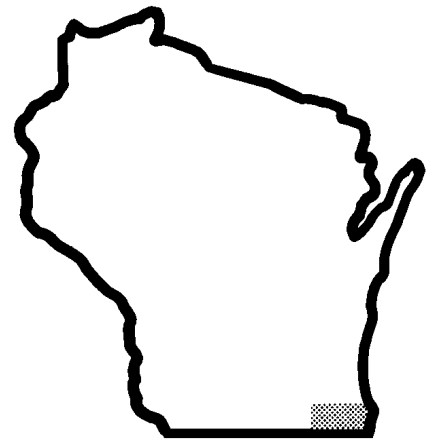


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July 1, 2010

MUNICIPAL COURT
 OWI Sentencing Guidelines – Second District
 For Offenses Occurring on or after July 1, 2010

**Non Commercial
 Not Aggravated**

BAC Levels	.08 - .149	.15 - .169	.17 - .199	.20 - .249	.25+
Forfeiture	\$175.00	\$175.00	\$200.00	\$250.00	\$300.00
Penalty Surcharge ¹	\$45.50	\$45.50	\$52.00	\$65.00	\$78.00
Jail Surcharge	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
Justice Inf. Surcharge	NA	NA	NA	NA	NA
Crime Lab Drug Surcharge	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
Court Costs ²	\$28.00	\$28.00	\$28.00	\$28.00	\$28.00
Driver Improvement Surcharge	\$365.00	\$365.00	\$365.00	\$365.00	\$365.00
Court Support Service Surcharge	NA	NA	NA	NA	NA
Ignition Interlock Charge	NA	\$50.00	\$50.00	\$50.00	\$50.00
Total Financial	\$636.50	\$686.50	\$718.00	\$781.00	\$844.00
Jail	NA	NA	NA	NA	NA
Suspension/Revocation ³	6 months	6 months	7 months	8 months	9 months

**Non Commercial
 Aggravated**

BAC Levels	.08 - .149	.15 - .169	.17 - .199	.20 - .249	.25+
Forfeiture	\$200.00	\$200.00	\$250.00	\$300.00	\$300.00
Penalty Surcharge ¹	\$52.00	\$52.00	\$65.00	\$78.00	\$78.00
Jail Surcharge	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
Justice Inf. Surcharge	NA	NA	NA	NA	NA
Crime Lab Drug Surcharge	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
Court Costs ²	\$28.00	\$28.00	\$28.00	\$28.00	\$28.00
Driver Improvement Surcharge	\$365.00	\$365.00	\$365.00	\$365.00	\$365.00
Court Support Service Surcharge	NA	NA	NA	NA	NA
Ignition Interlock Charge	NA	\$50.00	\$50.00	\$50.00	\$50.00
Total Financial	\$668.00	\$718.00	\$781.00	\$844.00	\$844.00
Jail	NA	NA	NA	NA	NA
Suspension/Revocation	7months	7months	8 months	9months	9months

***MINOR CHILD** - An offense with a child under 16 years of age in the vehicle is a misdemeanor and should be referred to the Districts Attorney for prosecution in Circuit court.

***IGNITION INTERLOCK** – required for one year with BAC of .15 or higher and Refusals. (See attached)

¹ Penalty Surcharge is 26% of the base fine.

² Court Cost: \$15.00 to \$28.00 [§814.65(1)].

³ Mandatory revocation of 6-9 months with a BAC of .08 or greater [§343.30(1q)(b)(2)].

