

Beacon Hill Byline by Mary Rogeness

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Stopping Drunk Drivers

Have you heard of Melanie's Law? The newly filed legislation has become the focus for Boston-area advocates this summer as a way to fight drunk drivers. It is named after 13-year-old Melanie Powell, who was killed by a repeat drunk driver, and it is pressed forward resolutely by her parents and grandfather. It strengthens our state's laws against driving drunk.

It was debated last week in both the house and senate, and the bill will now go to a conference committee because the bodies passed two different versions. Why must we make corrections? To some extent the answer came as a battle waged between defense lawyers and the interests of the state in keeping dangerous individuals from getting behind the wheel.

Traffic deaths linked to alcohol have increased in Massachusetts as they declined in the rest of the country, and I believe that disparity is linked to our laws. The federal government endorses that belief when it withholds \$9 million in highway funds from Massachusetts because our laws do not meet national standards. Yet the legislature has failed strengthen them. The tragic death of Melanie may be the catalyst that brings needed reforms.

What are the problems?

Drivers who are charged with impaired driving can refuse a breathalyzer test or field sobriety test without having that refusal admissible in court proceedings. Although a blood alcohol level of .08% is the presumption of impaired driving, the refusal to be tested makes conviction much more difficult. An arresting officer cannot testify effectively about the physical condition of a driver who refuses the field sobriety test.

Federal standards require convicted offenders to serve jail time, but state law allows "intermediate sanctions," even for repeat offenders. This particular loophole costs our highways their millions of dollars.

If a driver is convicted, prior convictions that would lead to harsher sentencing as a repeat offender can only be introduced if an official who was present for the earlier proceedings personally attests to those convictions.

On Wednesday the judiciary committee presented its version of "reform," a bill that contained window dressing while addressing none of those loopholes. How did the house debate the bill? It was disheartening to hear defense lawyers defending the status quo and resisting bipartisan attempts to strengthen the bill. We succeeded in changing the ridiculous requirement of the presence arresting or probation officers from earlier convictions, a provision that is critical in triggering tough repeat offender sentencing. But other amendments were defeated or withdrawn. At the end of the day I voted for the bill because of the critical amendment.

The senate debated its own bill the next day, enacting a stronger bill with new sanctions against repeat offenders, and a conference committee is charged to develop a compromise.

I promise to analyze the wording of that final compromise bill to ensure that tough sanctions remain. For too long we have pretended to have laws that deter drunk drivers, while offering legal loopholes to skirt those laws. It is too late for Melanie Powell and for the many other families who have lost their parents or children to repeat drunk drivers. But we still have a chance to save others from that fate.