

# **IMPAIRED DRIVING IN NEW YORK STATE**

## **STUDY ON RECIDIVISM**

**June 2011**

**Conducted by**

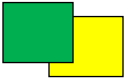
**The Institute for Traffic Safety Management and Research  
University at Albany, State University of New York**

**for**

**New York State  
Governor's Traffic Safety Committee**

# TABLE OF CONTENTS

	Page
<b>Executive Summary</b> .....	i
<b>Chapter 1: Introduction</b> .....	1
Background on the Study .....	1
Impaired Driving Legislation .....	2
Organization of the Report .....	3
<b>Chapter 2: Research Methodology</b> .....	4
Definition of a Recidivist .....	4
Data and Data Sources .....	4
Data Analyses .....	5
<b>Chapter 3: Results of Analyses</b> .....	6
Recidivism Rates and Recidivist Drivers .....	6
Comparison of Recidivist Drivers in 1999 and 2009.....	9



# EXECUTIVE SUMMARY

## INTRODUCTION

With the establishment of the New York State Task Force on Impaired Driving in spring 2008, the New York State Governor's Traffic Safety Committee (GTSC) has reinforced its commitment to reduce impaired driving on New York's roadways. Despite the 63% decline in the number of alcohol-related fatal crashes between 1981 and 2009 (884 vs. 329), the fact that the alcohol-related fatal crash rate increased from 24% in 2004 to 31% in 2008 and 2009 is cause for concern. To address this concern, the GTSC has provided support to the Task Force to develop and implement new or enhanced initiatives to reduce impaired driving. To meet the need for more in-depth information and data on impaired driving, the GTSC is funding the Institute for Traffic Safety Management and Research (ITSMR) to conduct a series of research studies on specific topics that have been identified by the Task Force. This document reports on a recent study conducted by ITSMR on the issue of recidivism.

## RESEARCH METHODOLOGY

The primary objectives of the study were to determine recidivism rates for New York State drivers convicted of impaired driving; if recidivism rates differed over time (between 1999 and 2009) and by region, driver age and gender; and if the profile of a recidivist driver has changed over time and in regard to BAC, age, gender; and if there have been changes in the violation charge, conviction charge and the penalties and sanctions imposed on recidivist drivers between 1999 and 2009. In accomplishing these objectives, the study addressed the following key research questions:

- What is the current rate of recidivism?
- Has the rate of recidivism changed over the past ten years?
- Do recidivism rates vary by region of the state and did the regional rates change between 1999 and 2009?
- Do recidivism rates vary by the age and gender of the driver and did the recidivism rates of these demographic groups change between 1999 and 2009?
- Have the characteristics of recidivist drivers changed over the past ten years?
- Are there identifiable differences in the violation charge, the conviction charge, or the penalties and sanctions imposed on recidivist drivers in 2009 compared to 1999?

To address these questions, the research design for the study involved two sets of analyses. One set of analyses examined conviction data and driving history data to determine recidivism rates. Based on the State of New York's Vehicle and Traffic Law (VTL), the study defined a recidivist as an individual who has another alcohol conviction under VTL Section 1192 within a prior ten-year period. The second set of analyses was undertaken to identify differences between the recidivist drivers convicted in 1999 and 2009 in regard to demographic characteristics, BAC, violation and conviction charges, and penalties and sanctions.

The study involved analyses of the alcohol convictions that occurred in 1999 and 2009. The primary data source for the study was the New York driver license file maintained by the NYS Department of Motor Vehicles (DMV). The driver’s license file captures detailed data on drivers convicted of alcohol-impaired driving; these data were supplemented with data obtained from the DMV’s Traffic Safety Law Enforcement and Disposition (TSLED) system. All of the data analyses were conducted by ITSMR project staff with the use of SAS® software.

## KEY FINDINGS

### Recidivism Rates

- The recidivism rate dropped from 29% in 1999 to 22% in 2009 (Table ES.1).
- Recidivism rates declined in all three regions of the state with the largest decline occurring in the Long Island region (from 30% to 22%), followed by the Upstate region (from 30% to 24%) and the New York City region (from 15% to 12%).
- Recidivism rates dropped among all driver age groups: 16-20 (7% vs. 4%), 21-29 (24% vs. 19%), 30-39 (36% vs. 26%), 40-49 (32% vs. 26%), 50-59 (29% vs. 24%) and 60+ (25% vs. 20%) between 1999 and 2009.
- Recidivism rates dropped for both men (30% vs. 23%) and women (21% vs. 17%) between 1999 and 2009.

