

**NEW YORK STATE
EVALUATION OF LEANDRA'S LAW**

ADWI WITH CHILD UNDER AGE 16 IN THE VEHICLE

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EVALUATION OF LEANDRA'S LAW

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INTRODUCTION

The Child Passenger Protection Act (Chapter 496 of the Laws of 2009), commonly known as Leandra's Law, is one of the most recent in a long line of significant legislation passed in New York State to address the serious issue of impaired driving. The law was named for an 11-year-old girl who was killed while riding in a vehicle driven by the intoxicated mother of one of her friends. The driver received misdemeanor charges prompting calls for stronger legislation and stricter penalties for driving impaired with young passengers in the vehicle. Leandra's Law created a new crime of Aggravated Driving While Intoxicated with a Child under Age 16 in the Vehicle (Vehicle and Traffic Law Section 1192.2ab). Effective December 18, 2009, drivers who violate the ADWI/Child in Vehicle law are charged with a Class E felony and face up to four years in prison and/or a fine of \$1,000-\$5,000.

The second major component of Leandra's Law expands the use of ignition interlock devices as a sanction in alcohol impaired driving cases. Any driver convicted of a misdemeanor or felony DWI is now required to install an ignition interlock device for a minimum of six months on any vehicle they drive. Drivers convicted of ADWI/Child in Vehicle were subject to the new sanction on the effective date of the new law (December 18, 2009), while the sanction for other DWI convictions (VTL 1192.2, 1192.2aa and 1192.3) took effect on August 15, 2010.

This report focuses on the implementation of the new violation of ADWI/Child in Vehicle (VTL 1192.2ab). The study was designed to identify the number and characteristics of drivers who had been arrested for violating VTL 1192.2ab between December 18, 2009 and June 30, 2011 and determine whether they were adjudicated and sanctioned in accordance with Leandra's law.

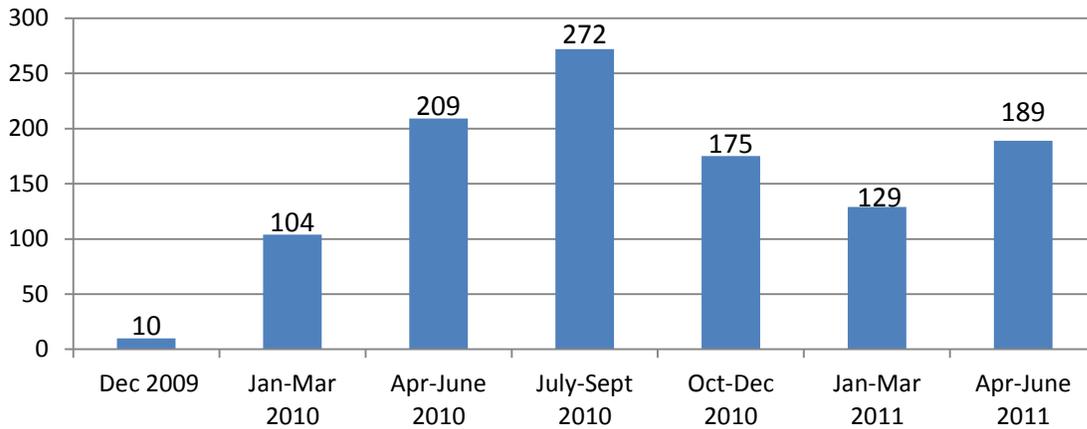
Using ticket data extracted from the TSLED (Traffic Safety Law Enforcement and Disposition) system on July 15, 2011, the first set of analyses focused on drivers ticketed for 1192.2ab violations and the adjudication outcome of these tickets. TSLED includes all tickets issued for impaired driving offenses in New York State with the exception of New York City and five western towns in Suffolk County on Long Island. The Driver License file, which contains information on all drivers in the state convicted of a misdemeanor or felony DWI, was the source for further analyses on the drivers convicted of these violations. These analyses included the penalties and sanctions received, involvement in a crash in association with the violation, and the extent to which these drivers had prior alcohol-related convictions on their driving records. The Driver License file data used in the analyses were extracted on August 31, 2011. The results of the analyses are presented below.

