

TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

OFFENSES OCCURRING ON OR AFTER
December 31, 2005

Tenth Judicial District
405 South Barstow Street, Suite C
Eau Claire, WI 54701-3606
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Benjamin D. Proctor, Chief Judge

TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Offenses Occurring On Or After December 31, 2005)

FIRST OFFENSE	BAC Level	Minimum Driving and No Accident	Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct
346.63(1)(b)	.08 to .099	\$250.00 6-month revocation	\$300.00 7-month revocation
346.63(1)(a)	.08 to .099	\$667.00 6-month revocation	\$730.00 7-month revocation
	.10 to 169 OR A Detectable Amount of a Restricted or Controlled Substance	\$665.50 6-month revocation	\$730.00 7-month revocation
	.17 to .199	\$730.00 7-month revocation	\$793.00 8-month revocation
	.20 and above or refusal	\$793.00 8-month revocation	\$856.00 9-month revocation

SECOND OFFENSE	BAC Level	Minimum Driving and No Accident	Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct	If the defendant fails to complete assessment from any prior offense, enhance the penalties in the prior two columns as set forth below:
	.169 and below OR A Detectable Amount of a Restricted or Controlled Substance	\$894.00 10 days jail 12-month revocation	\$957.00 30 days jail 14-month revocation	Plus \$75.60 Plus 20 days jail Plus 2-month revocation
	.17 to .199	\$957.00 10 days jail 14-month revocation	\$1,020.00 40 days jail 16 month revocation	Plus \$75.60 Plus 20 days jail Plus 2-month revocation
	.20 and above or refusal	\$1,020.00 20 days jail 16-month revocation	\$1,083.00 60 days jail 18-month revocation	Plus \$75.60 Plus 20 days jail Plus 2-month revocation

TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Offenses Occurring On Or After December 31, 2005)

THIRD OFFENSE	BAC Level	Minimum Driving and No Accident	Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct	If either of the following are present, enhance the penalties in the prior two columns accordingly: 1. More than 3 OWIs in the Last 15 Years 2. Failure to Complete Assessment from Prior Offense
	.169 and below OR A Detectable Amount of a Restricted or Controlled Substance	\$1,209.00 60 days jail 24-month revocation Immobilization or ignition interlock required; seizure and forfeiture optional.	\$1,272.00 80 days jail 27-month revocation Immobilization or ignition interlock required; seizure and forfeiture optional.	Plus \$100.80 Plus 30 days jail Plus 3-month revocation
	.17 to .199	\$1,967.00 80 days jail 27-month revocation Immobilization or ignition interlock required; seizure and forfeiture optional.	\$2,094.00 110 days jail 30-month revocation Immobilization or ignition interlock required; seizure and forfeiture optional.	Plus \$100.80 Plus 30 days jail Plus 3-month revocation
	.20 to .249 or refusal	\$2,729.00 110 days jail 30-month revocation Immobilization or ignition interlock required seizure and forfeiture optional	\$2,856.00 140 days jail 30-month revocation Immobilization or ignition interlock required; seizure and forfeiture optional	Plus \$100.80 Plus 30 days jail Plus 3-month revocation
	.25 and above	\$3,491.00 110 days jail 30-month revocation Immobilization or ignition interlock required; seizure and forfeiture optional	\$3,618.00 140 days jail 30-month revocation Immobilization or ignition interlock required; seizure and forfeiture optional.	Plus \$100.80 Plus 30 days jail Plus 3-month revocation

Starting at 3rd Offense, state can commence action to forfeit vehicle [Wisconsin Statute 346.65(6)(c)]

TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Offenses Occurring On Or After December 31, 2005)