<b>TABLE ES.1</b>		
<b>Recidivist Drivers and Recidivism Rates</b>		
	<b>1999</b> (N=47,977)	<b>2009</b> (N=50,434)
<b>Recidivist Drivers</b>	<b>13,749</b>	<b>10,897</b>
<i>% with one prior conviction</i>	<i>74%</i>	<i>80%</i>
<i>% with two or more prior convictions</i>	<i>26%</i>	<i>20%</i>
<b>Recidivism Rate</b>	<b>28.7%</b>	<b>21.6%</b>

### Comparison of Recidivist Drivers in 1999 and 2009

#### Age and Gender of Driver

- Compared to 1999, a larger proportion of recidivist drivers were under age 30 in 2009 (33% vs. 27%).
- The mean age of recidivist drivers remained fairly constant (36.4 years in 1999 and 36.9 years in 2009).
- The large majority of recidivist drivers were men (88% in 1999 and 84% in 2009).
- Between 1999 and 2009, the proportion of recidivists who were women increased from 12% to 16%.

## **BAC of Driver**

- The BACs of recidivist drivers shifted downward between 1999 and 2009; 44% of the recidivist drivers had a BAC < 0.15 in 2009, compared to 38% in 1999.
- The mean BAC in 2009 was 0.159, down from 0.164 in 2009.

## **Violation and Conviction Charges**

- In 2009, the largest proportion of drivers was charged with the multiple offenses of VTL 1192.2 and VTL 1192.3 (44%), while in 1999 the largest proportion of drivers was charged with the single violation of 1192.2 (34%).
- The proportions of recidivist drivers who were convicted on the original VTL 1192 charge were fairly consistent between 1999 (49%) and 2009 (47%).

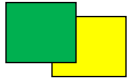
## **Penalties and Sanctions**

In general, the severity of the penalties and sanctions imposed on recidivist drivers increased between 1999 and 2009

- Recidivist drivers were more likely to have their license revoked, and less likely to receive a suspended license in 2009 compared to 1999.
  - 82% of the recidivist drivers had their license revoked in 2009, compared to 73% in 1999.
  - 15% had their license suspended in 2009, compared to 23% in 1999.
- Compared to 1999, recidivist drivers in 2009 were:
  - More likely to be required to attend the Drinking Driver Program (16% vs. 6%) or a victim impact panel (16% vs. < 1%).
  - Just as likely to be sentenced to probation (35% vs. 34%) or jail (11% vs. 10%).
  - Much more likely to be sentenced to ignition interlock (20% vs. 1%).

## **SUMMARY**

This study represents the first large scale compilation of data related to the issue of recidivism in New York State in over two decades. Designed to establish recidivism rates for drivers convicted of alcohol-impaired driving, identify changes in the rate over time and determine whether there have been identifiable differences in the characteristics and treatment of recidivist drivers between 1999 and 2009, the specific study findings summarized above should produce opportunities for the various teams of the Task Force on Impaired Driving to develop and implement new programs and policies to reduce recidivist drinking and driving behavior among New York's motorists.



## CHAPTER 1: INTRODUCTION

With the establishment of the New York State Task Force on Impaired Driving in spring 2008, the New York State Governor's Traffic Safety Committee (GTSC) has reinforced its commitment to reduce impaired driving on New York's roadways. Despite the 63% decline in the number of alcohol-related fatal crashes between 1981 and 2009 (884 vs. 329), the fact that the alcohol-related fatal crash rate increased from 24% in 2004 to 31% in 2008 and 2009 is cause for concern. To address this concern, the GTSC has provided support to the Task Force to develop and implement new or enhanced initiatives to reduce impaired driving.

The Task Force is organized into nine teams that focus on the various components of the impaired driving system: general deterrence; legislation; enforcement; prosecution; courts; probation; assessment, evaluation and treatment; licensing/relicensing; and research. Each team is responsible for investigating the issues relevant to its area, identifying priority concerns, and making recommendations. In carrying out their responsibilities over the past year, the teams have recognized the need for more comprehensive research and in-depth data analyses in the area of impaired driving. To meet the need for more in-depth information and data on impaired driving, the GTSC is funding the Institute for Traffic Safety Management and Research (ITSMR) to conduct a series of research studies on specific topics that have been identified by the Task Force.

This document reports on a recent study conducted by ITSMR on the issue of recidivism. The results from this study should meet the needs of the Task Force teams to better understand the factors that are associated with recidivist drinking and driving behavior.

