perhaps the issue is that the person has been arrested for some crime other than drinking while intoxicated (DWI) [after having] gotten in a wreck. But if that is the case, he asked, what is the need for mandating the chemical test. He added that if law enforcement has the discretion - via "may" - to get the sample and test for other drugs if necessary, "then I guess we're getting someplace" because then law enforcement wouldn't have to collect samples in situations where somebody has a fender bender

and commits a theft of his/her passenger, for example. "But I'm not sure if we're there yet," he noted. By keeping "may", as opposed to "shall", it eases some of law enforcement's concerns, he remarked.

CHAIR ROKEBERG said that although he considers it appropriate to remove "while intoxicated" from current statute, as is proposed in HB 329, the arrest then has to be based on another crime. He also remarked that if a sample has been taken, there is still the issue of whether that information can be revealed in any forthcoming civil action.

Number 1871

MR. MEW said that although it appears to him that everybody wants to get to some resolution and thereby improve current law, he also has the feeling that everyone is attempting to rewrite HB 329 verbally, which leads to confusion about what [the language] will really mean.

CHAIR ROKEBERG remarked that although MADD brought this idea forth and is not happy "with where we're at now," the legislature is struggling with some constitutional issues.

REPRESENTATIVE OGAN said that although there are certain searches that are allowed without probable cause, including obtaining a blood test if someone is intoxicated, generally there has to be probable cause before a chemical test can be performed. He said that by removing "while intoxicated" and mandating that a test be performed on anybody who gets in an accident, he wondered "where we're going on the probable cause issue." He asked Mr. Mew to explain "the procedures [regarding] when you can search and how much you can do before and after an arrest."

MR. MEW noted that the general requirement is for law enforcement to have a warrant, and a warrant requires that probable cause be established before a judge. The law provides several exceptions to that search warrant requirement, however, and one is consent, and another is "plain view"; also there are a variety of exigent circumstances that allow for a search to be performed without a warrant, one of which is imminent destruction of the evidence, and one is "hot pursuit." Consent, he noted, is one of the exceptions that officers use as their first avenue; "you ask a person and if they give you consent to search [his/her] person or ... home or whatever," then it's a legal search. He said that it seems to him that implied consent

is just that: when a person gets a driver's license, he/she is implying that consent is given for searches.

MR. MEW said, "We need probable cause to make the arrest, regardless of the search and seizure issues." So if a person is being arrested for driving while intoxicated or assault or disorderly conduct, law enforcement still has to meet the threshold of probable cause in order for the arrest to take place. According to his understanding of HB 329, he said, law enforcement would have already established probable cause that some crime was committed in connection with the accident that occurred. He noted, however, that if that crime is DWI, law enforcement [already] has procedures for acquiring that evidence, with the exception of [testing for] chemicals other than alcohol.

Number 2077

REPRESENTATIVE BERKOWITZ suggested that perhaps "we ought to be putting something in the implied consent statute, which solely focuses on alcohol." All drivers, he noted, have given implied consent to be tested for alcohol content if lawfully arrested for an offense arising out of acts alleged to have been committed while they were operating or driving a motor vehicle. "And what I'm hearing people say here, is they want to go beyond alcohol and want to be able to test for other substances." He asked whether this was a correct interpretation.

CHAIR ROKEBERG said, "I think so, and I think that's one reason for the committee substitute: ... we wanted to broaden that definition to inhalants and controlled substances." He noted, however, that there is already reference to controlled substances in AS 28.35.035, so perhaps at issue is the constitutional aspect of how implied consent can be applied.

Number 2159

MIKE FORD, Attorney, Legislative Counsel, Legal and Research Services Division, Legislative Affairs Agency, remarked that the issues raised thus far are good ones because this is a very complex area of the law. By deleting the language "while intoxicated", and by broadening it to "any substance that impairs the person's ability to drive", the legislature is fundamentally changing the impact of the provision. He added that he is not certain that "this" would survive a constitutional challenge, although he is doing some research to determine a conclusion on that point.

MR. FORD said typically, the cases that interpret this provision are all about DWI; they are all about people who have evidence of intoxication. "So when you take out that link, and you broaden this to simply an arrest involving a motor vehicle with a death or physical injury of some kind, you do change that process"; although, he added, it may simply be that the exceptions to the rule requiring a warrant for a search are not sufficiently broad enough to encompass the kind of change proposed by HB 329.