FOURTH OFFENSE	BAC Level	Minimum Driving and No Accident	Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct	If either of the following are present, enhance the penalties in the prior two columns accordingly: 1. More than 4 OWIs in the Last 15 Years 2. Failure to Complete Assessment from Prior Offense
	.079 and below	\$1,209.00 150 days jail 27-month revocation Seizure optional	\$1,272.00 170 days jail 30-month revocation Seizure optional	Plus \$100.80 Plus 30 days jail Plus 3-month revocation
	.08 to .169 OR A Detectable Amount of a Restricted or Controlled Substance	\$1,587.00 230 days jail 27-month revocation Seizure optional	\$1,650.00 270 days jail 30-month revocation Seizure optional	Plus 100.10 Plus 30 days jail Plus 3-month revocation
	.17 to .199	\$1,967.00 270 days jail 30 month revocation Seizure optional	\$2,094.0 330 days jail 33-month revocation Seizure optional	Plus \$101.60 If "Minimum Driving", plus 30 days jail If "Aggravated Driving", plus 5 days jail Plus 3-month revocation
	.20 to .249 or refusal	\$2,729.00 330 days jail 33-month revocation Seizure optional	\$2,856.00 350 days jail 36-month revocation Seizure optional	Plus \$101.60 If "Minimum Driving", plus 5 days jail If "Minimum Driving", plus 3 month revocation
	.25 and above	\$3,491.00 330 days jail 33-month revocation Seizure optional	\$3,618.00 350 days jail 36-month revocation Seizure optional.	Plus \$101.60 If "Minimum Driving", plus 5 days jail If "Minimum Driving", plus 3-month revocation

Probation is an option for 4th Offense and above. [Wisconsin Statute 973.09(1)(d)]

TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

MINOR UNDER 16 YEARS OF AGE IN VEHICLE

(Offenses Occurring On Or After December 31, 2005)

FIRST OFFENSE	BAC Level	Minimum Driving and No Accident	Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct	
346.63(1)(b)	.08 to .099	\$500.00 6-month revocation	\$600.00 7-month revocation	
346.63(1)(a)	.08 to .099	\$856.00 6-month revocation	\$982.00 7-month revocation	
	.10 to .169 OR A Detectable Amount of a Restricted or Controlled Substance	\$856.00 6-month revocation	\$982.00 7-month revocation	
	.17 to .199	\$982.00 7-month revocation	\$1,108.00 8-month revocation	
	.20 and above or refusal	\$1,108.00 8-month revocation	\$1,234.00 9-month revocation	
SECOND OFFENSE	BAC Level	Minimum Driving and No Accident	Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct	If the defendant fails to complete assessment from any prior offense, enhance the penalties in the prior two columns as set forth below:
	.169 and below OR A Detectable Amount of a Restricted or Controlled Substance	\$1,335.00 10 days jail 12-month revocation	\$1,461.00 40 days jail 14-month revocation	Plus \$75.60 Plus 20 days jail Plus 2-month revocation
	.17 to .199	\$1,461.00 20 days jail 14-month revocation	\$1,587.00 50 days jail 16-month revocation	Plus \$75.60 Plus 20 days jail Plus 2-month revocation
	.20 and above or refusal	\$1,587.00 30 days jail 16-month revocation	\$1,713.00 70 days jail 18-month revocation	Plus \$75.60 Plus 20 days jail Plus 2-month revocation

Concerning penalties when there is a minor passenger under 16 years of age, see Section 346.65(2)(f), Wisconsin Statutes. Also, a minor passenger under 16 years of age in a motor vehicle at the time of a violation of a third, fourth or fifth offense is a felony.

TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES COMMERCIAL MOTOR VEHICLE

(Offenses Occurring On Or After December 31, 2005)

FIRST OFFENSE	BAC Level	Minimum Driving and No Accident	Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct
	.04 to less than .079	\$675.00 6-month revocation	\$738.00 7-month revocation
346.63(1)(b)	.08 to .099	\$258.00 7-month revocation	\$308.00 8-month revocation
346.63(1)(a)	.08 to .099	\$738.00 7-month revocation	\$801.00 8-month revocation
	.10 to .15 OR A Detectable Amount of a Restricted or Controlled Substance	\$801.00 8-month revocation	\$864.00 9-month revocation
	.151 and above	\$801.00 8-month revocation	\$864.00 9-month revocation

SECOND OFFENSE	BAC Level	Minimum Driving and No Accident	Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct	If the defendant fails to complete assessment from any prior offense, enhance the penalties in the prior two columns as set forth below:
	.04 to less than .079	\$902.00 10 days jail 12-month revocation	\$965.00 40 days jail 14-month revocation	Plus \$75.60 Plus 20 days jail Plus 2-month revocation
	.08 to .15	\$965.00 20 days jail 14-month revocation	\$1,028.00 80 days jail 16-month revocation	Plus \$75.60 Plus 20 days jail Plus 2-month revocation
	.151 and above OR A Detectable Amount of a Restricted or Controlled Substance	\$1,028.00 40 days jail 16-month revocation	\$1,091.00 120 days jail 18-month revocation	Plus \$75.60 Plus 20 days jail Plus 2-month revocation

TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES - COMMERCIAL MOTOR VEHICLE

(COMMERCIAL CONTINUED)

(Offenses Occurring On Or After December 31, 2005)

THIRD OFFENSE	BAC Level	Minimum Driving and No Accident	Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct	If either of the following are present, enhance the penalties in the prior two columns accordingly: 1. More than 3 OWIs in the last 15 years 2. Failure to Complete Assessment from Prior Offense
	.04 to less than .079	\$1,217.00 90 days jail 24-month revocation Immobilization or ignition interlock required; seizure optional	\$1,280.00 120 days jail 27-month revocation Immobilization or ignition interlock required; seizure optional	Plus \$100.80 Plus 30 days jail Plus 3-month revocation
	.08 to .15	\$1,280.00 120 days jail 27-month revocation Immobilization or ignition interlock required; seizure optional	\$1,343.00 150 days jail 30-month revocation Immobilization or ignition interlock required; seizure optional	Plus \$100.80 Plus 30 days jail Plus 3-month revocation
	.151 to .169 OR A Detectable Amount of a Restricted or Controlled Substance	\$1,343.00 150 days jail 30-month revocation Immobilization or ignition interlock required; seizure optional	\$1,406.00 180 days jail 33-month revocation Immobilization or ignition interlock required; seizure optional	Plus \$100.80 Plus 30 days jail Plus 3-month revocation

In order for double, triple or quadrupled fines to be imposed in Commercial Motor Vehicle cases, the driver must be charged under Wisconsin Statute 346.63(1). [See Wisconsin Statute 346.63(5),(6) and (7)]

TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES - COMMERCIAL MOTOR VEHICLE

(Commercial Continued)

(Offenses Occurring On Or After December 31, 2005)

THIRD OFFENSE (Continued)	BAC Level	Minimum Driving and No Accident	Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct	If either of the following are present, enhance the penalties in the prior two columns accordingly: 1. More than 3 OWIs in the Last 15 Years 2. Failure to Complete Assessment from Prior Offense
	.17 to .199	\$1,973.00 150 days jail 30-month revocation Immobilization or ignition interlock required; seizure optional	\$2,099.00 180 days jail 33-month revocation Immobilization or ignition interlock required; seizure optional	Plus \$100.80 Plus 30 days jail Plus 3-month revocation
	.20 to .249	\$2,731.00 150 days jail 30-month revocation Immobilization or ignition interlock required; seizure optional	\$2,858.00 180 days jail 33-month revocation Immobilization or ignition interlock required; seizure optional	Plus \$100.80 Plus 30 days jail Plus 3-month revocation
	.25 and above	\$3,493.00 150 days jail 30-month revocation Immobilization or ignition interlock required; seizure optional	\$3,620.00 180 days jail 33-month revocation Immobilization or ignition interlock required; seizure optional	Plus \$100.80 Plus 30 days jail Plus 3-month revocation

TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Offenses Occurring On or After December 31, 2005)

PENALTY RANGES

	FINE/FORF RANGE	REVOCAION	WAITING PERIOD FOR OCCUPATIONAL LICENSE	JAIL TIME OR MONITORED HOME DETENTION
FIRST OFFENSE	\$150-\$300	6-9 Months Revocation	0 days	Not Applicable
SECOND OFFENSE	\$350 - \$1,100	12-18 Months Revocation	60 days ³	5 Days to 6 Months ⁵ or at least 30 days community service
THIRD OFFENSE¹	\$600 - \$2,000 ⁶	24-36 Months Revocation	90 days ⁴	30 Days to 12 Months ⁵
FOURTH OFFENSE²	\$600 - \$2,000 ⁶	24-36 Months Revocation	90 days ⁴	60 Days to 12 Months ⁵

- If First Offense BAC is at least .08% but less than .10% and charge is violation of s. 346.63(1)(b), only deposit amount may be imposed.
- Court shall order defendant to undergo alcohol assessment and comply with driver safety plan. Huber not allowed if defendant not current with assessment and in compliance with driver's safety plan [See Section 303.08, Wisconsin Statutes].
- Court may order the safety plan to include effect on any victim or victim's family.
- Court may order community service work that demonstrates adverse effects of abuse (and a reasonable fee).
- Court may order a visit to a site that demonstrates adverse effects of abuse (and a reasonable fee).
- Court may order community service work to reduce the amount of the forfeiture/fine. Court may also order restitution. Defendants that cannot pay OWI Fine must perform community service [See Section 346.65(2g)(ag), Wisconsin Statutes].
- Court may, after a finding of inability to pay, reduce the costs or forfeiture/fine and order the person to pay the difference toward the cost of the alcohol assessment and driver safety plan.
- See 2001 Wisconsin Act 16 regarding installation of ignition interlock device or immobilization of a motor vehicle. (DOT Analysis is attached.)

Conviction for a fifth offense OWI is a felony punishable by not less than \$600 nor more than \$2,000 and imprisonment for not less that 6 months nor more than 5 years. [See Section 346.65(2)(e), Wisconsin Statutes and 1998 WI Act 237].

¹Court shall order immobilization or ignition interlock of owned vehicle (unless undue hardship, extreme inconvenience or endangerment of person's health and safety). Court may order a motor vehicle owned by a violator to be seized. [See Section 346.65(6)(a)(1), Wisconsin Statutes].

²Court may order seizure of owned vehicle [See Section 346.65(6)(a)(1), Wisconsin Statutes]. Court may order only operation of a vehicle equipped with ignition interlock.

³Absolute sobriety during use.

⁴Completion of Alcohol Assessment/Driver Safety Plan and absolute sobriety during use.

⁵Not less than 48 consecutive hour period in county jail.

⁶ Fine range doubles if BAC is .17 to .199; triples if BAC is .20 to .249; quadruples if BAC is .25 or above. [See Section 346.65(2)(g), Wisconsin Statutes].

OWI FINANCIAL PENALTY BREAKDOWNS

(Offenses Occurring On Or After 12/31/05)

TOTAL PENALTY	\$667.00	\$730.00	\$793.00	\$856.00	\$982.00	\$1,108.00	\$1,234.00
Forfeiture	150.00	200.00	250.00	300.00	400.00	500.00	600.00
Driver Improvement Surcharge	355.00	355.00	355.00	355.00	355.00	355.00	355.00
Court Costs	25.00	25.00	25.00	25.00	25.00	25.00	25.00
Justice Information Surcharge	12.00	12.00	12.00	12.00	12.00	12.00	12.00
Penalty Surcharge	39.00	52.00	65.00	78.00	104.00	130.00	156.00
Jail Surcharge	10.00	10.00	10.00	10.00	10.00	10.00	10.00
Court Support Surcharge	68.00	68.00	68.00	68.00	68.00	68.00	68.00
Crime Lab and Drug Surcharge	8.00	8.00	8.00	8.00	8.00	8.00	8.00

