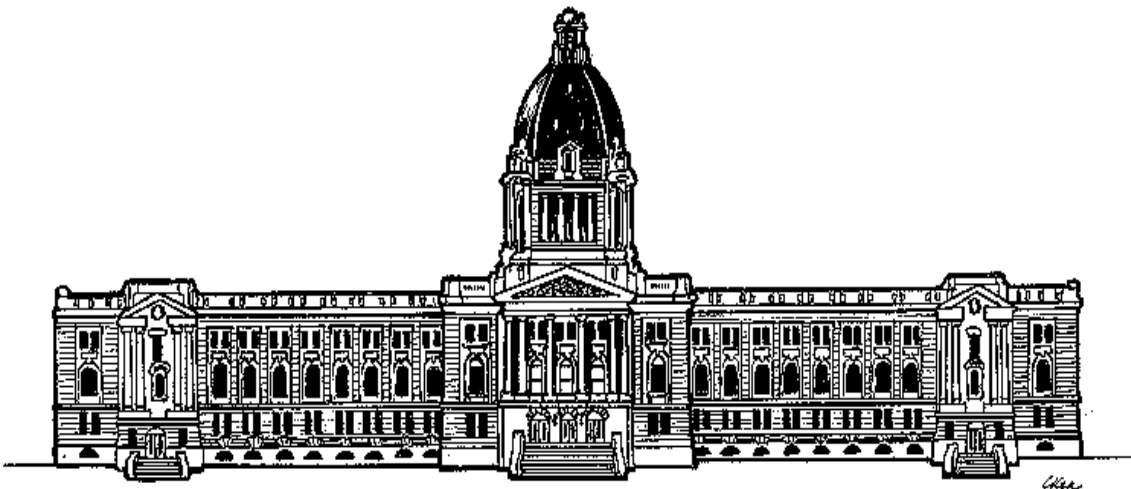




STANDING COMMITTEE ON CROWN AND CENTRAL AGENCIES

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**STANDING COMMITTEE ON CROWN AND CENTRAL AGENCIES
2006**

Ms. Sandra Morin, Chair
Regina Walsh Acres

Mr. Dan D'Autremont, Deputy Chair
Cannington

Hon. Graham Addley
Saskatoon Sutherland

Ms. Donna Harpauer
Humboldt

Mr. Allan Kerpan
Carrot River Valley

Hon. Mark Wartman
Regina Qu'Appelle Valley

Hon. Kevin Yates
Regina Dewdney

[The committee met at 15:00].

The Chair: — Good afternoon. We'll call this meeting of the Standing Committee on Crown and Central Agencies to order. And I'll have the members introduce themselves to start off with perhaps. Mr. Kerpan.

Mr. Kerpan: — Allan Kerpan, Carrot River Valley.

Ms. Harpauer: — Donna Harpauer, Humboldt.

Mr. D'Autremont: — Dan D'Autremont, Cannington.

Hon. Mr. Wartman: — Mark Wartman, Regina Qu'Appelle Valley.

Hon. Mr. Yates: — Kevin Yates, Regina Dewdney.

Hon. Mr. Addley: — Graham Addley, Saskatoon Sutherland.

The Chair: — Thank you very much. And I will now move on to the tabling of documents. We have a couple of documents to table, and we've a letter to the committee from the Chair of the Standing Committee on Public Accounts. And we also have the report to the Legislative Assembly of Saskatchewan with the financial statements of Crown agencies for years ending in the year 2005 calendar year. So we'll table those.

Now I'd like to introduce the minister, Minister Glenn Hagel. And perhaps you'd like to introduce your officials as well.

Bill No. 26 — The Traffic Safety Amendment Act, 2005

Hon. Mr. Hagel: — I would be very happy to do that, Chairperson Sandra Morin. I'd like to introduce first of all some of the officials from SGI [Saskatchewan Government Insurance] who are here to assist with the deliberations related to The Traffic Safety Amendment Act.

To my immediate left, to the viewer's right is Jon Schubert who is the president and CEO [chief executive officer] of SGI. To my right is Sherry Wolf, vice-president of the Auto Fund. And beside her is Elizabeth Flynn, who is legislative advisor for SGI. And seated behind us at the table is Betty Weigel, manager of business affairs and corporate secretary.

If I can just proceed then, Madam Chair, to the business of the committee before us. These officials actually were before the committee back in November of last year to discuss this Act when it first came to the committee. As everyone will know it was introduced in the fall session of the legislature. And I'd like to just take a minute then to again describe the amendments that are in the Act before us and their purposes, as it's quite some time since it's been here.

The Traffic Safety Act consolidated The Highway Traffic Act, The Vehicle Administration Act, and The Motor Carrier Act and it was passed in 2004 but has not yet been proclaimed. In this Act are a few housekeeping amendments that are required before The Traffic Safety Act, 2004 can be proclaimed in force.

Other amendments to this Act are designed to make

Saskatchewan roads safer and to help in the fight against impaired driving. As many of us will know, including members of the committee, alcohol continues to be the number one contributing factor in traffic fatalities here in the province of Saskatchewan. Unfortunately in the year 2005, 39 people died in our province in collisions that involved a drinking driver. And in addition to that tremendous cost on the roads of human life, another 635 people were injured in accidents that involved an impaired driver.

The amendments to The Traffic Safety Act include the introduction of the use of a standard field sobriety test for alcohol or drugs, and an increase in the administrative suspension period for experienced drivers who choose to drive while impaired.