### Background on the Study

The primary purpose of the study was to determine recidivism rates for drivers convicted of alcohol-impaired driving and whether the profile of a recidivist in 2009 was substantially different from that of a recidivist in 1999. The study sought to build on earlier research conducted in 2001 by ITSMR that looked at recidivism rates in the late 1990s and the demographic characteristics of those recidivist drivers.

The 2001 study showed that the recidivism rate remained constant at 24% in each of the three years 1996-1998. This finding indicated that despite various efforts and initiatives in the 1990s that were designed to address the problem of repeat offenders, very little change had occurred. In an effort to effect such change, a number of legislative initiatives have been passed in recent years to strengthen the sanctions and penalties associated with repeat offenders. A brief description of these legislative initiatives is presented below.

## Impaired Driving Legislation

The impaired driving laws that have been enacted in recent years address both first-time offenders and repeat offenders. The primary purpose of the various new laws is to strengthen the penalties and sanctions for impaired driving offenses, sending a strong message to motorists that drunk driving will not be tolerated on New York's roadways. Recent laws include:

**2003 (July 1) - Per se BAC level was reduced from 0.10% to 0.08%.** This law provides for the prompt suspension of the driver's license, pending prosecution, of any person charged with a violation of state's Vehicle and Traffic Law (VTL) Section 1192.2 or 1192.3 who is alleged to have been driving with a BAC of 0.08% or higher level.

**2003 (September 1) - Establishes additional penalties for specific repeat alcohol offenses.** For persons convicted of DWI who have a DWI conviction within the five prior years, the law has the following provisions:

- Requires person to be sentenced to jail or community service
- Requires ignition interlock to be installed on person's vehicle(s)
- Requires person to undergo assessment for potential alcohol abuse problem

**2004 (November 18) - Driver Responsibility Assessment Act:** Requires drivers who are convicted of specific traffic violations to pay an assessment to DMV; this includes alcohol- and drug-related traffic offenses and chem test refusals

**2005 (June 3) - Vasean's Law:** Increases the penalties for drivers who kill or seriously injure someone while driving under the influence of alcohol or drugs

**2006 (November 1) - Omnibus DWI Reform Legislation:** This legislation contains a number of provisions, including:

- New offense of Aggravated Driving While Intoxicated (VTL Section 1192.2a)
- New offense of DWAI by combined influence of drugs and alcohol (VTL Section 1192.4a)
- Completion of the Drinking Driver Program (DDP) as a condition of sentence for any plea from a DWI to DWAI
- Mandatory screening for all first-time offenders with a BAC of less than 0.15%
- Mandatory assessment when it is indicated by the screening or the person is a repeat offender or the person has a BAC of 0.15% or higher
- License revocation period for chem test refusals increased from 6 months to 1 year for first-time offenders and from 1 year to 18 months for repeat offenders
- Permanent license revocation if person has either 1) three or more convictions under VTL Section 1192 (at least one must be a crime) or three or more chem test refusals or any combination thereof within a four-year period, or 2) four or more convictions, refusals, or combination within an eight-year period

**2006 (November 1) - Impaired driving offenses committed in another state** within the previous 10 years will be considered in determining the penalties to be imposed on drivers convicted of impaired driving in New York.

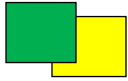
**2006 (November 1) - Bill Leaf-Brandi Woods Law:** Amends the penal law to provide for a charge of vehicular assault or vehicular manslaughter in the first degree if the driver committing either of these crimes has been convicted of any violation of VTL Section 1192 within the preceding 10 years

**2009 (November 18) - Leandra's Law:** Increases the criminal sanctions surrounding driving while intoxicated or under the influence of drugs with children under the age of 16 in the car (effective December 18, 2009) and expands the use of ignition interlock devices, making them applicable to any person who is convicted of a misdemeanor or felony DWI (effective August 15, 2010)

Based on the premise that the totality of these new laws should have an effect on recidivism, this study was designed to look at the issue of recidivism to determine whether any progress has occurred over the past decade in reducing the recidivism rate. The study also sought to identify changes, if any, in the profile of the recidivist impaired driver. It is expected that the findings from this study will be useful to the Task Force on Impaired Driving and its various teams in formulating new policies and programs or modifying current ones to further deter the potential and actual recidivist drinking driver.

## Organization of the Report

The second chapter of this report briefly describes the research methodology used to conduct the study. Chapter 3 presents the results from the analyses of conviction and driving history data.