RESULTS OF ANALYSES OF DATA FROM THE TSLED FILE

DRIVERS TICKETED FOR VTL 1192.2ab VIOLATIONS

During the period of December 18, 2009 to June 30, 2011, 1,088 tickets were issued to impaired drivers traveling with a child under 16 years of age in their vehicle in violation of VTL 1192.2ab. The distribution of these tickets by quarter of the year is presented in Figure 1. During the 18 month period shown in Figure 3.1, the largest number of tickets for a violation of VTL 1192.2ab was issued July-September 2010 (272), followed by April - June 2010 (209) and April - June 2011 (189).

FIGURE 1
Total TSLED Tickets Issued for VTL 1192.2ab Violations
December 18, 2009 – June 30, 2011
(N = 1,088)



Source: NYS TSLED system; data on file as of July 15, 2011

Further analyses of the TSLED data show that the 1,088 tickets were issued to a total of 929 drivers. While 89% of these drivers received only one ticket, 104 (11%) of those drivers were issued multiple tickets for violations of VTL 1192.2ab during the same event. As indicated in Table 1, 71 (8%) of the drivers were issued two tickets and 33 (3%) were issued three or more tickets for violations of VTL 1192.2ab during the same event.

TABLE 1
Drivers Ticketed for Violating VTL 1192.2ab
December 18, 2009 – June 30, 2011
(N = 929)

Number of Drivers Issued...	#	%
1 Ticket	825	88.8
2 Tickets	71	7.6
3 Tickets	17	1.8
4 Tickets	13	1.4
5 or More Tickets	3	0.3

Source: NYS TSLED system; data on file as of July 15, 2011

Driver Age and Gender

As indicated in Table 2, the largest proportion of drivers ticketed for violating VTL 1192.2ab were 30-39 years of age (31%), followed by drivers ages 40-49 (29%) and drivers ages 21-29 (25%). Table 2 also shows that men were much more likely than women to be ticketed for violating VTL 1192.2ab (63% vs. 37%).

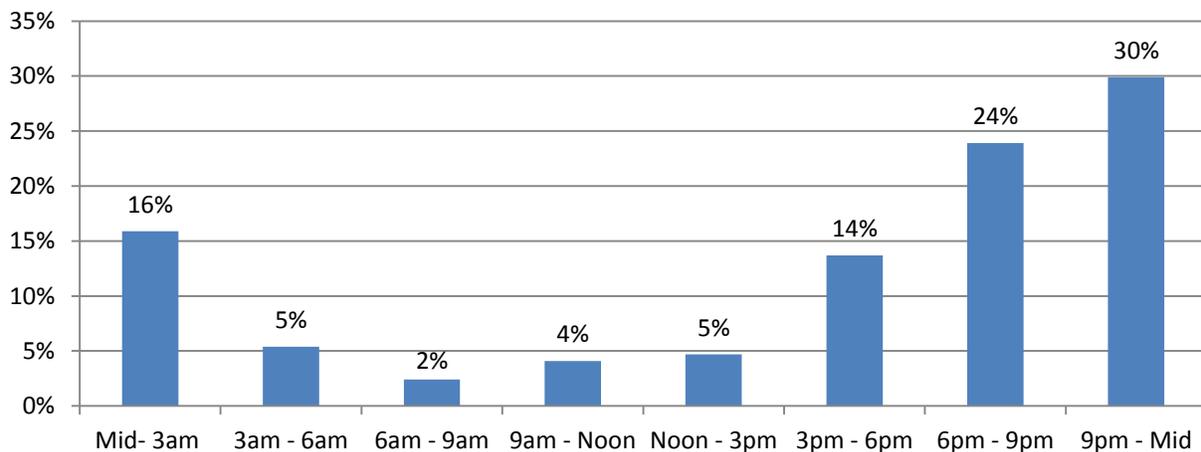
TABLE 2 Drivers Ticketed for VTL 1192.2ab Violations December 18, 2009 – June 30, 2011 Age and Gender (N = 929)		
Age	#	%
16 - 20	65	7.0
21 - 29	229	24.7
30 - 39	291	31.3
40 - 49	265	28.5
50 - 59	69	7.4
60 +	10	1.1
Gender		
Men	582	62.7
Women	347	37.3

Source: NYS TSLED system; data on file as of July 15, 2011

Time of Day/Day of Week

Figures 2 and 3 show the time of day and day of week, respectively, when drivers were issued VTL 1192.2ab tickets between December 18, 2009 and June 30, 2011. Figure 2 shows that more than one-half (54%) of the drivers were ticketed between 6pm and midnight; an additional 16% were ticketed between midnight and 3am.

