

Beacon Hill Roll Call

By Bob Katzen

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THE HOUSE AND SENATE. Beacon Hill Roll Call records the votes of local representatives on two roll calls from the week of February 22-26. There were no roll calls in the Senate last week.

DISTRIBUTING OBSCENE MATTER TO MINORS VIA THE INTERNET (S 997)

The House, 148-0, approved an amendment that would update the state's obscene-material law to reflect the electronic age of instant messaging, online conversations, and email. The amendment would close a loophole that prohibits the dissemination of matter harmful to a minor in a variety of ways but does not include electronic means.

The Massachusetts Supreme Judicial Court in early February ruled that sexually explicit instant messages sent by Matt Zubieli to a person he thought was a 13-year-old girl are legal under current Massachusetts law. The "13-year-old-girl" was actually a Plymouth County deputy sheriff conducting an undercover online investigation.

Current law prohibits the dissemination of obscene "matter" to minors and defines "matter" as "any handwritten or printed material, visual representation, live performance or sound recording including but not limited to, books, magazines, motion picture films, pamphlets, phonographic records, pictures, photographs, figures, statues, plays, dances."

The state's highest court ruled that "online electronically transmitted conversations are not explicitly included in the definition." The justices then reversed Zubieli's conviction.

Amendment supporters said that it is time to close this giant loophole and to ensure that Massachusetts law allows prosecution of these predators who now use all types of electronic communications to try to meet minors for sex.

(A "Yes" vote is for the bill.)

Representative Richard Ross Yes

ASSAULT WITH BODILY FLUIDS (S 997)

The House, 149-0, approved a bill that would impose up to a 10-year additional prison sentence on inmates who commit "assault with bodily fluids" upon a prison worker. Under the proposal, these fluids include blood, saliva, mucous, semen, urine, or feces.

Supporters said that creating this new category of crime would deter inmates who participate in this dangerous and outrageous practice that can spread disease and harm workers. They noted that many workers who are victims of this crime either contract a disease or at the least are required to go through a series of tests and treatments to protect themselves and their families.

The Senate has already approved a different version of the bill. The House version now goes to the Senate for consideration.

(A "Yes" vote is for the bill.)

Representative Richard Ross Yes

ALSO UP ON BEACON HILL

BAN TEXT MESSAGING WHILE DRIVING AND TEST SENIOR CITIZENS OVER 75 (S 2290) — The Senate gave initial approval to a bill that would prohibit drivers from texting while driving. The measure would impose up to a \$200 fine and/or a two-year prison sentence on



any driver who is texting and causes an accident resulting in injury to a person or property. It also would prohibit drivers under 18 from using a cell phone while driving.

Another key provision would require that every three years, senior-citizen drivers over 75 take an exam that measures their cognitive and physical abilities. Drivers who do not pass the exam would have an opportunity to take a driving test in order to demonstrate that they have the skills necessary to continue to be licensed.

The Senate measure does not include the controversial provision from the House version of the bill that would prohibit all drivers from using a hand-held cell phone but would allow drivers over 18 to use a hands-free cell phone with voice-activated dialing.

BAN SMOKING IN SOME SENIOR-CITIZEN HOUSING (H 1181)

The House gave initial approval to a bill that would require local housing authorities to provide for nonsmoking buildings in multi-building senior-citizen housing complexes or for a no-smoking floor in single-building senior-citizen housing.

The bill would phase in the proposed law, and it would grandfather in current smokers and prevent their eviction.

DENY BAIL IF CARRYING ILLEGAL WEAPON (H 4428)

The House gave initial approval to a bill that would give prosecutors the power to seek a dangerousness hearing that could deny bail to suspects arrested in some cases of carrying an illegal firearm. The measure would allow these suspects to be detained for up to 90 days without bail while they await trial.

Current law includes a list of crimes for which a suspect would be subject to a dangerousness hearing, including burglary, arson, violation of a restraining order, some drug offenses, and intimidation of a witness.

The measure was filed in response to a May ruling by the Massachusetts Supreme Judicial Court prohibiting prosecutors from holding suspects without bail solely for carrying an illegal firearm.

SCHOOL BULLIES (S 2283) — The Education Committee approved and sent to the Senate for action legislation requiring all public and private schools to develop and implement a plan to prevent bullying and cyber bullying and to discipline bullies.

The measure would prohibit bullying on school grounds; on school buses; at any school-sponsored event or activity on or off campus; through the use of the school's computer system while on or off campus; and through the use of a personal digital device, including email messages, cell phones, instant messaging, and text messaging on campus or even off-campus if the bullying affects the school environment.

Other provisions would require all school staff to promptly report bullying and would mandate that the school principal immediately investigate and take appropriate disciplinary action.

The House and Senate in 2008 approved different version of a bullying bill but they never agreed on a version to send

to Governor Deval Patrick.