One of the things I think that's important to note about the standard field sobriety test is that it is effective in testing for impairment, but I think important in terms of folks on the roads being assured that we're doing what we can to make them as safe as possible, that its effectiveness is not just limited to testing impairment related to the consumption of alcohol, but impairment through any reason which of course includes then the use of drugs other than alcohol. And that's a very important element that is introduced in this legislation to assist officers on the side of the road to remove from the road drivers who may very well not be safe to be there but may very well not have had a drop to drink.

The amendments also establish an immediate 24-hour licence suspension for drivers then who fail the SFST, the standardized field sobriety test. As well, drivers who refuse the standard field sobriety test will face an immediate 24-hour suspension of their driver's licence. So if they either fail or refuse the standard field sobriety test then there will be a 24-hour suspension imposed.

Another amendment helps to get impaired drivers of every kind off our roads by adding a new section to the Act to allow for a 24-hour driver's licence suspension for drug impairment. And as a result . . . And this would be tested and determined as a result of the standard field sobriety test. There is currently no immediate suspension for drug impaired driving and this legislation then would change that.

The amendments also get tough on repeat offenders by seeking to strengthen the licence suspension for experienced drivers to 15 days after a second .04 blood alcohol content violation within a five-year period. So someone who's had not the Criminal Code offence .08, but who's had a .04, a second .04 within a five-year period, then would be subject to a 15-day suspension of their licence.

These amendments will help to make Saskatchewan roads safer I believe and will help with the fight against impaired driving. It is a task that is close to the hearts of some of the members of the committee, I know, and is of concern I believe as well to all Saskatchewan drivers. And I'm very pleased to bring these amendments to the committee for consideration, Madam Chair, and we'd be happy to answer any questions about the amendments before the committee now.

The Chair: — Thank you, Mr. Hagel. Are there any questions

arising out of . . . Okay. So the first item of business is Bill No. 26, The Traffic Safety Amendment Act, 2005, clause 1, short title. Mr. D'Autremont.

Clause 1

Mr. D'Autremont: — Thank you, Madam Chairman. I'd like to welcome the minister and his officials here today.

This is the second time that this particular Bill has come before the Crown and Central Agencies Committee for consideration. I guess I have one question to start off with. This piece of legislation, The Traffic Safety Act, was first introduced in the spring of 2004 and was passed. It now sits in the Statutes waiting to be proclaimed. That's two years ago.

This is an important piece of legislation dealing with some very serious issues. I would have to assume that the government thought that this was an important piece of legislation in 2004, and that in 2004 it was dealing with very important issues of safety, of people's lives, of ensuring that we don't have impaired drivers on the road. And yet two years later, this particular Act still has not been proclaimed.

And now the government is coming forward, came forward last fall with amendments to an Act that hadn't been proclaimed from two years ago. This spring we're dealing with this piece of legislation — again — and still there's no proclamation dates for when this Act is actually going to be applied. If it was important to protect people and people's lives two years ago, why are we still waiting for a proclamation date?

Hon. Mr. Hagel: — Madam Chair, in response to the hon. member's question, I want to assure him . . . And he will know how important it is to me personally — having shared some work as a result of a common committee that both of us worked together on some years ago — how important it is to deal effectively with the impairment provisions and the circumstances . . . [inaudible] . . . in the interests of safety on our roads.

The hon. member is quite correct in pointing out that The Traffic Safety Act of '04 was an amalgamation of three previous Acts. However it's worth noting that in the amalgamation of those three Acts into one, there were no new provisions that were included in that. Those three Acts — until the new one is proclaimed — those three Acts continue to be in force and nothing has changed.

The new provisions that are targeted to reduce impaired driving on our roads are in this Act, so that the '04 Act that has been amended did not have new provisions within it to reduce or to tackle the impaired driving issues on the roads here in Saskatchewan. Those new provisions are in this Act. The consequence of that amalgamation has a fair amount of administrative work related to it and consultations with Justice, and the development of forms takes some time. Nothing has been held up in terms of new safety provisions that affect Saskatchewan roads. The new provisions are in this Act. So it would be the delay of the coming into force of this Act that would in fact be accurate to represent as a delay in new provisions that contribute to safety on our roads related to impaired driving.

Mr. D'Autremont: — Well thank you, Mr. Minister. The Traffic Safety Act was passed in 2004. Now you're coming before this committee and this legislature asking that we approve amendments to this Act with an open-ended proclamation date. There is no proclamation date in this. It's whenever the government gets around to feeling like it. We've waited two years for the original Act to be proclaimed. It hasn't been proclaimed. I have absolutely no confidence in your willingness to proclaim this Act without some dates in this particular Bill.

If these measures are important, if these measures are designed to protect the people of Saskatchewan, if these measures are here to take people who are impaired off of our highways and protect our children, then there needs to be a date when this is going to be proclaimed. Otherwise it's an indication to me that, while you're paying lip service to the need for protection, you have no intentions of actually acting upon it which, coming from this particular government, doesn't surprise me at all. Because we've seen a good number of proposals, we've seen a good number of promises from this government that never occur.

And so I have no confidence in this government moving ahead on this without a firm and fixed date as far as the proclamation is concerned. So until you're prepared to put some numbers down on this, on an amendment on this Bill, then I have no confidence as to your willingness to move forward on this particular piece of legislation. I understand the minister's personal commitment to this because I sat on that safe driving committee with him. So if he's saying that he has a personal commitment to move this forward, am I then to assume that the previous ministers had no personal commitment to this particular piece of legislation and that's why it hasn't moved?

So, Mr. Minister, are you ready to put a firm date on proclamation of this Act?

Hon. Mr. Hagel: — Madam Chair, sometimes things will get clearer with time. And when the Bill was drafted then there was still at that point in time a fair amount of work in terms of consultations of Department of Justice and other . . . in terms of developing all the materials and pieces that are needed in order to actually implement the legislative changes.