REPRESENTATIVE OGAN asked if Mr. Ford's constitutional concerns center around the removal of "while intoxicated".

MR. FORD said yes. [Without that language] when someone is stopped for an accident and then arrested, it could be for something as simple as having a taillight out - something that has nothing to do with being intoxicated - and yet the driver would be tested. He noted, however, that the accident would also involve a death or serious physical injury, so those elements may create justification for the test - a special exception to the rule requiring a warrant before testing. Notwithstanding this possibility, he said, "I am not convinced of that at this point."

CHAIR ROKEBERG posited that because an accident occurred, the arrest wouldn't stem simply from a taillight being out.

MR. FORD clarified that his point in using that example is that the arrest could be for something completely unrelated to intoxication.

CHAIR ROKEBERG explained that the objective is to ensure that regardless of the reason for the arrest, the test is administered if an accident occurred and resulted in the death or serious physical injury of someone.

MR. FORD mentioned that a number of cases "point that out: that the purpose of this is not simply to convict someone, but to exonerate them."

CHAIR ROKEBERG said, "Right."

MR. FORD added: "The fact is that there may be no appearance of intoxication from someone who is impaired."

Number 2335

CHAIR ROKEBERG said that's true; "I think that's exactly the point here: we want to make sure that person has had that chemical test to make sure that that is the case, one way or the other, because many people can conceal their use of intoxicating spirits and/or substances."

MR. FORD said that's correct, and that that's been pointed out by some judges. He added that the evidence may be disappearing while law enforcement is "standing there trying to figure out what to do." He offered that "those all may be good reasons to justify another exception to the warrant requirement."

CHAIR ROKEBERG asked Mr. Ford if he considers the issuance of a citation the equivalent of an arrest.

MR. FORD said no; an arrest is a defined process.

CHAIR ROKEBERG surmised, then, that a speeding citation wouldn't "tripwire this provision."

MR. FORD said that is correct.

REPRESENTATIVE BERKOWITZ asked for an explanation of why [a search/chemical test] is constitutionally permissible under the implied consent statute.

MR. FORD said that [that search/chemical test] is tied to an arrest for driving while intoxicated, which the courts have held is justifiable; a person can be tested, and even though the test is a search, it is justified.

REPRESENTATIVE BERKOWITZ noted that in subsection (b) of the implied consent [law], which allows for a preliminary breath test (PBT), he does not see an arrest requirement. He asked whether there would be any difficulty in extending the implied consent [statute] to include other substances.

MR. FORD said that returns to the question of how broad the search exception can be made. As [HB 329] is currently written, it refers to a substance that impairs as opposed to an alcoholic substance or a controlled substance. "And I think that would be okay," he said, "if you can do this, if you can simply not link it to intoxication; if that survived the challenge, then I don't see any problem with expanding it beyond alcohol or controlled substances."

REPRESENTATIVE BERKOWITZ said: As long as it is focused on substances that could impair.

MR. FORD said, "Right." He indicated that determining that the accident is related to the driving is a consequence of the test.

TAPE 02-7, SIDE B
Number 2457

ANNE CARPENETI, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law (DOL), said that the DOL's position is: "We really agree with MADD's purpose, and I think it is to get the best evidence possible to prosecute DWI cases." She added, however, that the DOL has some serious concerns with HB 329 because [the DOL] is not sure that "it gets them where they want to be or it gets you where you want to be." She noted, for example, that "physical injury" is statutorily defined as "a pain". On the issue of requiring law enforcement to administer a test in all cases, she said it doesn't make a lot of sense because there are a lot of cases in which the tests are not needed and so there is no reason to administer one; it would be expensive and impracticable.

