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BILL ANALYSIS

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Senate Bill 813 (Substitute S-1 as reported)
 Sponsor: Senator Christopher D. Dingell
 Committee: Criminal Justice and Urban Affairs

Date Completed: 3-26-90

RATIONALE

Reportedly, there is a proliferation of local regulation of firearm ownership, sale, and possession, which can confuse and create problems for gun-owning citizens who are at a loss to know what regulations apply where. It has thus been suggested that local firearm control be prohibited except to the extent permitted by State or Federal law.

jurisdictions reportedly have been recognized by 38 states, which have passed laws similar to Senate Bill 813. At the Federal level, Congress too has recognized the problems of traveling between states having different firearm regulations, and amended the Federal gun control act to permit the transportation of long guns anywhere in the country.

CONTENT

The bill would create a new Act to prohibit a local unit of government from imposing special taxation on, enacting or enforcing any ordinance or regulation concerning, or regulating in any manner the ownership, registration, sale, purchase, transportation, transfer, possession, or carrying of pistols or other firearms or their ammunition or components, except as otherwise provided by State or Federal law.

Opposing Argument

The bill would remove an essential element of local units' control over the protection of the lives and safety of their citizens. Regardless of whether one is for or against gun control, home rule principles dictate that local governments should have the power to regulate matters of local concern. In fact, some have suggested that the bill include specific authorization to enact and enforce local ordinances that were identical to State law. A similar approach is taken in the vehicle code and many local jurisdictions feel that authorization is necessary in order to prosecute minor infractions locally when a county prosecutor has neither the resources nor the inclination to prosecute.

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS**Supporting Argument**

By prohibiting local gun control ordinances and other regulations, the bill would ensure that a myriad of varying firearm laws did not exist in local units of government throughout the State. A great many citizens own firearms and should not have to find themselves in violation of the law simply by crossing the street into another jurisdiction that happens to have different regulations. The problems that can be encountered when traveling between

In addition, the needs and problems of different jurisdictions vary, and local units should continue to have the authority to enact regulations that will specifically address those needs and problems. For instance, many of Michigan's more populous municipalities have enacted ordinances prohibiting the discharge of a firearm within the boundaries of the municipality. A strict interpretation of the bill would prohibit municipalities from protecting their citizens and property by enacting or enforcing such regulations. While proponents of the bill argue that uniform Statewide regulation

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would be preferable to a hodgepodge of local controls, no such Statewide measure to strengthen gun laws appears to be forthcoming. In fact, it is precisely a dissatisfaction with State law--together with the easing of Federal firearm control--that may account for the growing popularity of local regulations.

Opposing Argument

The bill would go too far in totally preempting the field of firearm regulation. While it may indeed be true that a plethora of varying local laws could create unreasonable problems for gun owners, not all types of firearm regulation would actually contribute to that situation. For example, some successful local ordinances mandate instruction in gun storage and handling and the responsibilities of owning a gun, before a resident may purchase a license to buy a handgun. Other options available to communities include conditioning permit issuance on the absence of convictions for narcotics or alcohol offenses, or on a knowledge of firearm laws. While these and other measures may lead to increased safety within a community, they have no affect on individuals who already have received a permit from that or another jurisdiction.

Opposing Argument

Under the bill, communities could be prohibited from enacting ordinances to impose stiffer sentences for violation of existing gun control laws, such as mandatory imprisonment for carrying a firearm in the course of committing a crime. Local governments should retain the option of implementing such ordinances in an effort to make their communities safer places to live and work.

Response: The bill is vague in this area and could be interpreted either to preclude or not to preclude stricter sentencing policies. Another area of ambiguity concerns the bill's effect on existing local ordinances; that is, whether the bill would apply retroactively to prevent enforcement of local firearm regulations that were enacted before the bill took effect.

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