The Act was introduced in the year '05. However because it wasn't passed in the fall, it is carried over to this spring and it is before us now.

I've advised the honourable member previously in discussion that it is our intention to have the Act proclaimed and in force July 1, and with the exception of four small pieces that will likely need a little . . . may need a little more time to have them ready. But I'm certainly prepared to bring an amendment which, with the exception of the four sections which the honourable member has been advised about, that would bring the Act into force on July 1, '06. Yes.

Mr. D'Autremont: — Well thank you, Mr. Minister, for that statement. You presented me earlier with — either you or your staff; I don't want to say it was you personally, but it may have been your staff — with some draft House amendments.

But in those draft House amendments, again there was no date. There was no fixed time other than saying that four of the clauses would come into force at a particular point in time, whichever was the later of the proclamation of The Traffic Safety Act or the December 1 date, which made me wonder at the time — what's the point of proclaiming four clauses in this Act if you're not actually proclaiming the Bill?

So I don't know why you wouldn't have included a proclamation date in your draft of amendments, House amendments that would come forward to this committee. So I think, Mr. Minister . . . The fact is I even have an amendment that I wrote up here to bring this forward for proclamation on July 1, with the exception of those four particular clauses. So I'm glad to hear that the minister is in agreement that this Bill actually is proclaimed, other than those four particular clauses that need some regulatory work on them.

I think that goes a long ways forward to showing the commitment to this particular piece of legislation and the commitment to the safety of the people of Saskatchewan.

It amazes me that you would come forward now in two sessions — the fall session and the spring session — without actually having put a date on for proclamation. You know, so I think that if these Bills are important, that you need to be able to put a date on them and simply giving the government that has very limited experience in keeping its promises . . . that there needs to be a date in place and not simply reliance of some time in the future. So I thank the minister for at least giving a date, and we'll see when it comes to that particular clause whether or not July 1 is the date that is acceptable for the committee.

One of the things that we didn't have the opportunity to do at the last time that SGI, this Act was before the committee was to actually go through the clauses of the committee. We did deal with some definitions on what was farm equipment and some of the word changes that were taking place there and operators and carriers.

But one of the concerns I have with the Act, the Bill that's before us, is clause 12 which will be new section 103 of the Act dealing with highway traffic officers issuing orders or fines to vehicles, to operators, to drivers if their vehicles are not up to some standard . . . [inaudible interjection] . . . Sure. Okay. I'll give the minister a chance.

Hon. Mr. Hagel: — Sorry. I was trying to listen to you while I was trying to listen here, and I wasn't intending to ignore your question.

Thank you, Madam Chair. Just in response to the hon. member's first question, and then I'll ask if he wouldn't mind repeating because I wasn't paying attention to the . . . I wasn't paying full attention to the second question. I was doing some consulting relating to the first question.

I've given my word to the committee, Madam Chair — and I take great pride in the fact that I stand by my word — when we get to the coming into force provision, I'll be introducing an amendment as I have described which will bring the Act, with these amendments, into force on July 1.

We will with the four . . . There are four clauses that are exceptions to that, which the hon. member and I have already discussed, and I think he's acknowledged the legitimacy of needing a bit more time to get the regulations finalized. But I will be suggesting to the committee that those would come into force on December 1 — unless they are ready on July 1, but I think that that proviso is unlikely.

So that's what I'll be doing when we get to the coming into force of the Act and to that provision. And I'll ask the hon. member to repeat his other question because I wasn't able to give it full attention.

Mr. D'Autremont: — Thank you, Mr. Minister. Clause 12 of the Act that we're considering, Bill No. 26, which will be — in the previous Act — will be new section 103, it deals with inspections and roadside checks, etc., by highway traffic officers. What are the requirements, the standards that the highway traffic officers are checking for? Are those standards printed? Is there a list in place that the highway traffic officers go by when they're making an assessment as to the safety of a vehicle?

Because I'm getting complaints that the traffic officers issue a citation to a trucker saying that your vehicle doesn't meet the safety standards, here is what you need to do to come up to code on it. And yet when they go to the repair shop that is to do the repairs for the safety standards, they're told, no, this meets the requirement. And so the trucker says, well rather than fighting this and trying to prove my point, put new things on it. Give me a bill so that I can go back and get back to work.

So is there a fixed standard of safety items of the quality of the vehicle that must be met, and is that available to truckers across this province?

Ms. Wolf: — What I believe you're referring to are the National Safety Code standards. Those standards are set federally and implemented provincially. Our highway traffic officers' carrier audits do those inspections. They are definitely written down. There's manuals. There's a great deal of information that is available to truckers for them to understand what they're complying with, not only in terms of vehicle inspections but also safety inspections in terms of drivers. It's quite a broad standard and they are well documented.

Mr. D'Autremont: — Are those qualifications, the requirements, available easily or do you have a book that's 6 inches thick that you have to carry around related to each individual vehicle — class of vehicle or, you know, model?

Ms. Wolf: — It is very easily available through SGI. Any motor licence issuer would have access to that through SGI. We make it available. Most of the truckers that are travelling interprovincially are aware of the National Safety Code standards. In order to be in the business, they really do need to have this information. And certainly if they are missing it, we would be very pleased to provide it.

Mr. D'Autremont: — Would that information be available online?

Ms. Wolf: — I believe it is.

Mr. D'Autremont: — If that's the case, where the information is readily available and should be accessible to the drivers, the operators, why . . . and this is anecdotal. I don't have evidence of this, but nevertheless people are relating this to me that when the traffic officer does an inspection or, you know, stops a vehicle on a road and does a safety check on it and issues a citation based on something, when they go to the repair shops that are licensed to carry out the repairs or to do safety inspections as well, that there seems to be a discrepancy between the two? That the officer is saying this doesn't meet the compliance of safety standards, and yet when they go to the shop they say yes, it does meet the standards. Why is there a discrepancy there?