MS. CARPENETI, referring to Ms. Nobrega's statement that HB 329 is in response to the Blank decision, explained that the Blank decision focused on implied consent, whereas HB 329 amends a different statute that really doesn't address implied consent. She noted that the DOL has petitioned the [Alaska] Supreme Court to review the Blank decision, and that petition has been granted, briefed, and argued. Hence, there is another court waiting to look at these same issues. In the Blank case, in which [the defendant] was not arrested for driving while intoxicated and the police went to her home and talked to her, the police testified that there was no reason to take a breath test in that case because the officer didn't have any reason to believe she was impaired. The court held that the implied consent statute - specifically subsection (g) - failed because it didn't require an arrest and because there was no nexus between the arrest and any kind of evidence that alcohol or another substance impaired her driving.

MS. CARPENETI said that although HB 329 has great intentions, when the language says that law enforcement "shall" [administer] a test in every case, whether or not there is any evidence of alcohol or drug abuse, it raises constitutional issues and risks the constitutionality of the statute affected by HB 329, which is what occurred with subsection (g) of the implied consent

statute. She remarked that the DOL would be happy to help try to figure out a better way, but cautioned that in addition to the practical problems with some of the drafting, if the changes proposed by HB 329 go through, "you're going to risk losing this one too."

MS. CARPENETI noted that she also has to echo what the troopers and the police have said: "we get this evidence in most cases." She said that the DOL has been trying to figure out what cases the committee was looking at as the genesis for HB 329, since this evidence is gathered [routinely] in DWI cases, and in other cases such as assault by using a warrant. She surmised that perhaps the changes proposed by HB 329 would apply to cases of reckless driving and leaving the scene of an accident. Certainly an equipment violation wouldn't justify an arrest, she noted.

Number 2300

CHAIR ROKEBERG mentioned that in the case Mr. Houle relayed, the driver turned into the wrong lane.

MS. CARPENETI said that she was not familiar with that case, adding that she was not sure whether someone could be arrested for making an illegal lane change. Returning to the issue of reckless driving, she noted that if someone is arrested for reckless driving and there is any indication of alcohol use, a test could be administered.

CHAIR ROKEBERG reiterated that many people can mask such use.

MS. CARPENETI said unfortunately that is correct, but "our constitution says you can't test in every case unless there is some exception to the warrant requirement or some reason that you can articulate." Again, she said: "I'd be happy to work with you but I don't think this gets you where you want to go in a way that you can assure that it would be upheld if challenged."

REPRESENTATIVE COGHILL, referring to the new language proposed on lines 11 and 12, asked whether the term "impairs the person's ability to drive" is defensible.

MS. CARPENETI said that the use of that term does not concern her.

REPRESENTATIVE COGHILL asked whether antihistamines would be covered under the term "any substance". If so, then that could become an issue too because "it increases the threshold for impaired driving."

MS. CARPENETI agreed; the term "any substance" could include lots of different things, she noted.

REPRESENTATIVE MEYER asked whether it is possible to test for or detect inhalant use, and whether there is a definition of inhalant.

MS. CARPENETI said that she could not answer [those] questions [definitively], but offered that it might be possible to detect some inhalants and/or test for them.

Number 2143

TAMARA COOK, Director, Office of the Director, Legal and Research Services Division, Legislative Affairs Agency, said that although she doesn't really have anything to add [to the discussion], she did find one case from Montana that is very, very recent and does not involve DWI; it's entirely different. [The case] actually involved the arrest of an individual whose hands looked bloody, in conjunction with a crime scene at another location where blood was left. She explained that in this particular case, after the arrest, "they took a sample from the person's hands that were bloody" for the purposes of trying to match that blood [with the blood left] at the crime scene. The court in Montana determined that "that alone was impermissible." She said she found this interesting because the court based its decision on the fact that Montana has an explicit right to privacy in its constitution, as does Alaska.

MS. COOK relayed that the [Montana] court specifically held that whereas the U.S. Constitution has adopted a bright-line rule permitting warrantless searches incident to arrest, such searches are only permissible under the Montana constitution to prevent the arrestee from escaping, from using weapons, or from destroying incriminating evidence. She said:

My suspicion is our court would use pretty similar reasoning. Whether they would think that something like the presence of a substance that dissipates constitutes destroying incriminating evidence -- my hunch is that they wouldn't because of some of the language in the Blank decision. But nonetheless, I

think here's an indication that it's not just Alaska that has concerns with the notion that you can do warrantless searches incident to arrest in all circumstances. So for what it's worth, it's out there; it's brand new - [a] 2001 case.