## CHAPTER 2: RESEARCH METHODOLOGY

This chapter presents a description of the research design and methodology used to study the issue of recidivism. The primary objectives of the study were to determine recidivism rates for drivers convicted of impaired driving and whether the profile of a recidivist is substantially different from that of a non-recidivist drinking driver. The study addressed the following key research questions:

- What is the current rate of recidivism?
- Has the rate of recidivism changed over the past ten years?
- Do recidivism rates vary by region of the state and did the regional rates change between 1999 and 2009?
- Do recidivism rates vary by the age and gender of the driver and did the recidivism rates of these demographic groups change between 1999 and 2009?
- Have the characteristics of recidivist drivers changed over the past ten years?
- Are there identifiable differences in the violation charge, the conviction charge, or the penalties and sanctions imposed on recidivist drivers in 2009 compared to 1999?

Although the complexity of the drinking and driving issue makes any research on this topic difficult, studying the specific issue of recidivism presents some unique challenges in developing a viable research design.

### Definition of a Recidivist

The initial step in developing the detailed study plan was to establish a definition of recidivism, i.e., what constitutes a recidivist event? Although it is recognized that there are a variety of perspectives on how recidivism should be defined, this study used the definition stated in the State of New York's Vehicle and Traffic Law (VTL). For the purpose of imposing appropriate penalties and sanctions, the VTL defines a recidivist as an individual who has another alcohol conviction under VTL Section 1192 within a prior ten-year period.

### Data and Data Sources

The primary data source for the study was the New York driver license file maintained by the NYS Department of Motor Vehicles (DMV). The file contains the driving records of New York licensed drivers, as well as out-of-state drivers and unlicensed drivers who have been convicted of a traffic violation or have had a reportable crash within New York State. The file also contains records of conviction for some offenses committed in other states that are subject to the interstate cooperative agreements that New York participates in. Convictions for alcohol-impaired driving offenses are subject to these agreements. The driver's license file maintains data on impaired driving convictions for a minimum of ten years, enabling police agencies and the courts to determine the proper charge and adjudication of subsequent alcohol violations.

The driver's license file captures detailed data on drivers convicted of alcohol-impaired driving and their driving histories. The study examined the driving histories of NYS licensed drivers convicted of impaired driving over a specified time period to determine the extent to which such drivers recidivate and to identify specific characteristics related to recidivist drivers.

To obtain data on the BAC of a convicted driver, the original violation charge and the penalties and sanctions imposed on convicted drivers, the drivers identified through the driver's license file with an alcohol-related conviction were linked to the arrest and conviction records contained in the DMV's Traffic Safety Law Enforcement and Disposition (TSLED) ticket system. To supplement the BAC data in the TSLED file, BAC information was also obtained from the Division of State Police and the Division of Criminal Justice Services data files and added to records in the TSLED data sets, as appropriate. The linkage of driver records from the driver's license file and the TSLED file enabled the researchers to obtain a more complete picture of the arrests that resulted in the conviction by providing information on driver's BAC at the time of arrest, the original violation charge and the penalties imposed upon conviction. Since these pieces of additional information are only available through TSLED, the drivers convicted of an alcohol violation in New York City and parts of Suffolk County were excluded from this component of the study. It should be noted that TSLED captures data on approximately three-quarters (75%) of the impaired driving arrests statewide each year.

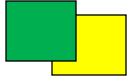
## Data Analyses

The study involved analyses of the alcohol convictions that occurred in 1999 and 2009 and identified those individuals who had had an alcohol conviction within the prior ten years. If an individual had two or more convictions in the specific study year (i.e., 1999 or 2009), the latest was used as the precipitating event and any earlier 1999 or 2009 convictions were considered as priors, making the individual a recidivist.

Two sets of analyses were conducted to answer the key research questions. The initial set of analyses was conducted to determine the recidivism rates for drivers convicted of alcohol-impaired driving in 1999 and 2009. Additional analyses were undertaken to explore whether recidivism rates varied between 1999 and 2009 by region of the state and driver age and gender.

The second set of analyses was undertaken to identify differences in the profile of a recidivist driver convicted in 1999 and 2009 in regard to BAC, age and gender. Analyses also sought to identify changes with respect to the violation and conviction charges and the penalties and sanctions imposed on recidivist drivers in 1999 and 2009.

The first set of analyses was conducted using data obtained from the DMV driver license file, while the second set of analyses used data from both the DMV driver license file and the DMV TSLED ticket system. All of the data analyses were conducted by ITSMR project staff with the use of SAS<sup>®</sup> software. The results of the analyses conducted are presented in Chapter 3.



