

ITSMR Research Note

KEY FINDINGS

TSLED SYSTEM: DRIVERS TICKETED FOR VTL 1192.2AB VIOLATIONS, 2010-2019

- 6,646 drivers were ticketed for aggravated DWI with a child under 16 in the vehicle (VTL 1192.2ab) over the ten years.
- 43% of the drivers ticketed were women.
- 38% of the drivers ticketed were ages 30-39, followed by drivers ages 40-49 (24%) and ages 21-29 (23%).
- 17% were involved in a crash in conjunction with their 1192.2ab arrest.

TSLED SYSTEM: CONVICTIONS FOR 1192.2AB VIOLATIONS, 2010-2019

- 97% of the 5,602 drivers whose cases had been adjudicated were convicted; 5,160 were convicted on a VTL 1192 violation.
- 49% of the 5,160 drivers were convicted on the original charge of VTL 1192.2ab; 51% were convicted on a different VTL 1192 charge.

Drivers Convicted of 1192.2ab:

- 88% had their license revoked for at least one year.
- 97% were fined \$1,000 or more.
- 95% were sentenced to an ignition interlock restriction.
- 82% were sentenced to probation.
- 32% received a jail sentence.

CONCLUSIONS

- The provision of Leandra's Law related to ADWI with children under age 16 in the vehicle is being implemented as intended with regard to the sanctions imposed.
- More than one-half of drivers arrested for 1192.2ab are convicted of a different subsection of 1192 and thus subject to lesser penalties. This should be of concern to the state's Advisory Council on Impaired Driving in its efforts to reduce impaired driving behavior on New York's roadways.

Leandra's Law: ADWI With Child Under Age 16 in the Vehicle

INTRODUCTION

The Child Passenger Protection Act (Chapter 496 of the Laws of 2009), known as Leandra's Law, has two major components: 1) effective December 18, 2009, the criminal sanctions surrounding driving while intoxicated or under the influence of drugs with children under the age of 16 in the car were increased, and 2) effective August 15, 2010, the law expanded the use of ignition interlock devices, making them applicable to any person who is convicted of a misdemeanor or felony DWI.

With funding provided by the NYS Governor's Traffic Safety Committee (GTSC), the Institute for Traffic Safety Management and Research (ITSMR) recently completed a study on the first component of the law, drivers who were arrested and convicted for driving impaired with a child under age 16 in the vehicle (VTL 1192.2ab). This research note summarizes the results of that study. The study examined the ten-year period since the inception of the law, 2010-2019, and presents a variety of data related to drivers arrested for VTL 1192.2ab violations and the outcome of those arrests. The following information is provided:

- Arrests for VTL 1192.2ab
 - *Drivers ticketed and tickets issued*
 - *Drivers ticketed by region & county*
 - *Day of week & time of day*
 - *Driver age and gender*
 - *Crash involvement*
- Convictions for VTL 1192.2ab
 - *Adjudication of cases*
 - *Penalties & sanctions*

Data on drivers arrested for impaired driving violations in NYS are captured by two different systems: the NYS Department of Motor Vehicles Traffic Safety Law Enforcement and Disposition System (TSLED) and a totally separate system maintained by the NYPD. Because detailed data on impaired driving arrests in New York City are not available from the NYPD, the analyses for this study were conducted using only the data available from TSLED system. Two sets of analyses were conducted. The initial set of analyses focused on drivers arrested for VTL 1192.2ab violations, while the second set of analyses examined the outcomes of those arrests.

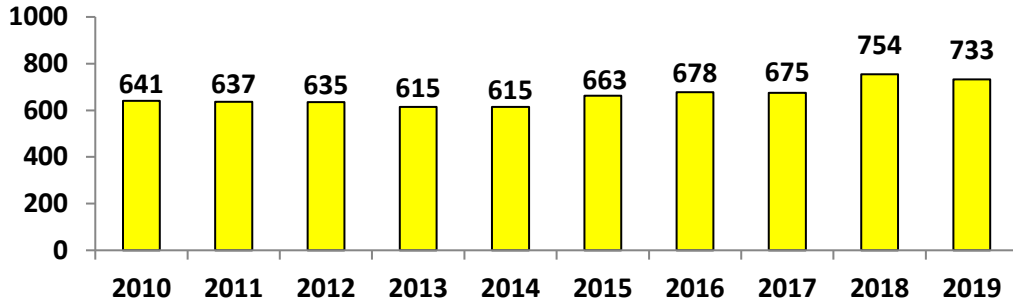
ARRESTS FOR VTL 1192.2AB VIOLATIONS UNDER TSLED