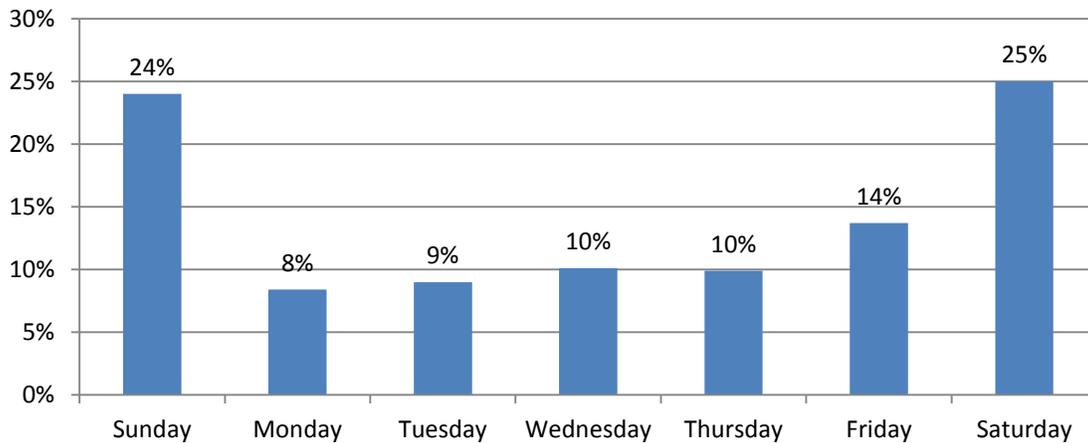
FIGURE 2
Drivers Ticketed for VTL 1192.2ab Violations
December 18, 2009 – June 30, 2011
Time of Day
(N = 830)



Source: NYS TSLED system; data on file as of July 15, 2011

With regard to the day of the week, Figure 3 shows that nearly one-half (49%) of the drivers ticketed for violating VTL 1192.2ab were ticketed on the weekend, another 14% were ticketed on a Friday and 8%-10% were ticketed on each of the remaining four weekdays.

FIGURE 3
Drivers Ticketed for VTL 1192.2ab Violations
December 18, 2009 – June 30, 2011
Day of Week
(N = 929)



Source: NYS TSLED system; data on file as of July 15, 2011

ADJUDICATION OF CASES INVOLVING DRIVERS TICKETED FOR VIOLATIONS OF VTL 1192.2ab

Table 3 shows that the cases of more than half (54%) of the 929 drivers ticketed for a violation of VTL 1192.2ab were still pending at the time the data for this study were extracted in July 2011. Of the 429 drivers charged with a violation of VTL 1192.2ab whose cases had been adjudicated, 297(69%) of the cases resulted in convictions.

Further analyses were conducted to determine what proportion of the 297 VTL 1192.2ab tickets resulting in convictions were convictions on the original 1192.2ab charge and how many were convictions on a different charge. As the table indicates, 233 (79%) of the 297 convictions were for the original charge of VTL 1192.2ab. Of the conviction charges that differed from the original charge, 23 (8%) were convicted of 1192.3 (DWI), 17 (6%) were convicted of 1192.2 (Per Se) and 11 were convicted of 1192.2aa (ADWI). Ten convictions were for the reduced charge of 1192.1 (DWAI) and three were convicted on a non alcohol-related charge.