## CHAPTER 3: RESULTS OF ANALYSES

This chapter presents the results from the analyses of the impaired driving conviction data. The primary objectives of the study were to determine recidivism rates for drivers convicted of impaired driving; if recidivism rates differed over time (between 1999 and 2009) and by region, driver age and gender; and if the profile of a recidivist driver has changed over time and in regard to BAC, age, gender; and if there have been changes in the violation charge, conviction charge and the penalties and sanctions imposed on recidivist drivers between 1999 and 2009. In accomplishing these objectives, the study addressed the following key research questions:

- What is the current rate of recidivism?
- Has the rate of recidivism changed over the past ten years?
- Do recidivism rates vary by region of the state and did the regional rates change between 1999 and 2009
- Do recidivism rates vary by the age and gender of the driver and did the recidivism rates of these demographic groups change between 1999 and 2009?
- Have the characteristics of recidivist drivers changed over the past ten years?
- Are there identifiable differences in the violation charge, the conviction charge, or the penalties and sanctions imposed on recidivist drivers in 2009 compared to 1999?

Two sets of analyses were conducted to answer the key research questions. The initial set of analyses was conducted to establish the recidivism rates of drivers convicted of alcohol-impaired driving in 1999 and 2009 and identify regional and demographic differences, if any, between the recidivism rates of the two groups of recidivist drivers. As noted previously, the ten-year period prior to their 1999 or 2009 conviction was used to determine whether the driver was a recidivist.

The second set of analyses was undertaken to identify differences between the recidivist drivers convicted in 1999 and 2009 in regard to demographic characteristics, BAC, violation and conviction charges, and penalties and sanctions. The first set of analyses was conducted using data obtained from the DMV driver license file, while the second set of analyses used data from both the DMV driver license file and the TSLED ticket system.

### Recidivism Rates

The results of the analyses indicate that recidivism declined between 1999 and 2009. Table 3.1 shows that 22% of the drivers convicted in 2009 were recidivists, compared to 29% of the drivers convicted in 1999. In addition, the number of prior convictions associated with those recidivists also decreased. In 2009, 20% of the recidivist drivers had two or more impaired driving convictions in the prior ten years, down from 26% of the recidivist drivers in 1999.

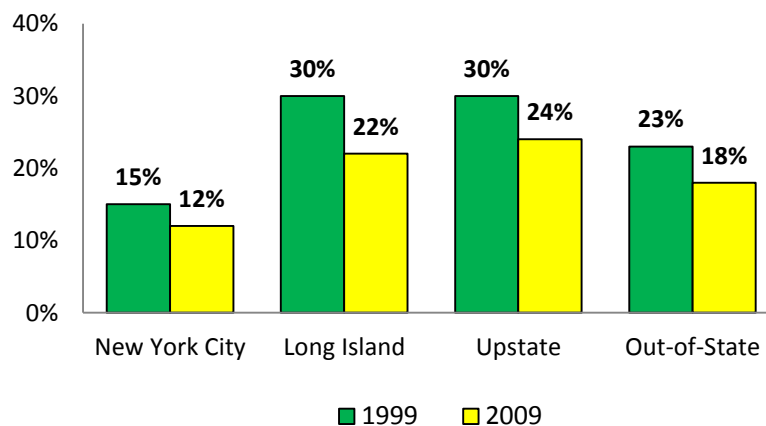
<b>TABLE 3.1 Recidivist Drivers and Recidivism Rates</b>		
	<b>1999 (N=47,977)</b>	<b>2009 (N=50,434)</b>
<b>Recidivist Drivers</b>	<b>13,749</b>	<b>10,897</b>
<i>% with one prior conviction</i>	<i>74%</i>	<i>80%</i>
<i>% with two or more prior convictions</i>	<i>26%</i>	<i>20%</i>
<b>Recidivism Rate</b>	<b>28.7%</b>	<b>21.6%</b>

### Recidivism Rates by Geographic Location

Analyses were also conducted to determine whether recidivism declined equally between 1999 and 2009 among New York State drivers convicted in each of the state's three main geographic regions (New York City, Long Island, and Upstate) and New York State drivers convicted out-of-state. As shown in Figure 3.1, while the highest rate of recidivism occurred among drivers convicted in the Long Island and Upstate regions in 1999 and 2009, the recidivism rate decreased in each of the four areas between the two time periods.

An examination of the change between 1999 and 2009 for each of the four areas shows that the largest decline in the rate of recidivism occurred in the Long Island region. The recidivism rate among drivers convicted in the Long Island area dropped from 30% in 1999 to 22% in 2009, representing a decline of 27% between the two time periods. This compares to a decrease of 20% between the two periods in the New York City and Upstate regions. The change in the rate of recidivism between 1999 and 2009 among New York State licensed drivers convicted out-of-state was a 22% decline (23% in 1999 vs. 18% in 2009).