REPRESENTATIVE OGAN asked: "Has the implied consent issue been litigated to the U.S. Supreme Court, that you are aware of?"

MS. COOK said that this is not an area that she is familiar with.

MS. CARPENETI replied that she did not believe so.

MR. FORD said that the Alaska Supreme Court has looked at the issue, and "it has survived challenge."

CHAIR ROKEBERG asked Ms. Greeson to explain what prompted MADD to bring the concept of HB 329 to the committee.

Number 1984

MS. GREESON said that the initial incident was a crash that occurred down on the Kenai Peninsula:

There were two young women coming toward town - so northbound - and there were, I believe, about five friends who were heading ... to go fishing for the weekend. It was very late, early morning hours, and there was one young woman passenger in the one vehicle heading toward Anchorage and then the passengers in the truck [full] of fisherman [who] were all asleep; ... only the two drivers were awake. We assume they were both awake. And it was raining - it was over the fourth of July - so it [was] raining very, very hard last year. ... The crash occurred on a curved area of the highway, and the young woman driver was killed, so there was only one witness to the crash involved at all: it was the other driver. ... No testing was done [on him]; ... of course there was an autopsy done and a full toxicology report done on the young woman who was killed, but nothing done on the other driver.

So that was the incident that was brought initially to our attention, and then [there is] our concern about [the fact] that we do have some serious problems with drugs and other substances throughout Alaska, and we

have very few officers available who are well-trained in the recognition of any signs that there may be drugs or other substances. ... We felt that this was an important issue: that testing should occur ... when there's serious or critical injury or death resulting from a motor vehicle crash.

MR. HOULE said that he agrees with Ms. Greeson. He pointed out that in his own situation, there was a complete toxicology done on his son but not on the driver. He added that neither he nor his son gave consent for this testing to be done. "So there is a situation here where the probable cause determination is a difficult one for the officers, and maybe we can help them out with a stronger law," he offered.

CHAIR ROKEBERG said that is the problem: without the probable cause, [HB 329] does not appear to be constitutionally sound.

REPRESENTATIVE OGAN noted that basically, regardless of whether there is probable cause to believe that the driver is intoxicated, the legislature would be mandating that a chemical test be administered simply because there is an accident in which someone gets hurt. "Is that a major constitutional hurdle ... in your opinion?"

Number 1788

MS. COOK said: "I think that's right, and I think that's the thrust of what is trying to be achieved with this bill; I think that's ... deliberate.

REPRESENTATIVE OGAN asked: So the fact that the person got in an accident and someone was seriously hurt - that isn't probable cause enough for a chemical test?

MS. COOK said that that is obviously the issue that members are wrestling with. As far as she could tell, she added, there is a fair chance that a court will find that it isn't [probable cause enough].

CHAIR ROKEBERG asked: Even with the arrest? He indicated that he viewed the arrest as grounds for probable cause.

MS. COOK pointed out that the arrest may be for behavior that isn't necessarily joined with the use of alcohol per se; that's the problem with trying to say that the arrest constitutes probable cause.

CHAIR ROKEBERG noted that in certain cases, such as those described, chemical tests were not administered to the surviving drivers even though the results from such testing "could have established the nexus" for additional charges. Tests were only done on the individuals who died but not on the drivers who may have caused the accident.

MS. COOK said she can appreciate members' frustration. She offered that perhaps a solution would be to alter the implied consent statute, as Representative Berkowitz has suggested, so that rather than having a mandatory test, refusal to take a test would result in other consequences, which is what the current implied consent statute does.

CHAIR ROKEBERG remarked that there is a good deal of case law pertaining to the implied consent statute.

Number 1678

REPRESENTATIVE JAMES noted that the arrest does not necessarily mean that there is any probable cause for any kind of "chemical activity," and that it seems to her that unless there is some sort of "activity, or action, or behavior" which indicates that someone is under the influence of something, there is no probable cause for a test regardless of whether there has been an arrest. She pointed out, however, that the language in Version C specifies that the arrest result from an accident, so there is a connection between the arrest and the accident. So it seems to her, she added, that the thing to do, then, would be to ask the driver if he/she would be willing to take a test, and if he/she refuses, charge that person with refusal.