Circuit Court
OWI Sentencing Guidelines
July 1, 2010
Second Judicial District

First Offense – Not Aggravated

BAC Levels	.08 -.149	.15 -.199	.20 -.249	.25+or refusal
Forfeiture	\$150.00	\$200.00	\$250.00	\$300.00
Penalty Surcharge ²	\$39.00	\$52.00	\$65.00	\$78.00
Jail Surcharge	\$10.00	\$10.00	\$10.00	\$10.00
Justice Inf. Surcharge	\$21.50	\$21.50	\$21.50	\$21.50
Crime Lab Drug Surcharge	\$13.00	\$13.00	\$13.00	\$13.00
Court Costs	\$25.00	\$25.00	\$25.00	\$25.00
Driver Improvement Surcharge	\$365.00	\$365.00	\$365.00	\$365.00
Court Support Service Surcharge	\$68.00	\$68.00	\$68.00	\$68.00
Ignition Interlock Charge	NA	\$50.00	\$50.00	\$50.00
Total Financial	\$691.50	\$804.50	\$867.50	\$930.50
Jail	NA	NA	NA	NA
Suspension/Revocation	6 months	7 months	8 months	9 months
First Offense - Aggravated				
BAC Levels	.08 -.149	.15 -.199	.20 -.249	.25+or refusal
Forfeiture	\$200.00	\$250.00	\$300.00	\$300.00
Penalty Surcharge ²	\$52.00	\$65.00	\$78.00	\$78.00
Jail Surcharge	\$10.00	\$10.00	\$10.00	\$10.00
Justice Inf. Surcharge	\$21.50	\$21.50	\$21.50	\$21.50
Crime Lab Drug Surcharge	\$13.00	\$13.00	\$13.00	\$13.00
Court Costs	\$25.00	\$25.00	\$25.00	\$25.00
Driver Improvement Surcharge	\$365.00	\$365.00	\$365.00	\$365.00
Court Support Service Surcharge	\$68.00	\$68.00	\$68.00	\$68.00
Ignition Interlock Charge	NA	\$50.00	\$50.00	\$50.00
Total Financial	\$754.50	\$867.50	\$930.50	\$930.50
Jail	NA	NA	NA	NA
Suspension/Revocation	7 months	8 months	9 months	9 months

***MINOR CHILD** – if there is a child under the age of 16 years in the vehicle at the time of offense, First Offense is a Misdemeanor and Second Offense penalties are applied. [§346.65(2)(f), Eff. 7/1/10]

***IGNITION INTERLOCK** – required on all vehicles owned by defendant if BAC .15 or higher, except for hardship. (See Attached)

***FINES** – may be reduced in cases of inability to pay. Community Service **MUST** be ordered by the Court if offender cannot pay fine.

² Penalty Surcharge is 26% of the base fine.

Circuit Court
OWI Sentencing Guidelines
July 1, 2010
Second Judicial District

Second Offense – Not Aggravated

BAC Levels	<.15	.15 to .199	.20 to .249	.25+ or refusal
Fine	\$350.00	\$400.00	\$450.00	\$500.00
Penalty Surcharge	\$91.00	\$104.00	\$117.00	\$130.00
Jail Surcharge	\$10.00	\$10.00	\$10.00	\$10.00
Justice Inf. Surcharge	NA	NA	NA	NA
Crime Lab Drug Surcharge	\$13.00	\$13.00	\$13.00	\$13.00
Court Costs	\$163.00	\$163.00	\$163.00	\$163.00
Driver Improvement Surcharge	\$365.00	\$365.00	\$365.00	\$365.00
Victim/Witness Surcharge	\$67.00	\$67.00	\$67.00	\$67.00
Ignition Interlock Charge	\$50.00	\$50.00	\$50.00	\$50.00
Total Financial	\$1,109.00	\$1,172.00	\$1,235.00	\$1,298.00
Jail	30 days	60 days	90 days	120 days
Suspension/Revocation	12 months	14months	16 months	18 months
Second Offense - Aggravated				
BAC Levels	<.15	.15 to .199	.20 to .249	.25+ or refusal
Fine	\$400.00	\$450.00	\$500.00	\$550.00
Penalty Surcharge	\$104.00	\$117.00	\$130.00	\$143.00
Jail Surcharge	\$10.00	\$10.00	\$10.00	\$10.00
Justice Inf. Surcharge	NA	NA	NA	NA
Crime Lab Drug Surcharge	\$13.00	\$13.00	\$13.00	\$13.00
Court Costs	\$163.00	\$163.00	\$163.00	\$163.00
Driver Improvement Surcharge	\$365.00	\$365.00	\$365.00	\$365.00
Victim/Witness Surcharge	\$67.00	\$67.00	\$67.00	\$67.00
Ignition Interlock Charge	\$50.00	\$50.00	\$50.00	\$50.00
Total Financial	\$1,172.00	\$1,235.00	\$1,298.00	\$1,361.00
Jail	60 days	90 days	120 days	150 days
Suspension/Revocation	14 months	16 months	18 months	18 months

***MINOR CHILD** – all penalties are doubled if minor child in car (under16)at time of violation.

***FINES** – may be reduced in cases of inability to pay. Community Service **MUST** be ordered by the Court if offender cannot pay fine.

