

## **New DWI Penalties Punish the Innocent**

Upcoming changes to New York driving while intoxicated laws impose some of the harshest penalties in the nation for a DWI conviction. Among the changes are heavier fines, felony charges in situations that formerly called for a misdemeanor, and the installation of a breathalyzer-style device on every vehicle operated by the convicted person for a minimum of six months.

Amendments to the DWI laws in New York will go into effect on August 15 following two high-profile tragedies and the passing of the much-publicized “Leandra’s Law.” The Legislature’s desire to enact stiffer penalties does not come as a surprise considering New York’s relatively lax DWI standards compared to the rest of the country.

That’s not to say the changes don’t raise significant issues. Inherent problems lie in the nature of the changes, specifically the one requiring the installation of an ignition interlock device on vehicles operated by a convicted person.

Two of the changes, those involving increased fines and felonies for DWI’s when children are in the vehicle, at the very least pass the logic test, regardless of whether they’re fair or necessary. Fines and surcharges will now increase to a minimum total of \$900 for a first-time misdemeanor DWI conviction, plus \$750 in Department of Motor Vehicle fees over the next three years, not to mention significant increases in automobile insurance premiums.

A convicted person will also feel the impact of harsher penalties beyond their wallet. Anyone convicted of a DWI while operating a vehicle with a passenger under the age of 16 faces a possible Class E felony, punishable by up to four years in prison. The penalties are much more severe should a person under 16 be injured or die in an accident caused by an impaired driver. A parent or guardian convicted of a DWI with an underage person in the vehicle will also be reported to social services.

There’s no denying a DWI is a very serious charge. Driving while under the influence of alcohol or drugs can have a disastrous impact on others. The ability to shatter lives is very real. It can and does happen. That being said, the laws that govern our society still have to make sense. They can be harsh, but they must also add up. Specifically, they must punish the right person. And that’s where the new DWI laws come into question.

The most dramatic change will come in the form of a mandate that anyone convicted of a DWI must have an ignition interlock device installed on any vehicles they operate as a condition of their license reinstatement. The device is attached to the vehicle and the driver must blow into it to start the vehicle and also periodically while driving. This requirement lasts at least six months and has the potential to affect individuals other than the convicted driver. Anyone operating a vehicle that includes an IID would have to use the device to start and operate the vehicle, potentially causing an added strain for families and severe embarrassment for drivers not convicted of wrongdoing.

There are a number of issues at play here, ranging from small to very significant; most notably

the requirement that every vehicle operated by the convicted driver must have an IID installed. Anyone driving those vehicles must also use the device to start and operate the vehicle, and that could mean much more than a small inconvenience for innocent drivers. Consider the following hypothetical situation and imagine the possible ramifications of the IID requirement:

Bill Smith, a 42-year-old insurance broker, gets pulled over on the way home from the company Christmas party and is charged with a misdemeanor DWI, his first offense. He is eventually convicted on the charge and has the IID installed on his Ford Focus. Smith is married to Janet Smith, a 39-year-old computer consultant. The IID must also be installed on her minivan because Bill drives it. Janet carpools neighborhood kids to school twice per week and now has to blow into the IID in front of children, their parents and anyone else who happens to be outside the school during drop-off and pick-up. Janet also meets current and potential clients for lunch or meetings and now has to use the IID device in front of them, as well as her boss and co-workers.

It's easy to see why I have the biggest problem with this aspect of the DWI penalty changes. It puts a direct burden on a person who hasn't even been accused of a crime, let alone charged or convicted. Innocent people should not be punished, embarrassed or placed in situations that could affect their employment or standing in the community.

Now, those who pushed for the changes will say DWI accidents often hurt and even kill innocent people. They'll also say the impaired driver should have considered the possible outcomes before climbing behind the wheel.

Those are valid points. Innocent people do get hurt. And we should always consider our actions. But if hurting innocent people is the problem, how can it also be the solution?