CHAIR ROKEBERG said that since reckless driving is an "arrestable" offense, it could "tripwire the mandated chemical test." He noted that he does have concerns with the issue raised by Lieutenant Grimes regarding the feasibility of mandating the chemical test. He asked Ms. Cook whether that provision could be altered so that "shall" was modified by "where feasible" or something similar. He asked whether that would just weaken "any constitutional test" or whether it would give a "defense counsel" a way to wiggle through.

MS. COOK said:

Well ... as far as that goes, ... I think your problem there probably doesn't get involved in constitutional

issues so much as administrative burden. Basically, if you add "where feasible", you've built in some discretion - some wiggle room; how much - would be the source of argument, I suppose, on case-by-case basis. That alone could become a bone of contention, but it might be that even doing that much would give enforcement personnel a level of comfort that if they could demonstrate a radical enough set of facts, they could avoid having to administer the test - such as the lack of cooperation on the part of the person being tested.

CHAIR ROKEBERG asked of Lieutenant Grimes: "In the rural areas, even if you had a DWI situation ... and no breathalyzer, do you take a blood test now? What if you can't take a blood test? What do you do?"

LIEUTENANT GRIMES explained that the DWI cases that come out of the remote areas are based largely on the observations of the officer, which are all articulated and documented in the report; many times there is no intoximeter reading and those cases go to trial with just the officer's observations. She noted that although most of the officers have portable breath testers, which are also known as PBTs, [the results from] those are not admissible in court. The portable breath testers are simply used to help establish probable cause so that arrests can be made on the scene. She noted that many of the cases that are based solely on the observations of the officers are successfully prosecuted.

Number 1388

CHAIR ROKEBERG announced that he would keep the public hearing open, and that HB 329 would be held over.

CHAIR ROKEBERG called an at-ease from 2:20 p.m. to [2:31] p.m.

HJR 30 - DESECRATION OF U.S. FLAG

Number 1375

CHAIR ROKEBERG announced that the last order of business would be HOUSE JOINT RESOLUTION NO. 30, Relating to an amendment to the Constitution of the United States prohibiting desecration of the Flag of the United States.

Number 1345

LINDA SYLVESTER, Staff to Representative Pete Kott, Alaska State Legislature, sponsor, gave the following presentation on behalf of Representative Kott:

I wanted to first just [read] some of the core elements of the resolution that deals with the constitutional amendment for flag desecration: "WHEREAS certain actions, although arguably related to one person's free expression, nevertheless raise issues concerning public decency, public peace, and the rights of expression and sacred values of others; ... WHEREAS there are symbols of our national soul, such as the Washington Monument, the United States Capitol Building, and memorials to our greatest leaders, that are the property of every American and are therefore worthy of protection from desecration and dishonor; ..."

Continuing on page 2, [line] 18: "WHEREAS the American Flag to this day is a most honorable worthy banner of a nation that is thankful for its strengths and committed to curing its faults and remains the destination of millions of immigrants attracted by the universal power of the American ideal; ..." Page 3, Line 1: "WHEREAS it is only fitting that people everywhere should lend their voices to a forceful call for restoration to the Stars and Stripes of a proper station under law and decency;

BE IT RESOLVED by the Alaska State Legislature that the Congress of the United States is requested to pass House Joint Resolution 36 or Senate Joint Resolution 7, or comparable legislation, and present to the legislatures of the several states an amendment to the Constitution of the United States that would specifically provide the Congress power to prohibit the physical desecration of the Flag of the United States;"

Number 1270

MS. SYLVESTER continued:

Until being overturned by a 1989 decision of the [United States] Supreme Court, on a five to four vote, the American flag was consistently afforded

protections under state law. These laws survived five various challenges in the Supreme Court until finally falling in Texas v. Johnson. Writing for the majority, Justice Brennan held that Johnson's conviction for flag desecration, under a Texas statute, was inconsistent with the First Amendment; Johnson could not be punished for burning the flag as a part of a public demonstration. The law as interpreted by the United States Supreme Court, we believe, no longer accords to our nation's precious banner the reverence and respect befitting the symbol of our noble experiment of a nation state, which President Lincoln called, "our last, best hope of mankind."