Ms. Wolf: — We're not aware of complaints in this regard. We have generally 800 vehicle inspection stations. So that would be for passenger vehicles, but they also conduct other types of inspections and also repairs. Generally we don't receive these kinds of complaints, so if there are some we'd be pleased to look into it. We do regularly audit these inspection stations to ensure that they are aware of what the standards are. It's certainly possible that there would be some discrepancies, but that isn't the norm.

Mr. D'Autremont: — Yes, it's not dealing with passenger vehicles. It's dealing with large transport trucks that . . . And the complaints that I have, have dealt not with so much with, you know, the semi-trailers running up and down the highway but rather, specialized heavy-hauling vehicles such as in the oil fields or in the logging industry where there seems to be some concerns on this.

So yes, I'll try and get some specific details for you. But I was concerned about the, you know, what the possibilities of why there would be a discrepancy between what an officer had for information for the need and what a repair shop, an inspection shop, might have for the need.

Hon. Mr. Hagel: — Madam Chair, if I could just invite the hon. member to provide that specific information, we'd be happy to look into it. It doesn't appear to be a common event at all, but we'd be happy to check out the specifics.

Mr. D'Autremont: — Thank you very much. Under clause 13, which is section 105 of the Act, it talks about being able to access places of business, land, premises, vehicles. And I'm just wondering what does the term "at any reasonable time, without a warrant" mean? What constitutes a reasonable time?

Ms. Flynn: — I would say a reasonable time would be during regular business hours.

Mr. D'Autremont: — Is this an opinion or is this someplace in the Act or regulations?

Ms. Flynn: — No, that is an opinion.

Mr. D'Autremont: — Is there any place in the Act where reasonable time is defined? I mean it reminds me of a neighbour who was being contacted by census Canada and looking for information. And they operated on the basis of contact at a reasonable time. And they kept phoning him and leaving him nastier and nastier phone messages. And finally they left a

number that he was to contact them. So he phoned them at his reasonable time when he was on the way to work, which was 4 a.m. in the morning. They seemed to take offence of that.

So I just wonder, what is a reasonable time set out in the legislation?

Ms. Flynn: — It's not defined in the legislation, but I think a standard interpretation would be a reasonable time would be regular business hours.

Mr. D'Autremont: — Would it be too much to ask that that be defined then in the Act as reasonable business hours of that operation?

Hon. Mr. Hagel: — Madam Chair, in response to the hon. member's question, it has been standard practice for some time to use that definition of — what's the word we're looking at here? — reasonable time, and it is a typical and standard interpretation.

I would point out as well, Madam Chair, that it is the practice of the courts, if there should be dispute, to interpret legislation by taking into consideration the verbatim of deliberations when legislation is in its formative stages. And so certainly if there was ever any need to seek clarification, that will have already been made by the statement that Ms. Flynn as well as I have already made on the record here.

I don't know if there's anything more you wanted to add?

Ms. Flynn: — If I could just note that this provision as it is drafted, with the exception of the wording peace officer, currently exists in The Highway Traffic Act. So the only thing that we have done is add peace officer in addition to an individual appointed by the administrator to the individuals who can conduct audits at this time.

Mr. D'Autremont: — Thank you. I believe it's also used in a number of other pieces of legislation but that still doesn't, I think, excuse it for not having a definition in place at some point in time.

Further on in that particular clause under section (c) it talks about a peace officer being able to take copies of any materials that they find in place. If there isn't an ability to copy the documents that may be there, that the officer can give a receipt and remove the documents. What insurance or guarantees are there that some of the documents don't henceforth go missing when there is no receipt for each individual document?

Ms. Wolf: — The practice that you're referring to with respect to making copies of documents has existed for some time in the current legislation and, to my knowledge and everyone here, there's never been an issue with respect to documents going missing in the absence of a receipt. I think it's professional conduct on the part of our staff and the peace officers to ensure that the documents are returned and the owner/operator has the original document.

Mr. D'Autremont: — I can see it happening though. Somebody's walking out of the business with the shoebox full of documents and trips and falls — and away they go in the

wind. Now who's responsible if that happens? The business, the individual whose documents they were originally, can therefore say, well my documents were in the shoebox when you took them. The fact that they aren't there now is not my fault; it's because you lost them.

So you know I'm concerned about the lack of documentation of each individual document that may be in the records when the receipt is given for . . . you know we got the records out of file drawer no. 37. So how do you know what's in there unless there is some manner of verifying each individual document that is taken?

Ms. Flynn: — Well certainly if we lost their records, we would go out of our way to ensure that no enforcement measures were taken against them, and we would do everything we could to accommodate the carrier.

Mr. D'Autremont: — Well I guess the only assurance there is the minister's comment, that when this is in court you can bring the verbatims of this committee forward as evidence that, you know, the Bill shouldn't go forward. But I'm not sure how much comfort that's really going to give people when someone is a peace officer, or some representative of the administrator is removing documents that are simply receipted as, you know, we've picked up the documents from the ABC transport company.

Hon. Mr. Hagel: — Madam Chair, I apologize for taking this much time to deal with the question. We're trying to figure out if we are aware of this ever having occurred, and we can't come up with the knowledge of such an event actually ever having occurred. And as has been said earlier that in the unlikely or . . . We may be in the same category as winning the lotto here on this one; I'm not sure. But in the extremely unlikely circumstance where the record would be lost, as has already been stated, then clearly proceedings would not move forward.