Drivers Ticketed and Tickets Issued for VTL 1192.2ab Violations

During the first five years under the law, 2010-2014, the number of drivers ticketed for impaired driving with a child under 16 years of age in their vehicle in violation of VTL 1192.2ab dropped from 641 in 2010 to 615 in 2013 and 2014 (Figure 1). Over the next five years, the

number of drivers ticketed was on a general upward trend, increasing from 663 in 2015 to 754 in 2018, followed by a small drop to 733 in 2019. In total, during the first ten years of the law, 6,646 drivers were arrested under TSLED for violations of VTL 1192.2ab.

FIGURE 1
TSLED: Drivers Ticketed for VTL 1192.2ab Violations
2010 - 2019



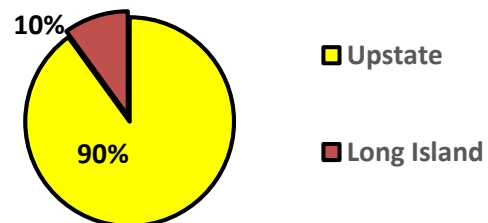
Since a driver can receive a ticket for each child in the car who is under the age of 16, further analyses of the TSLED data show that over the ten years 7,947 tickets were issued to the 6,646 drivers. While 86% of these drivers received only one ticket, 929 (14%) of those drivers were issued multiple tickets for 1192.2ab violations during the same traffic stop (Table 1).

TABLE 1 TSLED: Drivers Ticketed for VTL 1192.2ab 2010 - 2019 (N = 6,646)		
Number of Drivers Issued....	#	%
1 Ticket	5,717	86.0
2 Tickets	688	10.4
3 or More Tickets	241	3.6

Drivers Arrested by Region and County

Since the data for this study is obtained solely from the TSLED system, the regional analyses focused on two regions: Upstate and Long Island. The Upstate region of the state is comprised of the 55 counties north of New York City and the Long Island region is comprised of Nassau and Suffolk counties. As would be expected, the vast majority (90%) of the drivers arrested for VTL 1192.2ab were arrested Upstate and the remaining 10% were arrested in the Long Island region.

FIGURE 2
NYS Driver License File: Drivers Ticketed for VTL
1192.2ab by Region: 2010 - 2019 (N=6,646)



The number of drivers arrested in each county is shown in Table 2. During the ten-year period, 2010-2019, the five counties with the highest numbers of drivers arrested for 1192.2ab violations were Erie (507), Monroe (483), Nassau (375), Orange (330) and Westchester (326).

TABLE 2
TSLED: Drivers Arrested for VTL 1192.2ab Violations by County
2010 – 2019 (N=6,646)

County	#	%	County	#	%	County	#	%
Albany	182	2.7	Hamilton	2	< 0.1	Rockland	161	2.4
Allegany	35	0.5	Herkimer	58	0.9	St Lawrence	91	1.4
Broome	102	1.5	Jefferson	88	1.3	Saratoga	160	2.4
Cattaraugus	97	1.5	Lewis	22	0.3	Schenectady	83	1.2
Cayuga	41	0.6	Livingston	66	1.0	Schoharie	20	0.3
Chautauqua	136	2.0	Madison	53	0.8	Schuyler	13	0.2
Chemung	89	1.3	Monroe	483	7.3	Seneca	35	0.5
Chenango	49	0.7	Montgomery	59	0.9	Steuben	123	1.9
Clinton	105	1.6	Nassau	375	5.6	Suffolk	291	4.4
Columbia	86	1.3	Niagara	161	2.4	Sullivan	93	1.4
Cortland	47	0.7	Oneida	117	1.8	Tioga	38	0.6
Delaware	55	0.8	Onondaga	295	4.4	Tompkins	42	0.6
Dutchess	217	3.3	Ontario	64	1.0	Ulster	222	3.3
Erie	507	7.6	Orange	330	5.0	Warren	69	1.0
Essex	41	0.6	Orleans	41	0.6	Washington	68	1.0
Franklin	49	0.7	Oswego	113	0.7	Wayne	80	1.2
Fulton	48	0.7	Otsego	43	0.6	Westchester	326	4.9
Genesee	70	1.1	Putnam	96	1.4	Wyoming	83	1.2
Greene	98	1.5	Rensselaer	113	1.7	Yates	13	0.2