This resolution supports Congressional [House Joint Resolution] 36 and Senate Joint Resolution 7. Both resolutions ask Congress to send an amendment to the states for ratification. If agreed [to] by three-fourths of the states, the amendment would empower Congress to prohibit the physical desecration of the flag. No other issue on Capitol Hill has the endorsement of 80 percent of the American people, ... the overwhelming majority of the U.S. House of Representatives and the [U.S.] Senate, and, as of August 2001, 100 percent of the state legislatures.

U.S. Senator Ted Stevens issued a news release on a similar resolution, quote: "Noting Alaskans are strong in their belief that our flag should not be desecrated, the power to amend the Constitution demands a cautious respect. It is a considerable power - one that has helped to chart the course of our history. We should not jump headlong into amendments. But we should not be afraid to act on our beliefs, either." He continues: "The U.S. Supreme Court has given us a choice. We can accept that the First Amendment allows the desecration of America's flag, or we can change the law to prevent it," end quote.

Number 1134

MS. SYLVESTER went on to say:

The citizens of the United States have set in motion a grassroots campaign of unprecedented success, and it is with great respect that we ask the members of the

Alaska State Legislature to affirm the efforts [to] change the law to protect the monument that is our nation's flag. As I said, until 1989, 48 out of 50 states had statutes prohibiting the burning of the flag. Most of the state statutes were patterned after the Uniform Flag Act [of] 1917. In that Act, Section 3 provides that: "no person shall publicly mutilate, deface, defile, trample upon, or by word or act, cast contempt upon such flag, standard, color, ensign or shield."

Most of these laws were passed by the states at the time of World War I. The American flag, then, throughout our history, has come to be the very symbol embodying our nation. It does not represent the views of any political party; it does not represent any particular political philosophy. In fact, veterans of the Viet Nam War, upon returning home to a rejecting nation, found singular comfort and solace in the symbol of the American flag. This [was] distinct and separate from the citizens and the political leaders that had sent them there to fight.

The flag is not another idea or "point of view" that filters to the top of pop culture. Millions and millions of Americans regard it with an almost mystical reverence, regardless of their divergent political, social, and philosophical beliefs. We maintain that the American flag is a national monument, a special kind of personality. It is the symbol of our nationhood and unity. The mystical status that inspires loyalty and intense devotion is "rooted in those who gave their lives that our nation might live. The brave men and women, living and dead who have struggled in its defense have consecrated it far and above our poor power to add or detract."

Number 1032

MS. SYLVESTER concluded:

The dissenting opinion in Texas v. Johnson, authored by Chief Justice Rehnquist, argued that it was Johnson's use of this particular symbol and not the idea that he sought to convey by it or by his many other expressions, for which he was punished. The fact is that Mr. Johnson was convicted for his use of

the American flag - for its desecration. Similar to the desecration of American soldiers who were dragged through the streets of Mogadishu, burning or trampling the American flag carries an air of villainy, treachery, and barbarism. With respect, the sponsor requests that the [House Judiciary Standing Committee] pass [HJR 30], which urges the Congress to act on their joint resolution and send an amendment to the states for their consideration and ratification. This resolution has no fiscal impact on the state, as it is a communication to the Congress.

CHAIR ROKEBERG asked for an update on the status of [congressional] SJR 7 and HJR 36.

MS. SYLVESTER confirmed that HJR 36 was passed by the U.S. House of Representatives in July by a vote of 298 to 125, and has been referred to the U.S. Senate. She mentioned that in the past, legislation similar to SJR 7 has passed the U.S. Senate four votes short of a two-thirds majority.

CHAIR ROKEBERG, after noting that to his recollection, there is another way for the states to "ratify an amendment," asked whether HJR 30 qualifies for that type of activity.

MS. SYLVESTER said that HJR 30 does not qualify because it simply urges Congress to act on it's own resolutions.

REPRESENTATIVE MEYER asked whether the House State Affairs Standing Committee had any objections to HJR 30.