Mr. D'Autremont: — What kind of proof would then be necessary for the person whose records they were to be able to confirm that the record was indeed lost, since that was their original copy and their record? If the peace officer or the administrator comes forward and says, you never had piece of paper Y, and the individual says, yes I did and you lost it, where's the proof?

Ms. Flynn: — The administrator or the peace officer are essentially often one and the same. And an affidavit could certainly be provided by the individual who caused the loss of the records to substantiate that in fact it was not the carrier but a representative of the administrator that lost the records in those cases.

Mr. D'Autremont: — So this would rely on the administrator or the peace officer admitting that they had lost the particular document in question.

Ms. Flynn: — Yes.

Mr. D'Autremont: — Seems to be a rather flimsy defence by the individual whose records they were that they have to rely on the person who took the records to admit that they lost the record.

What proof does the original owner of the documents have to supply to say that I actually had this document in the first place?

Ms. Flynn: — We're not exactly sure what the usual practice is in terms of what listing the various documents that we take, but we certainly can take that under advisement and provide the committee with a response indicating what our auditors do when they take information outside of a carrier — if they list each piece of paper individually.

Mr. D'Autremont: — Okay. Thank you very much for that. On section (1.1) of that same clause, it reads:

A copy of a record certified by a peace officer or representative of the administrator to be a copy made pursuant to this section:

(a) is admissible in evidence without proof of the office or signature of the person purporting to have signed the certificate . . .

I'm not exactly sure what that means or who's responsible. Or does a document show up, and there's a signature scrawled at the bottom, but nobody has to know whose signature that is?

Ms. Flynn: — That's correct. This is often a common clause that's used for administrative documents. And I mean if the signature was challenged, then clearly proof would be required. But in the absence of any challenge, it is admissible in evidence.

Mr. D'Autremont: — It doesn't say that you have to . . . that's it's admissible unless challenged though. It says it's admissible as evidence. It doesn't indicate that there is any challenge available to question the veracity of the signature.

Ms. Flynn: — I think that is a standard practice. If they were suggesting that somehow the administrator . . . or it wasn't a document that was signed by the administrator or a peace officer, that's a recognizable challenge that the court would be prepared to consider.

Mr. D'Autremont: — And yet in the Act it says, "is admissible in evidence without proof of the office or signature of the person purporting to have signed the certificate . . ." It seems to me to say that you don't need any evidence of who signed it.

Ms. Flynn: — That's correct. You don't. You don't need any evidence unless it's challenged. And if they challenge and say that the administrator or a peace officer didn't sign it, then you would have to prove who signed it.

Mr. D'Autremont: — I'm not happy with that one, but I'll move on . . . [inaudible interjection] . . . That's true. It seems the minister gets time to consult but the opposition doesn't get time, according to one of the members opposite anyways.

In clause 17 — which would be new sections 146.1 and 146.2 — clause no. (3)(b): "after the suspension . . ." Okay this deals with a suspension from driving or operating a motor vehicle. The suspension is terminated immediately if:

after the suspension is issued but before it has expired, obtains and produces to the peace officer a certificate from a duly qualified medical practitioner stating that the venous blood of the driver contains less than 40 milligrams of alcohol per 100 milligrams of blood.

I'm wondering what kind of a time frame that has to be done in.

Hon. Mr. Hagel: — Madam Chair, it can be provided at any time. Just to put this into context, what the hon. member is raising here is the question if someone were to provide evidence that they weren't at .04 at the roadside, then that can be provided any time — including days or weeks later to remove from the record, if the person wished.

However the proviso in order for it to be effective is that it would need to be, it would need to be soon enough that the natural processing of alcohol in the blood system scientifically not be known to have disappeared from .04 at that time. So the test will have an element of time limits about it in order for it to be valid.

Mr. D'Autremont: — Thank you, Mr. Minister. I'm not so concerned about the prospect of . . . you get checked with a breathalyzer or sobriety test of some form and then the immediate need to go and get a blood sample if you wish to claim that you're below .04.

My concern here is the time that it takes to actually then process that blood to make a determination as to what the alcohol content of it was. If a person's licence is suspended, it could be 24 hours or it could be for 15 days. By the time the blood sample results come back, the 24 hours are most certainly going to have expired, if it's your first offence. But from the evidence I've seen of blood samples being returned . . . especially in rural Saskatchewan, I can't speak so much of urban Saskatchewan. But even the 15-day suspension would have expired before the blood sample results came back.

So other than expunging the suspension from your record, it's certainly not going to have any impact on the suspension. So what is the government, what can SGI do to expedite that process so that the driver who is below the .04 doesn't suffer the penalty of the suspension unduly?

Hon. Mr. Hagel: — This is probably helpful for the member, Madam Chair, to know that the 15-day suspension applies if there's a second .04 within two years. The .04 would not come from the standard field sobriety test. The .04 itself would be from the roadside breathalyzer. And if the instrument used to make the decision about the .04 suspension is a standard field sobriety test, there would be no circumstance which would result in a suspension in excess of the 24 hours.

Mr. D'Autremont: — Could the minister repeat that please?

Hon. Mr. Hagel: — I think I could. I'm not sure if this is a talking test or a listening test, but let me try again. I think what the hon. member is envisaging here is the possibility that you get a 15-day suspension because of the standard field sobriety test at the roadside. That won't happen.

The 15-day suspension is if you have a second .04 within five

years. And the .04 then will be determined by virtue of the roadside breathalyzer which will be scientifically defensible. If the vehicle used to impose the 24-hour suspension is a standard field sobriety test, that will never result in a 15-day suspension. The standard field sobriety test would only result in the 24 hour suspension whether it's the first time or the second time within five years or any other combination.