***INJURY TO ANOTHER** - If there is injury to **ANOTHER** person, a second offense becomes a Class “H” Felony and the 5th Offense Guidelines should be applied.

***PROBATION** – probation is available so long as the statutory minimum 5 days in jail are imposed as a condition of probation. [§973.09(1)(d), 346.65(2)(f)1.]

***IGNITION INTERLOCK** – required except in hardship. (See Attached)

***JAIL REPORT TIME** – may allow up to 60 days after conviction to report to jail.

Circuit Court
OWI Sentencing Guidelines
July 1, 2010
Second Judicial District

Third Offense – Not Aggravated

BAC Levels	<.15	.15 to .199	.20 to .249	.25+	Refusal
Fine	\$600.00	\$1,200.00	\$1,800.00	\$2,400.00	\$2,000
Penalty Surcharge	\$156.00	\$312.00	\$468.00	\$624.00	\$520.00
Jail Surcharge	\$10.00	\$12.00	\$18.00	\$24.00	\$20.00
Justice Inf. Surcharge	NA	NA	NA	NA	NA
Crime Lab Drug Surcharge	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
Court Costs	\$163.00	\$163.00	\$163.00	\$163.00	\$163.00
Driver Improvement Surcharge	\$365.00	\$365.00	\$365.00	\$365.00	\$365.00
Victim/Witness Surcharge	\$67.00	\$67.00	\$67.00	\$67.00	\$67.00
Ignition Interlock Charge	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
Total Financial	\$1,424.00	\$2,182.00	\$2,944.00	\$3,706.00	\$3,198.00
Jail	90 days	180 days	270 days	360 days	360 days
Suspension/Revocation	24months	27months	30months	36months	36 months
Third Offense - Aggravated					
BAC Levels	<.15	.15 to .199	.20 to .249	.25+	Refusal
Fine	\$650.00	\$1,300.00	\$1,950.00	\$2,600.00	\$2,000.00
Penalty Surcharge	\$169.00	\$338.00	\$507.00	\$676.00	\$520.00
Jail Surcharge	\$10.00	\$13.00	\$19.50	\$26.00	\$20.00
Justice Inf. Surcharge	NA	NA	NA	NA	NA
Crime Lab Drug Surcharge	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
Court Costs	\$163.00	\$163.00	\$163.00	\$163.00	\$163.00
Driver Improvement Surcharge	\$365.00	\$365.00	\$365.00	\$365.00	\$365.00
Victim/Witness Surcharge	\$67.00	\$67.00	\$67.00	\$67.00	\$67.00
Ignition Interlock Charge	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
Total Financial	\$1,487.00	\$2,309.00	\$3,134.50	\$3,960.00	\$3,198.00
Jail	180 days	270 days	360 days	360 days	360 days
Suspension/Revocation	27months	30months	33months	36months	36 months

*MINOR CHILD - all penalties are doubled if minor child in car (under 16) at time of violation. Third offense becomes a felony.

*INJURY TO ANOTHER - If there is injury to ANOTHER person, a third offense becomes a Class “H” Felony and 5th Offense Guidelines should be applied.

*FINES – may be reduced in cases of inability to pay. Community Service MUST be ordered by the Court if offender cannot pay fine.

*PROBATION – probation is available so long as the statutory mandatory minimum of 45 days in jail are imposed as a condition of probation.

*IGNITION INTERLOCK – required except in hardship. (See attached)

*MANDATORY MINIMUM – minimum jail sentence of 45 days required for any third offense.

*JAIL REPORT TIME – no release on bail after entry of judgment (same day report), however, Court may still stay sentence for up to 60 days for cause.