MS. SYLVESTER relayed that in that committee report, there was one vote of "no recommendation," and all the rest were "do pass." She also relayed that one of the concerns expressed in the House State Affairs Standing Committee was how broad the statutes were and what would qualify; as examples, would a person be precluded from wearing a flag tie or from having a flag [patch] in the seat of a pair of pants, and if so, what would the penalties be. In response to a question, Ms. Sylvester explained that while damage to other national symbols and monuments could result in charges of property damage, she views such damage as striking a larger blow "to our national psyche" than mere property damage.

Number 0761

REPRESENTATIVE BERKOWITZ said he has done a little research regarding what constitutes a flag. He explained that in statute a flag is described in the following way:

"The field of the flag shall have 13 horizontal strips, alternate red and white, and a union consisting of white stars on field of blue", and it actually lays out some dimensions. It's basically 1 to 1.9 between width and length. So, that would be the physical description of a flag. And [although] we were unable to pull [it] off the web, there's an attachment to this executive order that originally came from Dwight Eisenhower about the flag. So I would suspect that the tie that someone might wear wouldn't qualify as a flag, nor would a 12-stripe flag, or a flag of a different dimension than 1 to 1.9. A piece of paper that just had the imprint on one side - that wouldn't qualify as a flag.

... Also, ... there's some description about what constitutes appropriate behavior towards a flag ... in ... Title 4, Chapter 1, Section 8 of the U.S. code.... It says "Respect for flag: (d) The flag should never be used as wearing apparel, bedding, or drapery.... (e) The flag should never be fastened, displayed, used, or stored in such a manner as to permit it to be easily torn, soiled, or damaged...." And, I think most interesting - because we see instances of this on a regular basis - is that "(i) The flag should never be used for advertising purposes in any manner whatsoever." I would suggest that according to statute, it is a desecration of the flag to use it for advertising purposes and those who use it in advertisement would, in fact, be violating this proposed amendment.

Number 0610

MS. SYLVESTER said that's correct. She went on to say that those elements of the U.S. code originated in 1923 and pertain to how the army and navy approached the treatment of the flag. Following Texas v. Johnson, those [codes] were [found] unconstitutional but have not been excised from statute. She explained that Title 18, as amended in 1989, replaces those outmoded codes. She relayed that Title 18, Part 1, Chapter 33, Section 700(a)(1) says: "Whoever knowingly mutilates, defaces, physically defiles, burns, maintains on the floor or ground, or

tramples upon any flag of the United States shall be fined under this title or imprisoned for not more than one year, or both." She also remarked that Section 700(b) had been revised to say: "As used in this section, the term 'flag of the United States' means any flag of the United States, or any part thereof, made of any substance, of any size, in a form that is commonly displayed". She added, however, that this, too, has been found unconstitutional as a result of the 1990 United States v. Eichman case. She then noted: "That's not the point of what the issue is, because if an amendment were to be put to the congress and ratified by the states, then those issues would have to be readdressed for the definition."

REPRESENTATIVE BERKOWITZ, referring to a letter from Colin Powell on this subject, mentioned that the letter concludes by saying: "I shudder to think [of] the legal morass we'll create trying to implement the body of law that will emerge from such an amendment." Representative Berkowitz relayed that Mr. Powell also says: "If I were a member of Congress, I would not vote for the proposed amendment and would fully understand and respect the views of those who would." Representative Berkowitz went on to emphasize that, "for or against [this amendment], we all love our flag with equal devotion."

Number 0433

REPRESENTATIVE JAMES, in response to the aforementioned concerns, said:

I've thought a lot about this issue, and what we currently do with the flag. ... I know that backing up is very, very difficult to do, but the way I look at it is this: I do believe that our flag is certainly a representative of who we are, the freedoms that we have, and the Forefathers that came before us that set up a government that is not perfect but is the best there is

REPRESENTATIVE JAMES continued, saying she believes that when people desecrate the flag, it is indicative of disrespect for this country and yet the flag bears the brunt of this disrespect. She implied that she considers this sort of behavior to be treasonous because one act incites another. She remarked that she is distressed to note that foreigners, who come to the United States to live and work, love this country more than some of the people who are born here. She said she

supports HJR 30 and thinks that there should be an intense discussion about the issues it raises.

REPRESENTATIVE COGHILL said he supports HJR 30 because he thinks that the issues it raises, such as freedom of speech and protection of national monuments/symbols, should be part of a national debate.

