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SPRINGFIELD

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FILE NO. S-1054

**MOTOR VEHICLES:
Traffic Regulations Enacted
By a Public Community
College Board**

Honorable David DeDoncker
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Rock Island County
Courthouse
Rock Island, Illinois 61201

Dear Mr. DeDoncker:

I have your letter wherein you pose several questions regarding the proper interpretation of section 3-42.2 of the Public Community College Act (Ill. Rev. Stat. 1975, ch. 122, par. 103-42.2) granting to community college boards the power to enact certain traffic regulations. You state that there is a community college located in Rock Island County within the municipal boundaries of the City of Moline, and that the college has established a security department pursuant to section 3-42.1 of the Public Community College Act. Ill. Rev. Stat. 1975, ch. 122, par. 103-42.1.

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Your first question concerns the interpretation to be given subsection (a) of section 16-105 of The Illinois Vehicle Code (Ill. Rev. Stat. 1975, ch. 95 1/2, par. 16-105) as applied in section 3-42.2 of the Public Community College Act. You suggest that in those cases wherein city police officers "prosecute" a violation of college traffic ordinances, the fine collected is to be paid to the City of Moline and you ask if this is a correct reading of the law.

Secondly, you inquire whether the city or county is to receive the fines resulting from the "prosecution" of such violations by members of the college security department.

You next ask whether the State's Attorney must prosecute those cases in which the fines in question are to be paid to the county.

Finally, you ask whether a community college board is a "local authority" as defined in The Illinois Vehicle Code and if so, whether violations of certain regulations the board enacts also constitute violations of State criminal law.

Section 3-42.2 of the Public Community College Act (Ill. Rev. Stat. 1975, ch. 122, par. 103-42.2) grants the following authority to community college boards:

"To establish parking regulations, to regulate, and control the speed of, travel on all paths, driveways and roadways which are owned and maintained by, and within the property of, the

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community college district, to prohibit the use of such paths, driveways and roadways for racing or speeding purposes, to exclude therefrom traffic and vehicles, and to prescribe such fines and penalties for the violation of such traffic regulations as cities and villages are allowed to prescribe for the violation of their traffic ordinances.

Fines and penalties recovered under this Section shall not be paid to the community college district. Such fines and penalties shall be paid according to the provisions of subsection (a) of Section 16-105 of The Illinois Vehicle Code, as now or hereafter amended."

Subsection (a) of section 16-105 of The Illinois Vehicle Code (Ill. Rev. Stat. 1975, ch. 95 1/2, par. 16-105) provides in relevant part:

"(a) Fines and penalties recovered under the provisions of Chapters 11 through 16 inclusive of this Act shall be paid and used as follows:

1. For offenses committed upon a highway within the limits of a city, village, or incorporated town or under the jurisdiction of any park district, to the treasurer of the particular city, village, incorporated town or park district, if the violator was arrested by the authorities of the city, village, incorporated town or park district, provided the police officers and officials of cities, villages, incorporated towns and park districts shall seasonably prosecute for all fines and penalties under this Act. If the violation is prosecuted by the authorities of the county, any fines or penalties recovered shall be paid to the county treasurer.
* * *

With regard to your first question, it is my opinion that you have correctly interpreted section 16-105 as it

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applies to "prosecutions" by city police officers and the county sheriff. Section 16-105 sets forth specific standards for disposing of fines resulting from traffic offenses committed within the confines of a municipality. The public community college you describe is located within the City of Moline and as such, any traffic regulations it enacts in accordance with section 3-42.2 will affect only streets or highways within the municipal limits. I conclude, based on this, that the violation of such regulations will constitute "offenses committed upon a highway within the limits of a city, village or incorporated town * * * " for purposes of applying section 16-105. Therefore, fines resulting from the "prosecution" by city police officers of violations of regulations passed pursuant to section 3-42.2 of the Public Community College Act should be paid to the city treasurer. If on the other hand, such violations are "prosecuted" by the sheriff or one of his deputies, the fines collected are to be paid to the county.

It should be noted before continuing, that the word "prosecution" is not used in the ordinary sense here. It has been held that the legislature in requiring law enforcement officers to "prosecute" a case under section 16-105 meant only that the officers are to do what is in their power

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to do in order to secure a conviction. Thus, if the police officer or sheriff makes the arrest, signs the complaint and testifies as a witness he has "prosecuted" within the meaning of section 16-105. City of Rockford v. Watson, 108 Ill. 2d 196; City of Champaign v. Hill, 29 Ill. App. 2d 429.

In dealing with your second question, it is apparent that the standards of section 16-105 when read alone, offer no guidance in dealing with the disposition of fines resulting from "prosecutions" by college security personnel. It is to be presumed, however, that the General Assembly did not intend an absurd result in applying these standards in the context of section 3-42.2 (Illinois Crime Investigating Com. v. Buccieri, 36 Ill. 2d 556) and that it intended to create a comprehensive plan covering the disposition of all fines collected. It seems reasonable to conclude, therefore, that the legislature intended college security officers to be subject to the general requirements of section 16-105. The problem then is one of construing the statutes involved so as to give effect to this legislative intent.

