

## **Tough New DWI Penalties for New York** Effective December 18, 2009

In November 2009, the New York legislature passed and Governor Patterson signed, a new anti-impaired law with 2 major components; one to toughen the penalties for driving impaired with children and one to require interlock devices for those convicted. "When I introduced The Child Passenger Protection Act - now known as Leandra's Law - it was because too often drivers under the influence of alcohol or drugs chose to compromise not only their own lives, but also the lives of our children. Today, we say enough," Governor Paterson said.

Important provisions of this new law includes:

- First time offenders driving while intoxicated (.08 Blood Alcohol Content (BAC) or more) or impaired by drugs while a child of younger than 16 years old is in the vehicle may be charged with a class E felony punishable by up to 4 years in State prison.
- Individuals charged with driving with a blood alcohol level of .08 or greater and with a child under the age of 16 in the vehicle would automatically have their license suspended pending prosecution.
- Courts must order all drivers convicted of a misdemeanor or felony DWI to install and maintain an ignition interlock on any vehicle owned and operated by such driver for at least 6 months, in addition to any term imprisonment. The Department of Probation and Correctional Alternatives will issue regulations that will provide counties with different options for supervising the use of interlocks, so as to ensure that they can determine the most appropriate mechanism for their needs.
- Drivers who drive while intoxicated or impaired by drugs and cause the death of a child younger than 16 in the car may be charged with a Class B felony, punishable by up to 25 years in State prison.
- Drivers who drive while intoxicated or impaired by drugs and cause serious physical injury to a child in the vehicle may be charged with the Class C felony, punishable by up to 15 years in State prison.
- Individuals who are a parent, guardian, custodian or otherwise legally responsible for a child who are charged with driving while impaired by alcohol or drugs while that child is a passenger in the car would be reported to the Statewide Central Register of Child Abuse and Maltreatment by the arresting agency.

The provisions of the law relating to DWI with a child passenger take effect on December 18, 2009. The interlock provisions are to take effect 270 days after the bill was signed. Additional regulations may be promulgated by state agencies to regulate the interlock provision.

Upcoming [Interlock Ignition Training](#) (in MS Word)

## **What exactly does the new law require?**

Under Leandra's Law, when anyone is convicted of any felony or misdemeanor drunk driving offense the court will be required to impose - in addition to any fine, jail or prison sentence - a period of probation or conditional discharge. During that period, the individual will be required to install and maintain an ignition interlock device, for at least six months, in any motor vehicle they own or operate.

## **How does an interlock device work?**

Before a vehicle's motor can be started, the driver must exhale into an ignition interlock device (IID) also known as a breath alcohol ignition interlock device (BAIID). If the driver's blood alcohol concentration (BAC) is .025 percent or higher the engine will not start.

## **Couldn't the individual under supervision bypass the interlock simply by having someone else breath into the device to get it started and then drive away, or leave the car running while they are in a bar and drinking?**

No. At random intervals after the engine has been started, the device will require additional breath samples. If a sample is not provided or if the blood alcohol concentration is .025 percent or higher, the device will record the event, warn the driver and then start an alarm (horn honking and/or a loud interior alarm) until either the ignition is turned off or a clean breath sample is provided. Additionally, some of the devices have built-in cameras and keep a photographic record of who provides the breath sample.

## **Who will install the device?**

When someone is convicted of impaired driving and ordered to have an interlock installed, he or she will be referred by local ignition interlock monitors to manufacturers and their installation service providers designated by the state.

## **What do ignition interlock devices cost and who will pay for it?**

The cost depends on the vendor and the level of ignition interlock service, but generally costs approximately \$100 for installation, \$100 for de-installation and a monthly fee of \$100. In general, it is the responsibility of the convicted drunk driver to pay all the fees associated with installing and maintaining these devices.

## **Where can I find more information and view public service announcements?**

You can visit the Governor's Traffic Safety Committee website at [www.SafeNY.com/impaired](http://www.SafeNY.com/impaired) for further information.

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**1-877-8-HOPENY**

Find Help for **1-877-846-7369**

Alcoholism, Drug Abuse, Problem Gambling

## Information from the NYS Office of Alcoholism and Substance Abuse Services

[Addiction Prevention](#)

[Underage Drinking Prevention](#)

[Tobacco Independence](#)

[Prescription Drug Abuse Prevention](#)

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## Frequently Asked Questions



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### How much do I have to drink before it affects my driving?

Any amount of alcohol affects your judgment and coordination. The degree of impairment depends upon:

- The amount of alcohol you consume
- Your body weight
- Whether or not you eat before or while drinking
- The length of time you spend drinking

### What is BAC?

BAC stands for "blood alcohol concentration." It's a measure of the amount of alcohol in your blood. In New York State, a BAC of more than .05% is evidence that your ability is impaired by alcohol (DWAI or driving while ability impaired). A BAC of .08% or more is evidence of intoxication (DWI, driving while intoxicated, and/or driving with a BAC of .08 or more.) Under New York's [Zero Tolerance Law](#), drivers under age 21 may be detained for driving with as little as .02% BAC.

### **How can I sober up quickly?**

There is no quick way. Only time can make you sober. You must wait for your body to metabolize the alcohol. Most people need about one hour to metabolize one drink.

### **What will happen if I am stopped for drunk driving?**

If a police officer believes you are intoxicated, you will be arrested and requested to take a BAC test. If convicted you will face a substantial fine, license revocation, higher insurance costs, legal fees and a possible jail sentence. [See [Section 1192, NYS Vehicle & Traffic Law.](#)]

### **Is plea bargaining possible?**

The law prohibits a plea to reduce an alcohol traffic offense to a non-alcohol traffic offense.

### **What if I don't take the BAC test?**

Your license will be suspended by the court at arraignment and later may be revoked at a DMV hearing. You are also subject to a civil penalty of \$500-750. [Section 1194, NYS Vehicle & Traffic Law.]

### **Does age have anything to do with penalties?**

Yes. If you are under 21 and convicted of an alcohol related offense your license is revoked for at least one year. A second offense while under 21 results in a one year revocation or a revocation until age 21, whichever is longer. [[Section 1193.2\(b\) \(6\),\(7\) of the NYS Vehicle & Traffic Law.](#)]

### **What are the chances that if I drink and drive that I will be caught?**

Greater than ever before. The STOP-DWI Law has increased both enforcement and prosecution of drunk drivers. This law returns fine money to counties for anti-DWI programs. Also State and local police are doing blanket patrols and checkpoints to aid in the apprehension of drunk drivers. These enforcement efforts can occur at any place and time.

### **Can I receive a limited license to drive if I am convicted of drunk driving?**

In some cases, yes. Such conditional licenses are available mostly to first time offenders who agree to attend the 16 hour Drinking Driver Program. [Section 1196, NYS Vehicle & Traffic Law.]

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## Safety Tips



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- [Leandra's Law Information Card](#) - pdf document
- [Leandra's Law Poster](#) - pdf document
- [.08 Don't blow it](#) - Information card
- [Your BAC is Rising with Every Drink - Sleeping It Off Won't Sober You Up](#) - brochure
- [BAC \(blood alcohol concentration\) - The Truth about Drinking & Driving](#) - brochure
- [STOP-DWI TV ad](#)