TABLE 3		
Convictions Associated with Arrests for VTL 1192.2ab Violations		
December 18, 2009 – June 30, 2011		
	(N=929)	%
Drivers with case pending	500	53.8
Drivers with case adjudicated	429	46.2
<i>Convicted</i>	297	69.2
Conviction Charge	(N=297)	%
1192.2ab - ADWI with child < 16 years	233	78.5
1192.3 - DWI	23	7.7
1192.2 - Per Se	17	5.7
1192.2aa - ADWI	11	3.7
1192.1 - DWAI	10	3.4
Outside 1192	3	1.0

Source: NYS TSLED file; data on file as of July 15, 2011

KEY FINDINGS BASED ON ANALYSES OF TSLED DATA

The analyses of the TSLED data available on tickets issued for VTL 1192.21ab violations between December 18, 2009 and June 30, 2011 resulted in the following key findings:

- 929 drivers were ticketed for aggravated DWI with a child under 16 in the vehicle (VTL 1192.2ab); 11% of the drivers received more than one ticket for ADWI/Child in Vehicle during the same event.
- The largest numbers of drivers were ticketed during the summer (July-Sept 2010).
- The drivers ticketed were most likely to be 30-39 years of age (31%), followed by 40-49 years of age (29%).
- The drivers ticketed were much more likely to be men (63%) than women (37%).
- More than half (54%) of the drivers were ticketed between 6pm and midnight and nearly half (49%) were ticketed on the weekend.
- Of those drivers whose cases had been adjudicated, 69% were convicted.
- Of the drivers who were convicted, 79% were convicted on the original charge of ADWI with a child under 16 in the vehicle.

RESULTS OF ANALYSES OF DATA FROM THE DRIVER LICENSE FILE

DRIVERS CONVICTED OF VTL 1192.2ab VIOLATIONS

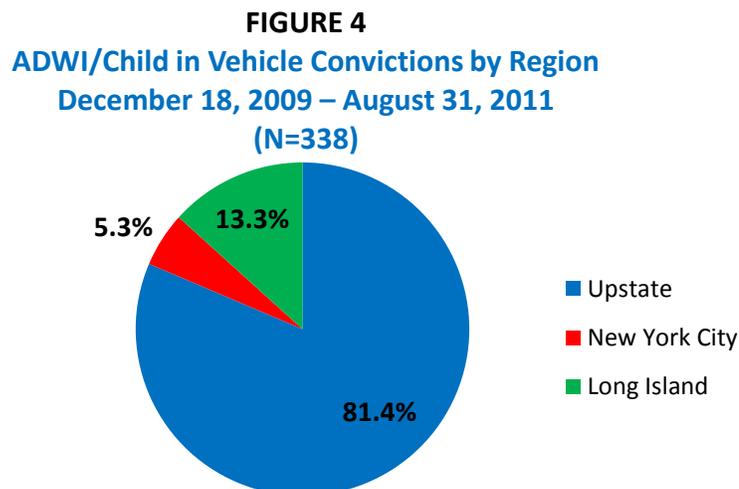
Since Leandra's Law provides for increased sanctions for drivers convicted of violating VTL 1192.2ab, further analyses were conducted to explore the penalties and restrictions that were imposed and identify additional characteristics of the drivers. New York's Driver License file was the data source for these analyses because it includes all convictions for these violations, including convictions on tickets issued in New York City and the western towns in Suffolk County that are not part of the TSLED system.

In addition to containing the total population of drivers convicted of 1192.2ab convictions, the Driver License file provides the opportunity to review the driving histories of the drivers with 1192.2ab convictions and determine to what extent they have prior alcohol-related convictions on their records. Through the Driver License file it can also be determined whether drivers convicted of 1192.2ab on or after August 15, 2010 received an ignition interlock restriction on their license. As previously mentioned, effective August 15, 2010, Leandra's Law also expanded the ignition interlock sanction to all drivers convicted of misdemeanor or felony DWI.

The following analyses were based on the convictions for 1192.2ab violations that were on the Driver License file as of August 31, 2011. Of the 350 drivers convicted of 1192.2ab, 338 were New York State drivers and 12 were out-of-state drivers. The analyses focus on the 338 New York State drivers convicted of ADWI/Child in Vehicle during this time period.

Convictions by Region and County

The majority (81%) of the drivers convicted for ADWI/Child in Vehicle violations occurred in the Upstate region of New York which is comprised of the 55 counties north of New York City (Figure 4). Another 13% percent of the drivers were convicted in courts in the Long Island region comprised of Nassau and Suffolk counties and 5% of the convictions occurred in the five counties of New York City.