Day of Week / Time of Day

Figure 3 shows that nearly one-half (47%) of the drivers ticketed for violating VTL 1192.2ab were ticketed on the weekend, another 15% were ticketed on a Friday and 9%-10% were ticketed on each of the remaining four weekdays. More than one-half (51%) of the drivers were ticketed between 6pm and midnight (Figure 4). An additional 17% were ticketed between midnight and 3am.

FIGURE 3
TSLED: Drivers Ticketed for VTL 1192.2ab
by Day of Week, 2010 - 2019 (N=6,646)

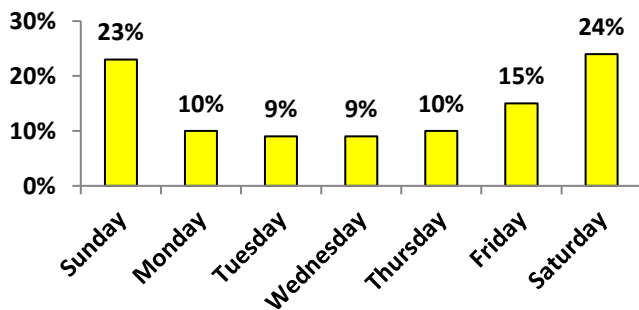
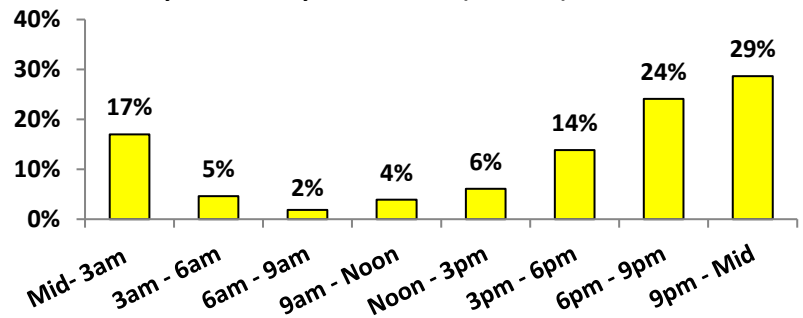


FIGURE 4
TSLED: Drivers Ticketed for VTL 1192.2ab
by Time of Day, 2010 - 2019 (N=6,175)



Driver Age and Gender

As indicated in Figure 5, the largest proportion of drivers ticketed for violating VTL 1192.2ab were 30-39 years of age (38%), followed by drivers ages 40-49 (24%) and ages 21-29 (23%).

Figure 6 shows that men were much more likely than women to be ticketed for violating VTL 1192.2ab (57% vs. 43%) over the ten-year period, 2010-2019.

FIGURE 5
TSLED: Drivers Ticketed for VTL 1192.2ab
by Age, 2010 - 2019 (N=6,646)

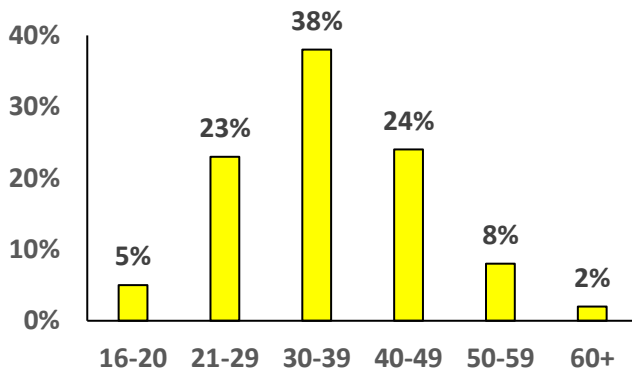
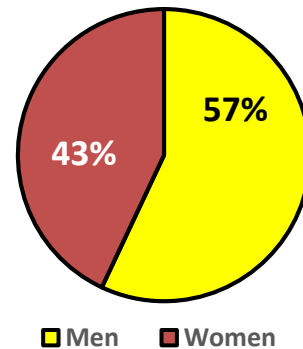


