

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.