REPRESENTATIVE BERKOWITZ said:

We need to be on our guard against hollow signs of patriotism without making sure that real patriotism follows. I think one of the great things about living in a democracy is that it enables every person to participate. And after September 11, I've done a lot of thinking about this, and what I saw on September 11 was that the real heroes, the real patriots, are the ones who participated - not just the ones who waved flags and sang God Bless America.

But I hope that the people that have ... at least the appearance of patriotism, will take the time, come November, to vote, and will take part in the public process that's available to us. And if we can use an amendment like this to encourage that kind of conversation, that's a positive development. But if we use an amendment like this as simply a way of saying "well, I told someone once that I respected the flag, but I don't have to live up to the ideals that the flag represents," that does a disservice to what we're all about. I hope we use this discussion about this amendment to encourage real patriotism and real participation in the democracy.

TAPE 02-8, SIDE A
Number 0001

REPRESENTATIVE JAMES remarked that she has been voting since the age of 18.

Number 0041

JOSEPH CRAIG, American Legion; and Citizens Flag Alliance, testified via teleconference in support of HJR 30. He explained that the Citizens Flag Alliance consists of 142 organizations representing millions of citizens. Mr. Craig provided the following testimony:

This fight has gone on for over 10 years. It took four years for the State of Alaska to pass a memorializing resolution. Fifty states had passed such a resolution, and ... I'm not happy to report that we're no closer now than we were ten years ago. ... It has been a long hard fight to convince many that this bill does not infringe on free speech in any way, and to get the point across that an amendment to the constitution is the only way to protect the flag of this country. Poll after poll has been taken and over 80 percent of the citizens want a flag-protection amendment.

All 50 states have passed memorializing resolutions.... If they say we are trying to amend the Bill of Rights for the first time, I ask you if the Supreme Court ... had voted to protect the flag, would they be amending the Bill of Rights. If there are among those in the last election who said that every vote must count, or if the impeachment process said that we must listen to the people, I remind you that is exactly what we are asking: listen to the people and let every voice count.

Number 0290

The House has voted overwhelming two times to move this to the Senate for passage, only to be rejected by one or two votes. That sends a message to the American people that our opinion does not count, and that's a hard pill to swallow. Some people have trouble defining the American flag, and pretend to be concerned about prosecuting those who would burn bikinis embroidered with the flag or toilet paper marked with the flag. Simply ask them if they would put a bikini or toilet paper on their carpet [in] the bedroom, or raise them on a flagpole during retreat. If anyone says that the flag represents the freedom to burn it, and that our military died on the battlefields of the world so that their flag could be burned on the street corners of America, I warn you not to say that to a veteran.

For those that may question efforts of the Citizens Flag Alliance, I would ask them "How do you stop doing what is right?" Skeptics pretend to be alarmed over

how much has been spent on the flag amendment, and how much more time will be spent on the issue. My reply, and the reply of millions is: "As long as it takes, and for how much it takes, because it's a great thing to do."

REPRESENTATIVE BERKOWITZ referred to Mr. Craig's comment that [HJR 30] is the only way to protect the flag, and said, "I vehemently disagree with you." He specified, "I think the best way of protecting the flag is for us to have this kind of conversation and for people to live up to the ideals that the flag represents. And I thank you, sir, for doing just that."

CHAIR ROKEBERG acknowledged that the debate and discussion of this legislation has been going on for decades. He remarked, "I find myself really torn and in a conflict on this." For the record, Chair Rokeberg announced, "I am a great supporter of our First Amendment rights in this country and this state, but I'm also a veteran of the armed forces of this country, and I feel so strongly about this that I can't do anything other than ... vote to pass it."

Number 0492

REPRESENTATIVE COGHILL moved to report HJR 30 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HJR 30 was reported from the House Judiciary Standing Committee.

MR. CRAIG referred to the "COPIES" section of HJR 30, and asked whether a copy would be sent to the President of the United States.

CHAIR ROKEBERG, on that point, suggested that Mr. Craig speak with Representative Kott, Chair, House Rules Standing Committee, because the resolution has no other committee of referral.

[HJR 30 was reported from committee.]

ADJOURNMENT

Number 0556

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:00 p.m.