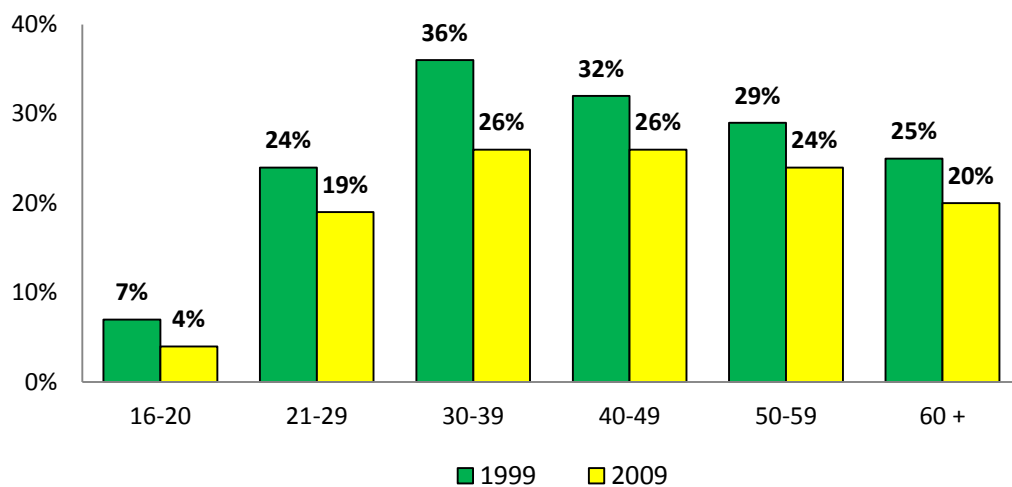
**FIGURE 3.1  
Recidivism Rates by Geographic Location**



### Recidivism Rates by Driver Age

To determine whether there were demographic differences between the two groups of recidivist drivers (1999 and 2009), analyses were conducted by driver age and gender. As shown in Figure 3.2, the rate of recidivism dropped in all age groups between 1999 and 2009. The largest drop occurred among convicted drivers ages 16-20; their recidivism rate dropped from 7% in 1999 to 4% in 2009, representing a decrease of 43% in the rate between 1999 and 2009. The next largest change occurred among drivers ages 30-39 (28%), followed by drivers ages 21-29 (21%). The smallest change occurred among drivers ages 50-59, with their recidivism rate declining by 17%.

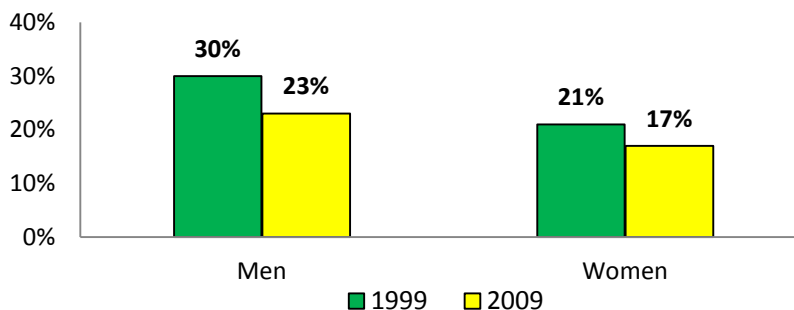
**FIGURE 3.2**  
Recidivism Rates by Driver Age



### Recidivism Rates by Driver Gender

The analyses conducted by driver gender showed that the recidivism rate among both men and women convicted of alcohol-impaired driving decreased between 1999 and 2009 (Figure 3.3). However, men experienced a larger drop in the recidivism rate between the two time periods than women. The rate of recidivism for men dropped from 30% in 1999 to 23% in 2009, representing a 23% decrease in the rate over the ten-year time period, while women experienced a 19% change in the rate over the same ten-year period.

**FIGURE 3.3**  
Recidivism Rates by Driver Gender



## Comparison of Recidivist Drivers in 1999 and 2009

The second set of analyses was conducted to determine whether there were identifiable differences between recidivist drinking drivers in 1999 and 2009. Using data from the DMV driver license and TSLED ticket system to accomplish this, analyses were conducted to examine a number of variables associated with the drivers convicted in 1999 and 2009, including driver age, gender and BAC; type of violation charged; and the specific conviction charge. Analyses were also undertaken to explore differences with regard to the penalties and sanctions imposed on recidivist drivers.