Mr. D'Autremont: — Thank you, Mr. Minister. I am however still concerned about the standard .04 test with the Breathalyzer. I mean, these are mechanical instruments, and they can fail; not necessarily that they do often fail, but they can fail. And if the person involved feels that they have not been at .04 or higher and wishes to take a blood sample or submit a blood sample for evaluation, the time frame — assuming they've made it in the appropriate time initially — the time for the results to come back may very well mean that the suspension has already ended.

The 15 days has expired before they receive any results back. Now it would give them the opportunity to expunge it from the record, but they've still suffered the penalty of the 15 days. Our health care system is such that I don't have the confidence that those results, especially from rural Saskatchewan, can be supplied within that 15-day period.

Is there some other means by which these tests could be expedited in some manner that would be recognizable and acceptable to SGI and the administrator?

Hon. Mr. Hagel: — Madam Chair, to the hon. member, the standard way for a driver who was suspended would be to go to a hospital and request it to be done, as you pointed out, as the hon. member's pointed out. And we're not simply aware of another procedure or means that would be available to a driver.

Mr. D'Autremont: — So even if a driver was able to prove medically that they had been lower than the .04, the 15-day suspension would still have applied to them for that time period because they were not able to obtain results on the blood sample tests in time to have negated some or all of the 15-day suspension.

Hon. Mr. Hagel: — I think the answer is that, in the absence of proof to the contrary, the suspension stands.

Mr. D'Autremont: — Who, according to the administrator, is qualified to conduct and to evaluate any of the blood samples?

Hon. Mr. Hagel: — Are you talking about the blood sample that a driver may want to have submitted to be analyzed, you mean? Okay.

Madam Chair, SGI for this purpose would accept evidence from any legitimate health practitioner.

Mr. D'Autremont: — Would that include private medical clinics that are qualified to conduct blood samples and tests?

Hon. Mr. Hagel: — The answer is yes.

Mr. D'Autremont: — Thank you, Mr. Minister. In the case of the 24-hour suspensions or in the case of a second .04 failure, a

15-day suspension, how many drivers on an annual basis have a double default rate on this?

Hon. Mr. Hagel: — Yes. I'm sorry, we don't have that specific information with us here today but would be happy to provide it to the committee.

Mr. D'Autremont: — Okay. Thank you, Mr. Minister. I'd also be interested in how many have a third occurrence as well on an annual basis.

Hon. Mr. Hagel: — Yes. Now when you say a third incident on an annual basis, you're not talking about the third incident within a year?

Mr. D'Autremont: — No.

Hon. Mr. Hagel: — Maybe if the hon. member would just clarify what the question is that he's asking for.

Mr. D'Autremont: — Under the requirements to be at less than .04 blood alcohol content over a five-year period, there should hopefully be records on an annual basis how many fall into that category of having a second and third offence within a five-year period. And those are the numbers I'm looking for.

Hon. Mr. Hagel: — Madam Chair, I think that's clear. And apparently repetition adds clarity on both sides of the discussion here. So as I understand it, looking for an annual . . . On an annual basis what is an average number of people who within the last five years have had a second .04 or a third .04. Okay. Yes, we'll provide that to the committee.

Mr. D'Autremont: — Thank you, Mr. Minister. This may be the unusual occurrence but nevertheless it was reported in the news here last fall with a driver who has had multiple failures, sobriety tests, continues to drive, was involved in some serious accidents in the city where there was auxiliary accidents resulting of the incident involved there. What measures is SGI and the government taking to ensure that those drivers who simply flaunt the law are not in a position to be able to do so and endanger more lives?

Hon. Mr. Hagel: — Madam Chair, I know and I respectfully say this, that the hon. member will be familiar with some of the things that SGI does because he was part of a committee that drafted recommendations that eventually became adopted. And I think it's fair to say that in the world of dealing with impaired driving that Saskatchewan would certainly be very clearly among the toughest in terms of our dealings with impaired drivers.

Just to list some of them, one of the things that the hon. member will be aware of, I know, is the provision that a repeat offender — and someone driving while prohibited — will have an impoundment of their vehicle. That's been in place for several years here in Saskatchewan now. We have the .04 threshold that's well below the Criminal Code point of .08 that we are enforcing. In fact we're talking about those very items right here and toughening them up. Also we have the point system in terms of the driver's licence costs . . . Sorry, the safe driver point system for plate coverage which does two things. It provides a bonus for those who are demonstrated safe drivers.

The other side of the coin is the penalty for those who are demonstrated unsafe drivers.

And also SGI funds the enforcement overdrive program which puts in place increased enforcement in strategically useful times and places.

So it helps in the world of enforcement to do two things: one, to catch folks who are out there driving impaired. But in my mind, just as importantly in the long run, to be visible — that the police are out there; they're conscious about impaired driving; they're looking for impaired drivers. And hopefully one of the things that comes out of the result of things like that as well is that there is a deterrent which limits the number of people who will take the risk of drinking and driving at the same time.

Mr. D'Autremont: — Well thank you, Minister, though it does seem to be a bit of a problem if you wanted to impound the vehicle that some of these people are driving when they're stolen vehicles. That's a problem. They're obviously not driving their own vehicles and have little regard for the public. And probably the only real solution for those individuals is incarceration, because if they've repeated enough times there's obviously no will in place to change their behaviour.

And the public needs to be protected from individuals who seem to be unprepared to take remedial actions, to take treatment for their addictions and resolve the issues that they have. And you know perhaps that's another area of law that needs to be implemented to deal with these situations rather than the administrative abilities of SGI. And sometimes the administrative abilities of SGI fail to resolve the issues in a manner that's appropriate, and further action needs to be taken.