Source: NYS Driver License File; convictions on file as of August 31, 2011

The number of drivers convicted in each of the counties in the state is shown in Table 4. The counties with the highest numbers of drivers convicted of these violations were Erie (41), Suffolk (24), Albany (23), Orange (23), Nassau (21) and Westchester (21).

TABLE 4
Drivers Convicted for Violations of VTL 1192.2ab Violations
December 18, 2009 – August 31, 2011
County of Conviction
(N=338)

	#	%		#	%
County					
Albany	23	6.8	Niagara	0	0.0
Allegany	0	0.0	Oneida	11	3.3
Bronx	0	0.0	Onondaga	17	5.0
Broome	3	0.9	Ontario	3	0.9
Cattaraugus	4	1.2	Orange	23	6.8
Cayuga	1	0.3	Orleans	0	0.0
Chautauqua	3	0.9	Oswego	1	0.3
Chemung	4	1.2	Otsego	0	0.0
Chenango	1	0.3	Putnam	2	0.6
Clinton	7	2.1	Queens	3	0.9
Columbia	3	0.9	Rensselaer	7	2.1
Cortland	2	0.6	Richmond	1	0.3
Delaware	3	0.9	Rockland	3	0.9
Dutchess	5	1.5	St Lawrence	0	0.0
Erie	41	12.1	Saratoga	4	1.2
Essex	0	0.0	Schenectady	5	1.5
Franklin	4	1.2	Schoharie	0	0.0
Fulton	4	1.2	Schuyler	2	0.6
Genesee	0	0.0	Seneca	3	0.9
Greene	1	0.3	Steuben	2	0.6
Hamilton	0	0.0	Suffolk	24	7.1
Herkimer	0	0.0	Sullivan	5	1.5
Jefferson	4	1.2	Tioga	1	0.3
Kings	10	3.0	Tompkins	4	1.2
Lewis	0	0.0	Ulster	8	2.4
Livingston	2	0.6	Warren	1	0.3
Madison	4	1.2	Washington	0	0.0
Monroe	18	5.3	Wayne	8	2.4
Montgomery	2	0.6	Westchester	21	6.2
Nassau	21	6.2	Wyoming	3	0.9
New York	4	1.2	Yates	2	0.6

Source: NYS Driver License File; convictions on file as of August 31, 2011

Gender and Age of Drivers Convicted for Violating VTL 1192.2ab

As shown in Table 5, approximately one-third (34%) of the drivers convicted of ADWI/Child in Vehicle were in the 40-49 age group, followed by the 50-59 age group (28%) and the 30-39 age group (20%). The drivers were more likely to be male than female (63% versus 37%).

Age	#	%
16 - 20	13	3.9
21 - 29	27	8.0
30 - 39	68	20.1
40 - 49	114	33.7
50 - 59	96	28.4
60 +	16	4.7
	4	1.2
Gender		
Male	214	63.3
Female	124	36.7

Source: NYS Driver License File; convictions on file as of August 31, 2011

Driver History

It was also of interest to determine to what extent drivers convicted of ADWI with a child under age 16 in the vehicle had prior alcohol-related convictions on their driving records. While 70% of the drivers convicted for 1192.2ab violations had no prior alcohol-related driving convictions within the previous 10 years, 30% were repeat offenders (Table 6). Approximately one-quarter (24%) had one prior conviction, 4% had two prior convictions and 2% had three or more alcohol-related driving convictions within the previous 10 years.

	#	%
No prior 1192 convictions	236	69.8
1 prior conviction	82	24.3
2 prior convictions	13	3.8
3 or more prior convictions	7	2.1

Source: NYS Driver License File; convictions on file as of August 31, 2011

Crashes

As the table below indicates, the majority of the drivers (83%) convicted of 1192.2ab were not involved in a crash in conjunction with their arrest for ADWI/Child in Vehicle. None of the drivers were involved in a fatal crash, 10% were involved in a personal injury crash and 7% were involved in a property damage crash.