### Driver Age

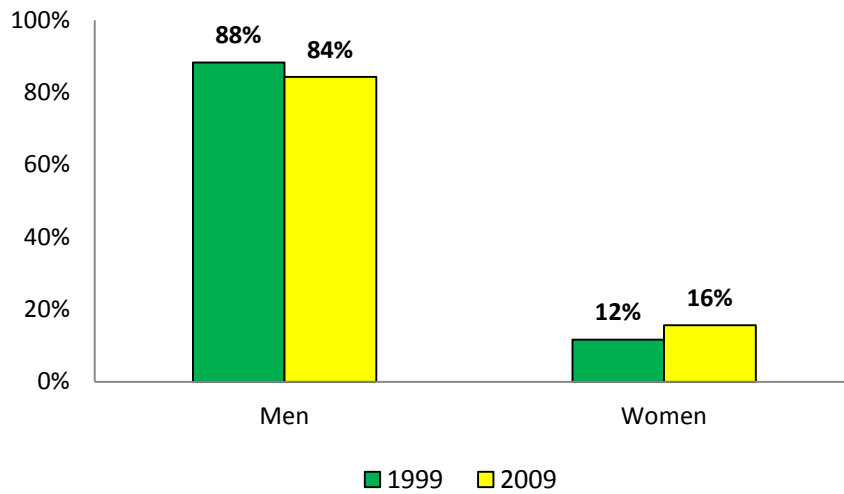
The analyses with respect to driver age were conducted using data obtained from the DMV driver license file. Between 1999 and 2009, there was an increase in the proportion of recidivist drivers who were under age 30 (33% in 2009 compared to 27% in 1999). There was also an increase in the proportion of recidivist drivers who were 40 years of age and older between 1999 and 2009 (from 33% to 39%). The largest decrease among recidivist drivers occurred in the 30-39 age group; 40% of the recidivist drivers convicted in 1999 were in this age group compared to 28% in 2009. Despite these changes, no change occurred in the mean age among recidivist drivers convicted in 1999 (36.4 years) and 2009 (36.9 years).

<b>AGE</b>	<b>1999 (N=13,749)</b>	<b>2009 (N=10,897)</b>
16-20	1.6%	1.3%
21-29	25.5%	31.6%
30-39	39.5%	28.1%
40-49	22.9%	24.7%
50-59	8.0%	11.2%
60 +	2.4%	3.1%
<b>Mean Age</b>	36.4 yrs	36.9 yrs

### Driver Gender

Data from the DMV driver license file were also used to determine any changes among recidivist drinking drivers between 1999 and 2009 with regard to gender. As Figure 3.5 shows, the proportion of women among recidivists increased in 2009, compared to 1999; 16% of the recidivist drivers in 2009 were women, compared to 12% in 1999.

**FIGURE 3.4  
Recidivist Drivers by Gender  
1999 vs. 2009**



### Driver BAC

Analyses were also conducted to examine the BACs of recidivists convicted in 1999 and 2009. As noted above in Chapter 2, BAC data are only available for drivers whose conviction records are in the TSLED ticket system. Of the 10,897 recidivist drivers in 2009, BAC data were available for 57% (6,211) through the TSLED system, compared to 50% (6,834) of the 13,749 recidivist drivers in 1999. The BACs available for recidivist drivers in 1999 and 2009 are presented in Table 3.

The analyses indicate that the distribution of BACs among recidivists shifted slightly downward between 1999 and 2009. As shown in Table 3.3, in 2009, 44% of the recidivist drivers had a BAC <0.15, compared to 38% in 1999. While the majority of recidivist drivers had a BAC of 0.15 or higher in both 1999 and 2009, there has been some progress. In 2009, 56% of the recidivists had a BAC of at least 0.15 compared to 62% ten years early. These decreases are reflected in the mean BAC, with the mean BAC among recidivist drivers dropping from 0.164 to 0.159 between 1999 and 2009.

<b>TABLE 3.3 BAC of Recidivist Drivers 1999 vs. 2009 (TSLED DATA ONLY)</b>		
<b>BAC</b>	<b>1999 (N=6,834)</b>	<b>2009 (N=6,211)</b>
.00 - .05	0.1%	0.5%
.06 - .07	1.1%	2.4%
.08 - .14	37.0%	41.1%
.15 - .19	37.1%	33.0%
.20 +	24.6%	23.0%
<b>Mean BAC</b>	<b>0.164</b>	<b>0.159</b>

## Violation Charge

Analyses were undertaken to explore the differences between recidivists convicted in 1999 and 2009 with regard to the type of violation charged. Since data on the original violation charge are not available from the DMV driver license file, these analyses were conducted using data from the DMV TSLED system.