FUNERAL PROCESSIONS (S 1884)

The Senate approved and sent to the House a bill that would establish regulations that cars in and out of a funeral procession must follow. The measure would require all vehicles in the procession to have their headlights and tail lights on; would prohibit them from driving more than 55 miles per hour on highways or faster than five miles per hour below the posted speed limit on all other roads; and would allow them to drive through red lights unless an emergency vehicle is approaching.

The bill would require pedestrians and operators of non-funeral-related vehicles to yield the right-of-way to any vehicle that is part of a funeral procession. Other provisions would prohibit non-funeral vehicles from driving in between the vehicles of a funeral procession and from joining a funeral procession in order to get the same rights as the vehicles in the procession.

POKER (H 4069) — The Economic Development and Emerging Technologies Committee held a hearing on legislation that would categorize poker as a game of skill rather than a game of chance. The measure would bar the state from regulating or requiring a license to play poker and other games of skill "peer-to-peer." Supporters say that the measure would stop the state from labeling poker as a game of chance and bar the state from prohibiting and/or regulating poker as it does all gambling. They argue that people should be allowed to play this game wherever and whenever they choose.

PRAYER INSTEAD OF MEDICAL CARE (H 1710)

The Judiciary Committee held a hearing on legislation that would offer "affirmative defense" legal protection to parents who rely on prayer alone, in lieu of medicine, to heal their sick children. The bill would allow defendants to use religious beliefs as a legal defense but would not prevent them from being prosecuted and subject to the verdict of a judge or jury.

Supporters said that the bill supports freedom of religion and offers protection to Christian Science and other religions that practice spiritual healing.

Opponents said that parents who do not allow medical care to save their children's lives should be prosecuted to the full extent of the law.

COMMEMORATE WAR OF 1812 (H 3539)

The House rejected a bill creating a 32-member special commission to devise and plan programs for the state's observance of the bicentennial of the War of 1812.

OFFICIAL STATE CHRISTMAS COLLECTIBLE MAKER (H 4426)

A bill on the Committee on State Administration and Regulatory Oversight's hearing agenda would designate Vaillancourt Folk Art as the official state Christmas collectible maker. According to its web site, this family-owned studio in Sutton, Massachusetts created the original chalkware Santa and has been hand-creating highly detailed, hand-painted collectible chalkware heirlooms from antique moulds since 1984.

QUOTABLE QUOTES

"I know that it's been a long week legislatively and we want to finish things up."

— Republican House Minority Leader Bradley Jones (Republican from North Reading) during House debate sarcastically referring to the fact that the House again last week was in session for only a short period of time.

"I recognize the serious fiscal problems we are facing at this time but I hope we can make this important program a priority. Vulnerable people with special needs deserve to live in safe, decent, and sanitary units."

— State Auditor Joe DeNucci commenting on his office's report that years of underfunding have resulted in the deterioration of state-subsidized public housing units for people with special needs and deprived them of decent, safe, secure, and sanitary housing.

"Guy was a little special to me. I know he was in trouble. He didn't have a job. I gave him the most entry-level position ... He's good with numbers ... I'm his only cousin, his only family."

— State Auditor Joe DeNucci defending his 2008 hiring of his now-77-year-old cousin Guy "Buster" Spezzano as a \$40,545 fraud inspector. Spezzano's primary background is his work as a musician.

"My cousin's a wonderful kid. I would have done the same thing for Joe. If it wasn't for Joe, I wouldn't have nobody."

— Guy "Buster" Spezzano defending his cousin.

HOW LONG WAS LAST WEEK'S SESSION? Beacon Hill Roll Call tracks the length of time that the House and Senate were in session each week.

Many legislators say that legislative sessions are only one aspect of the Legislature's job and that a lot of important work is done outside of the House and Senate chambers. They note that their jobs also involve committee work, research, constituent work, and other matters that are important to their districts. Critics say that the Legislature does not meet regularly or long enough to debate and vote in public view on the thousands of pieces of legislation that have been filed. They contend that the infrequency and brief length of sessions are misguided and lead to irresponsible late-night sessions and a mad rush to act on dozens of bills in the days immediately preceding the end of an annual session.

During the week of February 22-26, the House met for a total of three hours and 39 minutes while the Senate met for a total of five hours and 31 minutes.

Monday, February 22

House 11:02 a.m. to 11:20 a.m.
 Senate 11:02 a.m. to 11:18 a.m.

Tuesday, February 23

No House session
 No Senate session

Wednesday, February 24

House 11:00 a.m. to 2:10 p.m.
 Senate 11:00 a.m. to 2:42 p.m.

Thursday, February 25

House 11:00 a.m. to 11:11 a.m.
 Senate 11:07 a.m. to 12:40 p.m.

Friday, February 26

No House session
 No Senate session

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