So that's one of the areas that it frustrates me that we have all these administrative rules in place — you can remove a person's licence for five years or whatever, or forever — and yet it's simply a piece of paper that's being removed. And the fact that they're behind the wheel seems to be of little consequence to them. And that's a problem that still needs to be dealt with.

Hon. Mr. Hagel: — Madam Chair, I understand the point the hon. member's making, and I think we would both find ourselves agreeing about that point.

The thing that I do remind us of is that what we are dealing with in this legislation before us now, and the provisions that SGI does in the interest of safety on the roads, will have to do with provincial jurisdiction. And I think it's also clear that in many, if not all, of the cases of the nature that the hon. member is referring to, the fact of the matter is that drivers are violating Criminal Code offences and that there's a whole set of legislation and consequences that apply from the commission and the conviction of a Criminal Code which apply across the country. The things that we're doing here in Saskatchewan are above and beyond what are standard across the country, and are within the jurisdiction of our legislative authority.

And so having said that, SGI, I'm proud to say, is a corporation that takes seriously and invests in programs that do provide support for safe driving, provide deterrent for unsafe driving — very clearly considering among the absolute most serious of

offences that contribute to injury and, worst of all, fatality on the road, the impaired driving offences. And so within our legislative authority, we'll do a number of things we can.

But none of us should for a moment consider that that's all that needs to be done. And clearly the federal Criminal Code enforcement across the country is a very important part of this — very, very important part of this picture. We can only kind of add to it. We'll never be able to replace that. And I guess to some extent as long as we live in a democracy, there will be some elements of freedom that will be frustrating. It'll be our objective to minimize those as much as we possibly can.

Mr. D'Autremont: — Mr. Minister, clause no. 24, section 209 of the traffic Act, 6.1:

If a driver is required by this Act to bring a vehicle to a stop at a stop sign . . .

I find that statement somewhat surprising. Do you mean that there are actually drivers out there who are not required to stop at stop signs?

Hon. Mr. Hagel: — The answer is no. There is no optional stop sign. No.

Mr. D'Autremont: — Well why, Mr. Minister, then does this phrase say "if a driver is required"?

Hon. Mr. Hagel: — I think to understand that you have to finish the sentence. Then it goes on then to say, ". . . the driver shall . . ."

Mr. D'Autremont: — Well isn't it a bit misleading though to have the if in there? Just simply say a driver is required by this Act to stop at a stop sign.

Hon. Mr. Hagel: — I'm advised, Madam Chair, that it has over a period of time evolved, that it has become a legislative drafting provision that if does mean when.

Mr. D'Autremont: — Well if means when, and when means that there's a choice, that there may be occasions when you're not required to stop at a stop sign. So either you're required to stop at the stop sign or you're not required to stop at the stop sign and there are exceptions. So which one is it?

Hon. Mr. Hagel: — Madam Chair, there's no grey area here. A stop sign means stop. And if the hon. member will read the whole clause through to its conclusion, then it will describe the conditions that will pertain to that stopping action which is compulsory at the stop sign.

Mr. D'Autremont: — Well, Mr. Minister, it may be compulsory but according to this clause it's still an optional. If you want to make it a requirement then it should read: a driver is required by this Act to bring a vehicle to a stop at a stop sign. The driver shall bring the vehicle to a stop. And then it outlines where you may stop, not if you may stop.

I think you need to take the word if out of there because it leaves an option, even if it means when.

Hon. Mr. Hagel: — Well, Madam Chair, let me make this 100 per cent clear here. When you come to a stop sign, you're required to stop. There is no option involved here.

Mr. D'Autremont: — Well, I think it's a drafting error. And it may be a standard drafting error, but it's still a drafting error because it implies that there is other options as well. There's a choice involved here.

And that's clearly not what's intended. So it's an error, and I would ask the government that they correct this drafting error and remove the word if. It's not pertinent to the clause at all. In fact it implies something that is not to be implied by this particular clause and allows for some error.

Hon. Mr. Hagel: — Madam Chair, two points. Three points. First of all I will be . . . [inaudible interjection] . . . That's right, three points. No, three points. I will be happy to ensure that the *Hansard* discussion of this item gets passed along to the folks who do the drafting in Justice so it can seriously be taken into consideration.

However I do want to point out, secondly, that stopping is not an option. And thirdly, to get the full context of this section, you'd need to have the full Act in front of you. And what that would tell you is that it differentiates here between if you're stopping at a stop sign as opposed to stopping at a red light. So there are different circumstances that require a driver to stop. And so there is a broader context that isn't obvious when all you have before you is just the Bill in its . . . as they exist, which is an amendment to the full Act. I assure the hon. member that stop means stop.

Mr. D'Autremont: — Well thank you, Mr. Minister, although I think this particular sentence is fairly clear that it's not talking about stop lights. It's talking about stop signs because it uses the word stop sign in the sentence. So I'm not sure how you can . . . any ambiguity there that it might be talking about stop lights because it clearly uses the word, stop sign. So I think, as I mentioned earlier, there is an error in drafting here that allows some ambiguity in the question.

Also in clauses (a) and (b) — and I noticed it in a couple of other places in the Act as well — it uses the words, near side of the intersection. What does near side mean?

Hon. Mr. Hagel: — Near side refers to the side nearest the vehicle.

And again just going back to the previous point, the hon. member, to get the context of this phrase, I think it would become quite clear. The more we talk about this, the less I'm inclined to think there's a drafting error. That's really what . . . But we'll pass that along. But this is referring to the requirement to stop when it's a stop sign that's requiring you to do that. The near side is the side that is closest to the vehicle.