Table 3.4 shows that the proportion of recidivists who were charged with multiple offenses versus a single offense of impaired driving doubled between 1999 and 2009 (33% vs. 67%). The increase in the proportion of drivers charged with multiple violations between 1999 and 2009 is likely the result of several factors. One factor is the implementation of TraCS across the state. TraCS provides police agencies the ability to capture and transmit crash and ticket data to the DMV electronically, making it easier and less time consuming for police officers to issue multiple tickets at a single stop. Another likely factor is the state's aggravated DWI law (ADWI) implemented on November 1, 2006. Cited as Section 1192.2a of the VTL, the ADWI law strengthened the penalties and sanctions for drivers with a BAC of 0.18 or higher.

In 2009, the largest proportion of recidivist drivers was charged with the multiple offenses of VTL 1192.2 and VTL 1192.3 (44%), while in 1999 the largest proportion of recidivist drivers was charged with the single violation of 1192.2. (34%).

<b>VTL Violation Charge</b>	<b>1999 (N=10,713)</b>	<b>2009 (N=8,745)</b>
<b>Single Charge</b>	<b>66.7%</b>	<b>33.4%</b>
1192.1 - DWAI	2.7%	1.5%
1192.2 - Per Se	34.0%	3.6%
1192.2a - ADWI	0.0%	0.5%
1192.3 - DWI	29.5%	26.8%
1192.4 - Drugs	0.5%	0.8%
1192.4a - Drugs & Alc	0.0%	0.2%
<b>Multiple Charges</b>	<b>33.3%</b>	<b>66.6%</b>
1192.2 & 1192.3	31.8%	43.6%
1192.2 & 1192.2a	0.0%	0.8%
1192.2a & 1192.3	0.0%	14.3%
1192.2, 1192.2a & 1192.3	0.0%	5.3%
Other	1.5%	2.6%

## Conviction Charge

Further analyses of the TSLED data were conducted to determine whether there were differences in the adjudication of recidivist drivers between 1999 and 2009. As indicated in Table 3.5, the proportions of recidivist drivers who were convicted on the original VTL 1192 charge remained fairly consistent (49% in 1999 and 47% in 2009).

<b>Conviction Charge</b>	<b>1999 (N=10,713)</b>	<b>2009 (N=8,745)</b>
Original 1192 Charge	48.6%	46.7%
Other 1192 Charge	49.6%	50.9%
Outside 1192	0.1%	0.0%
Unknown	1.7%	2.4%

## Penalties and Sanctions

The final series of analyses conducted to explore differences between recidivist drivers convicted in 1999 and 2009 focused on the penalties and sanctions imposed. Since the driver license file does not capture data on all penalties and sanctions that are imposed on convicted drivers at sentencing, the data for these analyses were also obtained from TSLED.

In general, the severity of the penalties and sanctions imposed on recidivist drivers increased between 1999 and 2009. As indicated in Table 3.6, recidivist drivers were more likely to have their driver's license revoked in 2009 (82% compared to 73%) and less likely to receive just a license suspension than they were 10 years earlier. Compared to 1999, recidivist drivers convicted in 2009 were also more likely to be required to attend the Drinking Driver Program (16% vs. 6%) or a victims impact panel (16% vs. <1%). The proportion of recidivist drivers sentenced to probation or jail remained constant between 1999 and 2009 at 34% vs. 35% and 10% vs. 11%, respectively. The most notable change was in the imposition of ignition interlocks; 20% of the recidivist drivers convicted in 2009 received this sanction compared to one percent in 1999. Because fine information was not available for more than a third of the recidivist drivers sentenced in 2009, definitive differences between the imposition of fines in 1999 and 2009 could not be determined.

**TABLE 3.6**  
**Penalties and Sanctions Imposed on Recidivist Drivers**  
**1999 vs. 2009**  
**(TSLED DATA ONLY)**

Penalties & Sanctions	1999 (N=10,713)	2009 (N=8,745)
<b>License Action</b>		
Suspended	23.0%	15.0%
Revoked	72.8%	81.7%
Unknown	4.2%	3.3%
<b>Fines</b>		
Less than \$300	3.1%	2.8%
\$300 - \$499	9.9%	7.3%
\$500 - \$999	44.0%	32.0%
\$1,000 +	25.7%	22.1%
Unknown	17.2%	35.8%
<b>Drinking Driver Program (DDP)</b>	6.2%	16.3%
<b>Victims Impact Panel (VIP)</b>	0.1%	16.4%
<b>Jail</b>	9.8%	10.5%
<b>Probation</b>	34.0%	35.1%
<b>Ignition Interlock</b>	0.8%	19.7%