	#	%
No crash	280	82.8
Fatal crash	0	0.0
Personal injury crash	34	10.1
Property damage crash	24	7.1

Source: NYS Driver License File; convictions on file as of August 31, 2011

Penalties and Sanctions

The penalties and sanctions imposed on the drivers convicted of ADWI/Child in Vehicle violations are included in Table 8. Under Leandra's Law, drivers convicted of 1192.2ab violations are subject to a one year license revocation, a fine of \$1,000-\$5,000 and/or a jail sentence of up to four years.

As previously discussed, Leandra's Law also requires that drivers convicted of misdemeanor or felony DWI to have an ignition interlock installed on their vehicle for a minimum of six months. For drivers convicted of 1192.2ab violations, this sanction was effective on December 18, 2009. Depending on their driving history and other factors, the ignition interlock sanction may be part of a conditional discharge or a sentence to probation.

Following conviction and sentencing, the court sends the disposition information to the NYS Department of Motor Vehicles (DMV) for entry on the driver's license record. In addition to entering the court order regarding the installation of an ignition interlock, DMV places the driving restriction "INTERLOCK DEVICE" on the driver's license record. If a court fails to impose the interlock sanction for convictions that meet the criteria under Leandra's Law, the DMV sends a letter respectfully reminding the court about the law. If the court sends an amended disposition requesting the restriction, DMV will then place the "INTERLOCK DEVICE" restriction on the driver's license.

As indicated in Table 8, all 338 drivers convicted of 1192.2ab violations had their driver's license revoked in accordance with the law; the revocation period was one year for 82% of the drivers and more than one year for the remaining 18% of the convicted drivers.

Fine information was provided on the license records of 61% of the convicted drivers. Of the drivers with fine information available, 70% received the minimum mandatory fine of \$1,000, 20% were fined between \$1,001 and \$2,000, and 5% were fined more than \$2,000. Only eight of the convicted drivers were sentenced to jail. Ninety-two percent of the drivers convicted of ADWI/Child in Vehicle violations had the driving restriction INTERLOCK DEVICE noted on their license record.

TABLE 8 Penalties Imposed on Drivers Convicted of VTL 1192.2ab Violations December 18, 2009 – August 31, 2011 (N = 338)		
	#	%
License Sanctions		
Revoked for 1 year	278	82.2
Revoked for more than 1 year	60	17.8
Fines		
No Fine Reported	132	39.1
Fine Reported	206	60.9
<i>Less than \$1,000</i>	8	3.9
<i>\$1,000</i>	145	70.4
<i>\$1,001 - \$1,999</i>	19	9.2
<i>\$2,000</i>	23	11.2
<i>More than \$2,000</i>	11	5.3
Jail Sentence	8	2.4
Ignition Interlock Restriction	310	91.7

Source: NYS Driver License File; convictions on file as of August 31, 2011

KEY FINDINGS BASED ON ANALYSES OF DRIVER LICENSE DATA

The analyses of the data available on the Driver License file as of August 31, 2011 resulted in the following key findings regarding drivers convicted on VTL 1192.2ab violations since December 18, 2009, the effective date of the law:

- Eight out of ten drivers convicted on ADWI/Child in Vehicle violations were convicted in the Upstate region of New York.
- The counties with the highest numbers of convicted drivers were Erie (41), Albany (23), Orange (23) and Westchester (21) in the Upstate region and Suffolk (24) and Nassau (21) on Long Island.
- The drivers convicted for violating 1192.2ab were most likely to be in the 40-49 year old age group (34%), followed by the 50-59 age group (28%).
- The drivers convicted of this violation were more likely to be male (63%) than female (37%).
- 30% of the drivers convicted for ADWI/Child in Vehicle were repeat offenders (one or more prior VTL 1192 convictions in the previous ten years).
- 17% of the convicted drivers were involved in a crash in conjunction with their arrest for ADWI/Child in Vehicle.
- The majority of drivers convicted of ADWI/Child in Vehicle received the appropriate penalties; all of the drivers received a license revocation of at least year and 96% of the drivers for whom fine information was available were fined at least \$1,000, the mandatory minimum fine.
- 92% of the drivers convicted of 1192.2ab violations had the restriction INTERLOCK DEVICE entered on their driver license record.