House Legislative Analysis Section

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ALLOW LOCAL UNIT TO PROHIBIT ALCOHOL

House Bill 4317 as enrolled
Second Analysis (6-1-89)

Sponsor: Rep. William Van Regenmorter
House Committee: Liquor Control
Senate Committee: Local Government and Veterans

THE APPARENT PROBLEM:

The city of Zeeland (population 4,764 in 1980) has no retail businesses selling alcohol and reportedly has not had one since the repeal of Prohibition. According to press reports, a convenience store owner in that community has applied for a license to sell liquor on a take-out basis. Local units of government have very little involvement in the issuance of such licenses. (Local units do, however, decide whether licenses for bars and restaurants — licenses for on-premises consumption — will be issued.) While local objections are taken into account, the decision on whether to issue a take-out or party store license is solely the responsibility of the state's Liquor Control Commission. According to the bill's sponsor, the Zeeland City Council, on a 6-1 vote, has requested that a bill be introduced that would allow a community that has never had a retail liquor outlet to prohibit them.

THE CONTENT OF THE BILL:

The bill would amend the Liquor Control Act to permit a city, village, or township in which there are no retail liquor licenses to prohibit, by ordinance, the retail sale of alcoholic beverages (i.e., beer, wine, and spirits) within its borders. The ordinance would remain in effect until the next general or special election (as long as it was held at least 45 days after adoption of the ordinance), and then would be submitted to the voters at that election for affirmation or revocation. A revocation would be effective when the election results were certified.

MCL 436.57a

BACKGROUND INFORMATION:

According to a Liquor Control Commission representative, this bill applies to 139 local units of government, perhaps 125 of which are rural townships without any commercial development. It should be noted that the sale of alcohol can be prohibited on a countywide basis but no county currently does so. Further, there are a complex of provisions in the Liquor Control Act regarding the ability of local units to influence when and where alcohol is sold. For example, local units can prohibit Sunday sales of all alcohol, or of only spirits, or of only beer and wine. There are numerous other such provisions.

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

A community ought within reason to be able to control its own future and determine its own character. Officials in Zeeland, a city of nearly 5,000 in western Michigan, want the city to be able to decide for itself whether take-out liquor licenses should be available. Currently, this decision belongs solely to the state Liquor Control Commission. Zeeland has no retail liquor licensees at present but cannot prevent a take-out license from being issued. The bill would allow municipalities like Zeeland to prohibit retail liquor licenses. The bill is limited in scope: it only applies to communities where there are currently no licenses. The bill is also permissive: it leaves the decision in the hands of the local community.

Against:

Several objections could be raised to the bill. For one thing, it favors one kind of community over another. Local units that have no retail licensees will be able to go "dry." But another local unit with only one take-out store will continue to have very little control over take-out licenses. Is this fair? One could also argue that the bill puts merchants in one community at a competitive disadvantage compared with merchants in neighboring communities where alcohol can be sold.

Response: As a practical matter, the bill puts off-premise and on-premise licenses on an equal footing in at least one respect. At present, the governing body of a community that has approved no on-premise licenses (e.g., bars) can safely reject applications for such licenses, but local units that have already allowed one or more on-premise licenses must proceed more cautiously. Obviously, when one license has already been granted, refusing consideration of all future license requests raises issues of favoritism and anti- competitiveness.