

# County lawyer cool to anti-drug ordinance

By Tim Richard  
staff writer

A splash of cool water from a lawyer won't stop two Oakland County commissioners from seeking passage of an ordinance banning sale of drug paraphernalia.

"This is too serious for politics," said Commissioner James Doyon, D-Madison Heights, on the election-eve holdup of the anti-drug measure. Doyon, whose district includes part of Troy, is a co-sponsor.

He said chief sponsor Betty Fortino, D-Waterford, will seek to discharge petition at the Oct. 23 full board meeting to move the proposal out of the general government committee.

"That committee hasn't even met recently," said Doyon. "They say there isn't enough business to warrant calling a meeting."

IN RESPONSE to committee chairman John E. Olson, R-Huntington Woods, the Oakland County corporation counsel's office provided a mixed view of whether such an ordinance, if passed, would be upheld in the courts.

Linda E. Wasielewski, who signed the opinion, said it probably could be passed legally, but she added:

"You should be aware that once enacted, certain legal challenges will be filed by defendants arrested under the ordinance."

"One such challenge will concern First Amendment commercial free speech rights, as well as due process and commerce clause challenges."

"VERY SIMILAR drug paraphernalia ordinances were challenged in two cases on basically the same grounds," she said, citing:

- A 1980 Novi case in which then-Federal Judge Patricia Boyle "upheld the validity of the ordinance as reasonably related to a legitimate state interest and not unconstitutionally vague."
- A 1980 Ferndale case, in which Federal Judge Anna Diggs Taylor "struck the ordinance down as in violation of due process in that it did not give fair notice to persons of ordinary intelligence as to the proscribed conduct."

She said such an ordinance would be upheld as long as there was no state law on the subject, and that it would not interfere with the powers of cities and townships.

THE STATE Senate has passed a bill to prohibit the sale of drug paraphernalia, but it is not due for House action until after the Nov. 4 election.

Fortino and Doyon say a county ordinance would put pressure on the Legislature to pass a law with statewide application.

Doyon said Gov. James J. Blanchard has some commitment to the measure.

The governor must sign county ordinances, the same as state laws, though the county board could override any veto by a two-thirds vote.

Doyon said that he and Fortino, as Democrat, "have a direct line to the governor."

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— Linda E. Wasielewski,  
corporation counsel's office

The Oakland County board is controlled 19-8 by Republicans. Doyon speculated the GOP might be reluctant to give two Democrats a big public victory prior to an election.

IN OTHER responses to Chairman Olsen's questions, attorney Wasielewski said:

- "Enforcement by all law enforcement agencies is statutorily permissible."
- "The district courts have jurisdiction over ordinance violations punishable by fine or imprisonment or both."



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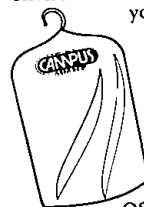
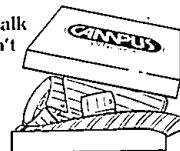
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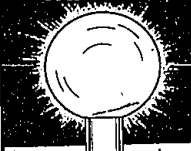
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