Circuit Court
OWI Sentencing Guidelines
July 1, 2010
Second Judicial District

Fifth/Sixth Offense – Not Aggravated

BAC Levels	<.15	.15 to .199	.20 to .249	.25+	Refusal
Fine	\$1,200.00	\$2,400.00	\$3,600.00	\$4,800.00	\$2,000.00
Penalty Surcharge	\$312.00	\$624.00	\$936.00	\$1,248.00	\$520.00
Jail Surcharge	\$12.00	\$24.00	\$36.00	\$48.00	\$20.00
Justice Inf. Surcharge	NA	NA	NA	NA	NA
Crime Lab Drug Surcharge	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
Court Costs	\$163.00	\$163.00	\$163.00	\$163.00	\$163.00
Driver Improvement Surcharge	\$365.00	\$365.00	\$365.00	\$365.00	\$365.00
Victim/Witness Surcharge	\$92.00	\$92.00	\$92.00	\$92.00	\$92.00
Ignition Interlock Charge	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
Total Financial	\$2,207.00	\$3,731.00	\$5,255.00	\$6,779.00	\$3,223.00
Jail	6mo.-6yrs.	6mo.-6yrs.	6mo.-6yrs.	6mo.-6yrs.	6mo.-6yrs.
Suspension/Revocation	36months	36months	36months	36months	36 months
Fifth/Sixth Offense- Aggravated					
BAC Levels	<.15	.15 to .199	.20 to .249	.25+	Refusal
Fine	\$1,600.00	\$3,200.00	\$4,800.00	\$6,400.00	\$2,000.00
Penalty Surcharge	\$416.00	\$832.00	\$1,248.00	\$1,664.00	\$520.00
Jail Surcharge	\$16.00	\$32.00	\$48.00	\$64.00	\$20.00
Justice Inf. Surcharge	NA	NA	NA	NA	NA
Crime Lab Drug Surcharge	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
Court Costs	\$163.00	\$163.00	\$163.00	\$163.00	\$163.00
Driver Improvement Surcharge	\$365.00	\$365.00	\$365.00	\$365.00	\$365.00
Victim/Witness Surcharge	\$92.00	\$92.00	\$92.00	\$92.00	\$92.00
Ignition Interlock Charge	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
Total Financial	\$2,715.00	\$4,747.00	\$6,779.00	\$8,811.00	\$3,223.00
Jail	6mo.-6yrs.	6mo.-6yrs.	6mo.-6yrs.	6mo.-6yrs.	6mo.-6yrs.
Suspension/Revocation	36months	36months	36months	36months	36 months

***MINOR CHILD** - all penalties are doubled if minor child in car (under 16) at time of violation.

***MANDATORY MINIMUM** – must impose minimum of 6 months jail time.

***PROBATION** – probation available so long as the statutory mandatory minimum of 6 months in jail are imposed as a condition of probation.

***IGNITION INTERLOCK** – required except in hardship (See attached)

***FINES** – may reduce in cases of inability to pay. Community Service Work **MUST** be ordered by Court if offender cannot pay the fine.

***JAIL REPORT TIME** – no release on bail after entry of judgment (same day report), however, Court may still stay sentence for up to 60 days for cause.

FELONY CLASSIFICATION

-5th or 6th Offense is a Class “H”

-7th - 8th - and 9th a Class “G” requiring a 3 year mandatory minimum prison term. (§346.65(2)(am)6.)

-10th or higher a Class “F” requiring a 4 year mandatory minimum prison term. (§346.65(2)(am)7.)

SENTENCING CONSIDERATIONS

-If minor (under 16) passenger is in the vehicle, all fines, jail and revocations are doubled. Third and Fourth offenses become felonies.

-Driver Safety Plan Are Required in All Cases

-Fines & Forfeitures may be reduced in cases of inability to pay with reduction in amount applied to surcharge/plan costs.

-Plan may have victim awareness component including effect on victim and victim's family

-Restitution may be ordered by the Court.

-Community Service MUST be ordered by the Court to reduce the fine or forfeiture if offender cannot pay fine. Court to determine amount of reduction in fine for each hour of community service work performed. §346.65(2g)(ag), Stats

-Site Visits to Emergency Room or Alcohol Treatment Facility may be ordered.

-Points are assigned by the DMV in all cases (6).

-Huber privileges are NOT available unless the offender complies with Alcohol Surcharge, Ignition Interlock Orders, and Driver Safety Plan. (Exception for offender who cannot comply because of insufficient funds to obtain surcharge) §303.065(2m), Stats.

Effective 01/01/01, offenses committed before 01/01/89 are not counted for penalty purposes. For an offense occurring more than ten (10) years ago, but after 1988, a second offense is charged as a first offense, however, the offense remains on the record and a third offense is charged as a third offense. (Exception: Prior offenses for Homicide by Intoxicated Use of a Motor Vehicle, §940.09(1), Stats., and Causing Great Bodily Harm by Intoxicated Use of a Motor Vehicle §940.25, Stats., will be included without restriction as to the date of the offense.)