FIGURE 6
TSLED: Drivers Ticketed for VTL 1192.2ab
by Gender, 2010 - 2019 (N=6,646)



Crash Involvement

Over the ten year period, 1,112 (17%) of the 6,646 drivers arrested for VTL 1192.2ab violations had a crash associated with their arrest. As shown in Table 3, of the 1,112 crashes, 37% were personal injury crashes and 62% were property damage crashes. Less than one percent involved a fatal crash.

TABLE 3 TSLED: Crashes Associated with Drivers Ticketed for VTL 1192.2ab Violations: 2010-2019		
Crashes	(N=1,112)	%
Fatal	9	0.8
Personal Injury	416	37.4
Property Damage	687	61.8

CONVICTIONS FOR VTL 1192.2AB VIOLATIONS UNDER TSLED

Convictions Charge

Table 4 shows that 84% of the 6,646 drivers ticketed for a violation of VTL 1192.2ab over the ten-year period of 2010-2019 had their case adjudicated by the time the data for this study were compiled in August 2020. Of the drivers charged with a violation of VTL 1192.2ab whose cases had been adjudicated, 5,409 (97% of 5,602) of the cases resulted in a conviction. Of the 5,409 drivers convicted, 95% were convicted of a VTL 1192 violation, 3% were convicted of a VTL violation outside of 1192 and 1% were convicted on a charge from a different arrest event.

Of the 5,160 drivers convicted on an 1192 charge, 49% were convicted on the original charge of VTL 1192.2ab, while 51% were convicted on a different sub-section of 1192. One-quarter (26%) of the drivers were convicted of 1192.3 (DWI). Similar proportions of the drivers were convicted for 1192.1-DWAI Alcohol, 1192.2-Per Se and 1192.4 & 4a-Drugs & alcohol (7%-8%).

TABLE 4		
TSLED: Convictions Associated with Arrests for VTL 1192.2ab Violations		
2010 – 2019		
Adjudication Outcome	(N=6,646)	%
Drivers with case pending	1,044	15.7
Drivers with case adjudicated	5,602	84.3
<i>Dismissed/Acquitted</i>	193	3.4
<i>Convicted</i>	5,409	96.6
Conviction Charge: 1192	(N=5,160)	95.4
<i>1192.1 - DWAI Alcohol</i>	374	7.3
<i>1192.2 - Per Se</i>	410	7.9
<i>1192.2aa - ADWI</i>	121	2.3
<i>1192.2ab - ADWI w/child < 16 yrs</i>	2,519	48.8
<i>1192.3 - DWI</i>	1,357	26.3
<i>1192.4 - DWAI Drugs</i>	353	6.8
<i>1192.4a - DWAI Drugs & Alcohol</i>	26	0.5
Conviction Outside of 1192	176	3.3
Charge from different arrest event	73	1.3

Penalties and Sanctions

The final series of analyses focused on the penalties and sanctions imposed on the convicted drivers. For these analyses the convicted drivers were divided into two groups: 1) drivers convicted of VTL 1192.2ab and 2) drivers convicted on a different sub-section of VTL 1192. The results of these analyses are summarized below in Tables 5 and 6. As indicated in Table 5, almost all (99%) of the 2,519 drivers convicted of 1192.2ab had their driver's license revoked in accordance with the law. In comparison, 83% of the drivers convicted of a different sub-section of 1192 had their license revoked.