It is a generally accepted rule of construction that statutes dealing with the same subject are in pari materia and should be construed together. (Spring Hill Cemetery of

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Danville v. Ryan, 20 Ill. 2d 608.) Applying this rule here, it is my opinion that the legislative intent in incorporating the standards of section 16-105 within section 3-42.2 can be determined by reading these two provisions along with section 3-42.1 of the Public Community College Act (Ill. Rev. Stat. 1975, ch. 122, par. 103-42.1) which states in part:

"* * * Members of the Security Department shall be conservators of the peace and as such have all powers possessed by policemen in cities, and sheriffs in counties * * *"

The intent of the legislature in enacting section 3-42.1 seems clear. College security personnel are to have powers equivalent to those of the public law enforcement officers who would normally have jurisdiction over the territory encompassed by the college. Thus, if the college is located within a municipality, its security personnel are to have the powers of the city police officers. If it is located outside municipal limits, however, the members of its security department are to have the powers of the county sheriff.

This distinction based on the location of the college also provides, in my opinion, a means of bringing college security officers within the framework of section 16-105. Security personnel employed by a community college located within a municipality are to be treated as city police officers

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for purposes of section 16-105.

Applying this conclusion to your situation, involving as it does a community college located within the limits of the City of Moline, any fines collected pursuant to section 3-42.2 of the Public Community College Act as a result of "prosecutions" by either city police officers or college security personnel are to be paid to the city treasurer.

In response to your third question, it is my opinion that when fines collected pursuant to section 3-42.2 are to be paid to the county treasurer, section 5 of "AN ACT in regard to Attorneys General and State's Attorneys" (Ill. Rev. Stat. 1975, ch. 14, par. 5) requires the State's Attorney to prosecute the case. Section 5 reads in pertinent part:

"The duty of each State's attorney shall be:

* * *

(2) To prosecute all forfeited bonds and recognizances, and all actions and proceedings for the recovery of debts, revenues, moneys, fines, penalties and forfeitures accruing to the State or his county, or to any school district or road district in his county; also, to prosecute all suits in his county against railroad or transportation companies, which may be prosecuted in the name of the People of the State of Illinois."

The language used by the legislators plainly indicates their

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intent to have the State's Attorney prosecute all actions involving the recovery of fines to which the county is entitled. Since there is no indication in section 3-42.2 of an intent to depart from that general rule, it is my opinion that it applies here.

You next state that it would appear that a public community college board is a "local authority" as defined by section 1-140 of The Illinois Vehicle Code. (Ill. Rev. Stat. 1975, ch. 95 1/2, par. 1-140.) I point out, however, section 11-100 of The Illinois Vehicle Code (Ill. Rev. Stat. 1975, ch. 95 1/2, par. 11-100) which contains a somewhat different definition of "local authorities" and I suggest that it is controlling here.

Section 11-100 reads in relevant part:

"§ 11-100. Definition of words and phrases. Notwithstanding the definitions set forth in Chapter 1 of this Act, for the purposes of this Chapter, the following words shall have the meanings ascribed to them as follows:

* * *

Local Authority. Every county, municipal, and other local board or body having authority to adopt local police regulations under the constitution and laws of this State other than the corporate authorities of park districts.

* * *

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Because chapter 11 contains the Rules of the Road and deals with the sort of traffic regulations which a community college board is authorized to enact under section 3-42.2, it is my opinion that the definition of section 11-100 governs.

Section 11-100 defines a "local authority" in terms of its power "to adopt local police regulations". I interpret the phrase "local police regulations" to mean any police regulations other than State statutes, applicable within the jurisdiction of the local authority. Section 3-42.2 of the Public Community College Act expressly confers on community college boards the power to enact such regulations, and it is my opinion that the board is a "local authority" for the purposes of chapter 11 of The Illinois Vehicle Code.

Assuming that a community college board is a local authority, your final question is whether violations of traffic regulations adopted by the board pursuant to section 3-42.2 may in certain instances also be prosecuted as violations of the State criminal law. In this regard section 11-202 of The Illinois Vehicle Code provides that it is a Class A misdemeanor "to do any act forbidden or fail to perform any act required" by chapter 11 of The Illinois Vehicle Code.

By way of example you suggest a situation in which

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the college board designates a particular roadway as one-way and you ask whether a violation of such a regulation would also constitute a violation of section 11-708 of The Illinois Vehicle Code which states in pertinent part:

"(a) The Department and local authorities, with respect to highways under their respective jurisdictions, may designate any highway, roadway, part of a roadway or specific lanes upon which vehicular traffic shall proceed in one direction at all or such times as shall be indicated by official traffic control devices.

(b) Upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by official traffic control devices.

* * *

Part (a) of section 11-708 clearly gives local authorities, as well as the State Department of Transportation, the power to designate one-way streets. Part (b) is equally clear in stating that traffic upon any roadway so designated shall be driven only in the direction indicated by official traffic control devices. Thus, a violation of a local regulation designating a one-way street amounts to the doing of an act forbidden by section 11-708, which according to section 11-202 constitutes a Class A misdemeanor.

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It is therefore my opinion that whenever the violation of a local ordinance also results in the doing of an act forbidden or failure to perform any act required by chapter 11 of The Illinois Vehicle Code, such a violation can also be prosecuted as a Class A misdemeanor pursuant to section 11-202.

Very truly yours,

A T T O R N E Y G E N E R A L