Mr. D'Autremont: — I guess it all depends on whether you've gone past the intersection marking or not. Once you've gone past the intersection marking, the near side is now on the street side of the intersection. I think there needs to be a little more clarification that it's before the intersection.

Hon. Mr. Hagel: — In that case, Madam Chair, then you're talking about somebody who hasn't stopped at the stop sign.

Mr. D'Autremont: — Is that because it was an "if" they were required to stop?

Hon. Mr. Hagel: — I would advise the hon. member that people should ought not to be reading legislation when they're approaching the stop sign. They should ought to be concentrating on the matter at hand, and the stop sign does mean stop.

Mr. D'Autremont: — Under clause 26 section 214 it talks about speeding and stunting is prohibited, but it also talks about pedestrians and bystanders, that they not engage in these activities. It was brought to me that on occasions you'll get — I'm not sure the word pedestrians would be appropriate but perhaps bystanders but — people alongside of highways who may be throwing things at vehicles. Would this clause, this section of the Act apply to that?

Hon. Mr. Hagel: — The answer is yes; that would be an example of that. But that wouldn't be the only example. It's if somebody's on the roadway and are engaging in behaviour that is likely to distract or startle or . . . so it could be throwing something at vehicles would certainly be an example of that.

Mr. D'Autremont: — What kind of consequences would result from this kind of activities to those that are participating in it?

Ms. Flynn: — It would be a fine. The fines are set out in the summary offence procedure regulations, and I'm not sure of what the exact fine is at this time.

Mr. D'Autremont: — Would there be an age requirement on the application of those fines?

Ms. Flynn: — Yes, you know, my guess is yes, but I don't know for sure. I'd certainly be able to provide this committee with an indication of what the age requirements are in terms of charging an individual.

Mr. D'Autremont: — Okay, thank you very much. I will look forward to that answer because in some cases — certainly not all, and I'm not sure how often this occurs — but sometimes this does involve children. And, you know, I think there needs to be an awareness that there is a consequence of this action and also an awareness of the danger that that can pose to drivers and others who may be in the vicinity if that driver is interfered with or distracted in some manner. So I think that's an important consideration that needs to be made known to anyone who may be involved on that.

That is the last of my questions, assuming that the minister is prepared to go ahead and put a date on the proclamation of the Act.

Hon. Mr. Hagel: — Did you want to proceed in voting clause by clause, Madam Chair?

The Chair: — As Mr. D'Autremont asked one final question, I believe, and . . .

Mr. D'Autremont: — I'm just wondering, Mr. Minister, if you would have a copy of the House amendment that I'm assuming you are proposing. I have a draft copy, but that may have changed since I received it.

Hon. Mr. Hagel: — I'm just making arrangements right now to have a copy made and provided to the hon. member, Madam Chair. Perhaps we could just get the Page . . . if the Page could have a copy. Does that provide you what you need there, Dan? Okay. That's fine then. Thanks.

The Chair: — All right then. Bill No. 26, An Act to amend The Traffic Safety Act, clause 1. Is that agreed?

Some Hon. Members: — Agreed.

[Clause 1 agreed to.]

[Clauses 2 to 36 inclusive agreed to.]

Clause 37

Hon. Mr. Yates: — Madam Chair.

The Chair: — Yes, Minister Yates.

Hon. Mr. Yates: — I would move, that we:

Strike out Clause 37 of the printed Bill and substitute the following:

“Coming into force

37(1) Subject to subsections (2) and (3), this Act comes into force on [July 1, 2006] . . .

(2) Clauses 4(a) and 6(a) come into force on proclamation.

(3) Sections 26, 27, 29 and 30 come into force on the later of:

(a) the day on which section 1 of *The Traffic Safety Act* comes into force; and

(b) December 1, 2006”.

I so move.

The Chair: — Thank you. Minister Yates has moved the amendment to strike out clause 37 of the printed Bill and substitute the following, coming into . . . Pardon me. Okay. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Thank you. So clause 37 as amended, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Thank you.

[Clause 37 as amended agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: The Traffic Safety Amendment Act, 2005. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Mr. Addley.

Hon. Mr. Addley: — I move that the committee report the Bill with amendment or as amended.

The Chair: — Thank you. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Thank you. Minister Hagel.

Hon. Mr. Hagel: — Madam Chair, before the committee adjourns, I just wanted to take a moment to thank the members of the committee for the deliberation on the Bill and also to thank the officials who have been involved in the drafting and the preparation.

There is a ton of work that has gone into simplifying, I think, the understanding of the legislation and its implementation. And I think all of us in this committee can feel that progress has been made in the interest of traffic safety as a result of some of the provisions that are here. And so I want to thank all those who were involved in contributing to safer roads here in the province of Saskatchewan. And thank you for your indulgence there, Madam Chair.

The Chair: — Thank you, Minister Hagel. Mr. D'Autremont.

Mr. D'Autremont: — I'd like to thank the minister and his officials for coming in today and having a spirited debate, and we'll carry on the debate of when "if" is when . . . [inaudible interjection] . . . If and when. So thank you very much. And at this time, I would like to move that . . . No. I think there's something else we need to do yet. Is there not? I'll just leave it there.

The Chair: — Thank you, Mr. D'Autremont. At this time I'd like to, on behalf of the committee, thank the minister and his officials for answering all the questions very diligently and explicitly and thank you for your time. Mr. Wartman.

Hon. Mr. Wartman: — Yes. I'd like to move to adjourn.

The Chair: — Mr. Wartman. All agreed?

Some Hon. Members: — Agreed.

The Chair: — This meeting stands adjourned. Thank you very much.

[The committee adjourned at 16:26.]