TABLE 5				
TSLED: License Sanctions Imposed on Drivers Arrested for VTL 1192.2ab Violations				
and Convicted of a VTL 1192.1-4 violation				
2010 – 2019 (N=5,160)				
	Drivers Convicted of 1192.2ab		Drivers Convicted of Other 1192 Violations	
License Sanctions	N=2,519	%	N=2,641	%
<i>Revocation</i>	2,495	99.0	2,186	82.8
<i>Less than 6 months</i>	3	0.1	11	0.5
<i>6 months - 1 year</i>	61	2.4	1,569	71.8
<i>1 year</i>	1,917	76.8	477	21.8
<i>1+ years</i>	289	11.6	32	1.5
<i>Unknown</i>	225	9.0	97	4.4
<i>Suspension</i>	3	0.1	441	16.7
<i>No Revocation or Suspension Noted</i>	21	0.8	14	0.5

Table 6 summarizes the other penalties that were imposed on the convicted drivers. Fine information was available for seven out of 10 convicted drivers, regardless of the conviction charge. In accordance with the law, the vast majority (91%) of the drivers convicted on VTL 1192.2ab were fined \$1,000 or more. In comparison, the vast majority (76%) of the drivers convicted of a different sub-section of VTL 1192 were fined less than \$1,000. Other penalties imposed are shown in Table 6. Of the drivers convicted of 1192.2ab:

- 95% had an ignition interlock restriction placed on their license, compared to 69% of the drivers convicted of a different sub-section of VTL 1192.
- 82% were sentenced to probation, far more than the drivers convicted of a different sub-section of VTL 1192. (47%).
- 32% were sentenced to jail, triple the proportion of drivers convicted of a different 1192 violation (10%).
- 6% were required to attend a Victim Impact Panel (VIP), less than one-quarter of the other drivers convicted
- 8% were required to participate in the DMV's Impaired Driver Program (IDP), one-half the proportion of the other convicted drivers (15%).

TABLE 6				
TSLED: Other Penalties Imposed on Drivers Arrested for VTL 1192.2ab Violations and Convicted: 2010 – 2019 (N=5,160)				
	Drivers Convicted 1192.2ab		Drivers Convicted of Other 1192 Violations	
Fines	N = 2,519	%	N = 2,641	%
No Fine Reported	812	32.2	763	28.9
Fine Reported	1,707	67.8	1,878	71.1
<i>Less than \$1,000</i>	48	2.8	1,420	75.6
<i>\$1,000</i>	1,218	71.4	388	20.7
<i>\$1,001 - \$1,999</i>	167	9.8	21	1.1
<i>\$2,000</i>	183	10.78	34	1.8
<i>More than \$2,000</i>	91	5.3	15	0.8
Probation & Ignition Interlock	1,983	78.7	1,048	39.7
Ignition Interlock Only	405	16.1	767	29.0
Probation Only	88	3.5	204	7.7
Jail Sentence	804	31.9	257	9.7
Victim Impact Panel (VIP)	162	6.4	692	26.2
Impaired Driver Program (IDP)	57	8.3	386	14.6
Previous Drinking Driver Program (DDP)				

SUMMARY

Under the TSLED system, 6,646 drivers were arrested for VTL 1192.2ab violations over the ten-year period, 2010-2019. As of August 2020, 5,602 (84%) of those 6,646 drivers have had their case adjudicated and of them 5,602 drivers (97%) had been convicted; 3% had their case dismissed or had been acquitted. Of the 5,160 drivers convicted of a VTL 1192 violation, 2,519 (49%) were convicted of 1192.2ab violation and 2,641 (51%) were convicted of a different sub-section of 1192. The 2,519 drivers convicted of an 1192.2ab violation received harsher penalties than drivers convicted of a different sub-section of VTL 1192 with regard to license revocation, amount of fine imposed, ignition interlock restriction, probation and jail sentence.

For drivers convicted of a VTL 1192.2ab violation, these findings indicate that the provision of Leandra's Law related to ADWI with children under age 16 in the vehicle is being implemented as intended with regard to the sanctions and penalties imposed. However, the findings also indicate that more than one-half of the drivers arrested for VTL 1192.2ab violations are convicted of a different sub-section of VTL 1192 and thus typically subject to lesser penalties being imposed. These findings should be of interest and concern to the state's Advisory Council on Impaired Driving in developing and implementing new programs and policies to further reduce impaired driving on New York's roadways.

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