

AN ACT concerning driving offenses.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Illinois Municipal Code is amended by changing Section 1-2-1.2 as follows:

(65 ILCS 5/1-2-1.2)

Sec. 1-2-1.2. Felony DUI prosecutions prohibited.

(a) A unit of local government, including a home rule unit, may not enforce any ordinance that prohibits driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof if, based on the alleged facts of the case or the defendant's driving history or record, the offense charged would constitute a felony under Section 11-501 of the Illinois Vehicle Code, unless the State's Attorney rejects or denies felony charges for the conduct that comprises the charge.

(b) A municipal attorney must (i) review the driving record of any defendant accused of violating any ordinance that prohibits driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof and (ii) if the offense charged would constitute a felony under Section 11-501 of the Illinois Vehicle Code, notify the State's Attorney of the county of the felony charges.

(c) This Section is a denial and limitation of home rule powers and functions under subsection (g) of Section 6 of Article VII of the Illinois Constitution.

(Source: P.A. 94-111, eff. 1-1-06.)

Section 10. The Illinois Vehicle Code is amended by changing Sections 11-208.5 and 16-102 as follows:

(625 ILCS 5/11-208.5)

Sec. 11-208.5. Prosecution of felony DUI by local authorities prohibited.

(a) The powers of a local authority to enact or enforce any ordinance or rule with respect to the streets or highways under its jurisdiction relating to driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof is limited to the enactment and enforcement of ordinances or rules the violation of which would constitute a misdemeanor under Section 11-501 of the Illinois Vehicle Code.

(b) A local authority may not enact or enforce any ordinance or rule with respect to streets and highways under its jurisdiction if a violation of that ordinance or rule would constitute a felony under Section 11-501 of the Illinois Vehicle Code. The municipality may, however, charge an offender with a municipal misdemeanor offense if the State's Attorney rejects or denies felony charges for the conduct that comprises the charge.

(c) A municipal attorney who is aware that, based on a driver's history, the driver is subject to prosecution for a felony under Section 11-501 of the Illinois Vehicle Code, must notify the State's Attorney of that county of the driver's conduct and may not prosecute the driver on behalf of the municipality.

(Source: P.A. 94-111, eff. 1-1-06.)

(625 ILCS 5/16-102) (from Ch. 95 1/2, par. 16-102)

Sec. 16-102. Arrests - Investigations - Prosecutions.

(a) The State Police shall patrol the public highways and make arrests for violation of the provisions of this Act.

(b) The Secretary of State, through the investigators provided for in this Act shall investigate and report violations of the provisions of this Act in relation to the equipment and operation of vehicles as provided for in Section 2-115 and for such purposes these investigators have and may

exercise throughout the State all of the powers of police officers.

(c) The State's Attorney of the county in which the violation occurs shall prosecute all violations except when the violation occurs within the corporate limits of a municipality, the municipal attorney may prosecute if written permission to do so is obtained from the State's Attorney.

(d) The State's Attorney of the county in which the violation occurs may not grant to the municipal attorney permission to prosecute if the offense charged is a felony under Section 11-501 of this Code. The municipality may, however, charge an offender with a municipal misdemeanor offense if the State's Attorney rejects or denies felony charges for the conduct that comprises the charge.

(Source: P.A. 94-111, eff. 1-1-06.)

Section 99. Effective date. This Act takes effect upon becoming law.