

DWI: Penalties for NY

In November 2009, the New York legislature passed and Governor Paterson 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.

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.

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. 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. 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. 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. 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.

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