



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB4717

Introduced 1/12/2006, by Rep. Randall M. Hultgren

SYNOPSIS AS INTRODUCED:

65 ILCS 5/1-2-1.2
625 ILCS 5/11-208.5
625 ILCS 5/16-102

from Ch. 95 1/2, par. 16-102

Amends the Illinois Municipal Code and the Illinois Vehicle Code. Provides that a municipality may charge an offender with a municipal misdemeanor offense for conduct that would constitute felony driving under the influence of alcohol, drugs, or intoxicating compounds, if the State's Attorney rejects or denies felony charges for that conduct. Effective immediately.

LRB094 17726 DRH 53025 b

1 AN ACT concerning driving offenses.

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

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

6 (65 ILCS 5/1-2-1.2)

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

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

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

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

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

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

1 (625 ILCS 5/11-208.5)

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

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

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

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

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

27 (625 ILCS 5/16-102) (from Ch. 95 1/2, par. 16-102)

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

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

31 (b) The Secretary of State, through the investigators
32 provided for in this Act shall investigate and report
33 violations of the provisions of this Act in relation to the
34 equipment and operation of vehicles as provided for in Section
35 2-115 and for such purposes these investigators have and may

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

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

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

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

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