AGGRAVATING AND MITIGATING FACTORS

The guidelines which follow suggest what may be appropriate penalties in situations which are either aggravated and not aggravated. The presence or absence of mitigating or aggravating circumstances in each case will dictate into which of the two matrixes the case more readily fit.

If the mitigating factors dominate, then the “Not Aggravated” matrix would seem appropriate, with the degree of mitigation dictating the choice of what penalties, within the confines of the appropriate grid, ought to be imposed. If the aggravating factors dominate, then that matrix would seem appropriate, with the degree of aggravation dictating what penalties, within the confines of the appropriate grid, should be employed.

Some examples of mitigating factors are:

- No evidence of unsafe driving other than intoxication
- No accident
- No or minimal prior offence record in Wisconsin and elsewhere
- Cooperation with arresting officers
- No injury to others
- No minor passengers
- Extrajudicial penalties (loss of job, etc.)
- Responsible efforts to deal with problem
- Low income (as to financial aspects of penalty only)

Some examples of aggravating factors are:

- Driving after revocation
- Accident
- Unsafe driving beyond mere intoxication
- Injury to others
- Prior uncounted offences for OWI
- lengthy prior driving record for other types of offences
- Time and location of driving
- Interval since last offence
- Failure to comply with surcharge ordered in the past
- Lack of insurance coverage

*OCCUPATIONAL LICENSES***1. Waiting Period**

1st offenders who have taken the test are eligible for an immediate occupational license.

All others are eligible after the expiration of a 45 day waiting period, and proof that they have:

- completed the required statutory assessment
- they are in compliance with the ordered drivers safety plan
- they are in compliance with Ignition Interlock requirements

2. Surcharge & Plan

After 2nd or subsequent OWI or OWI-related offense, applicant must have completed the current surcharge and be complying with the driver safety plan.

3. Absolute Sobriety

An absolute sobriety (0.0%) requirement is imposed on all operation by users who have two or more OWI or OWI-related offenses

4. Ignition Interlock

Applicant must comply with all requirement of the use of vehicles equipped with a functioning ignition interlock device if applicants vehicles were ordered to have the ignition interlock placed on them under §346.65(6)(a). See 343.10(5)(a)3., Stats.

(G:/owi guidelines 07/01/2010)

IGNITION INTERLOCK

1. **INSTALLATION MANDATORY** - Ignition Interlock Devices (IID) installation is **MANDATORY** in all vehicles owned or driven by persons convicted of second and subsequent OWI related offenses.
2. **FIRST OFFENSE** – 1ST OWI offenses require IID installation for one year if the BAC is .15 or higher.
3. **HARDSHIP EXCEPTIONS** - Defendants are to pay for the installation and maintenance costs of the IID, however, in cases of extreme financial hardship, the Court may:
 - a. Exclude vehicles from the IID requirement
 - b. Not order IID at all
 - c. If offenders have income levels at or below 150% of the federal poverty level and IID's are ordered, the installation and monitoring costs are reduced in half after the payment of the surcharge fee.
4. **LENGTH OF RESTRICTION** - The IID restriction period must be at least one year and may not extend beyond the maximum license revocation period for a particular OWI related offense or refusal violation.
5. **START OF RESTRICTION** - The IID restriction period does not start until an offender obtains an operators license, not at the time the IID was ordered in Court. The revocation period does not start until completion of the term of imprisonment imposed.
6. **HUBER PRISONERS** - Huber prisoners are required to provide proof of the IID installation within two weeks of the issuance of the IID order to qualify for Huber privileges.
7. **DELAY IN INSTALLATION** - Judges may order installation at a time later than sentencing, such as the date upon which the offender becomes eligible for an occupational license.
8. **REMOVAL OR TAMPERING WITH IID** - If an offender removes or tampers with the IID, (as required to be reported by the monitoring agency) the period of time the IID restriction remains in place will be extended by 6 months.
9. **REFUSAL SAME RESULT** - IID's are required for First Offense when the offender refuses to submit to an evidentiary breath or blood test. (A refusal)
10. **LOWER BAC WHEN USING IID** - Offenders subject to an IID restriction have a BAC level of 0.02 during the entire duration of the IID order. Violation of such an order will subject an offender to the same potential penalties that another OWI charge would have, including jail time and fines.