TOTAL PENALTY	\$894.00	\$957.00	\$1,020.00	\$1,083.00	\$1,209.00	\$1,272.00	\$1,335.00	\$1,461.00
Fine	350.00	400.00	450.00	500.00	600.00	650.00	700.00	800.00
Driver Improvement Surcharge	355.00	355.00	355.00	355.00	355.00	355.00	355.00	355.00
Court Costs	20.00	20.00	20.00	20.00	20.00	20.00	20.00	20.00
Victim/Witness Surcharge - Part A	40.00	40.00	40.00	40.00	40.00	40.00	40.00	40.00
Victim/Witness Surcharge - Part B	20.00	20.00	20.00	20.00	20.00	20.00	20.00	20.00
Penalty Surcharge	91.00	104.00	117.00	130.00	156.00	169.00	182.00	208.00
Jail Surcharge	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00
Crime Lab and Drug Surcharge	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00

TOTAL PENALTY	\$1,587.00	\$1,650.00	\$1,713.00	\$1,967.00	\$2,094.00	\$2,729.00	\$2,856.00	\$3,491.00	\$3,618.00
Fine	900.00	950.00	1000.00	1200.00	1300.00	1800.00	1900.00	2400.00	2500.00
Driver Improvement Surcharge	355.00	355.00	355.00	355.00	355.00	355.00	355.00	355.00	355.00
Court Costs	20.00	20.00	20.00	20.00	20.00	20.00	20.00	20.00	20.00
Victim/Witness Surcharge - Part A	40.00	40.00	40.00	40.00	40.00	40.00	40.00	40.00	40.00
Victim/Witness Surcharge - Part B	20.00	20.00	20.00	20.00	20.00	20.00	20.00	20.00	20.00
Penalty Surcharge	234.00	247.00	260.00	312.00	338.00	468.00	494.00	624.00	650.00
Jail Surcharge	10.00	10.00	10.00	12.00	13.00	18.00	19.00	24.00	25.00
Crime Lab and Drug Surcharge	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00

NOTE: Following is the breakdown of the various additional financial penalty enhancers

\$75.60 = \$60 fine plus \$15.60 penalty surcharge

\$100.80 = \$80.00 fine plus \$20.80 penalty surcharge

\$101.10 = \$80.00 fine plus \$20.80 penalty surcharge plus \$.30 jail surcharge

\$101.60 = \$80.00 fine plus \$20.80 penalty surcharge plus \$.80 jail surcharge

COMMERCIAL MOTOR VEHICLE - OWI FINANCIAL PENALTY BREAKDOWNS

(Offenses Occurring On Or After 12/31/05)

TOTAL PENALTY	\$675.00	\$738.00	\$801.00	\$864.00
Forfeiture	150.00	200.00	250.00	300.00
Driver Improvement Surcharge	355.00	355.00	355.00	355.00
Court Courts	25.00	25.00	25.00	25.00
Justice Information Surcharge	12.00	12.00	12.00	12.00
Penalty Surcharge	39.00	52.00	65.00	78.00
Jail Surcharge	10.00	10.00	10.00	10.00
Court Support Surcharge	68.00	68.00	68.00	68.00
Crime Lab and Drug Surcharge	8.00	8.00	8.00	8.00
Truck Driver Education Surcharge	8.00	8.00	8.00	8.00

TOTAL PENALTY	\$902.00	\$965.00	\$1,028.00	\$1,091.00	\$1,217.00	\$1,280.00	\$1,343.00
Fine	350.00	400.00	450.00	500.00	600.00	650.00	700.00
Driver Improvement Surcharge	355.00	355.00	355.00	355.00	355.00	355.00	355.00
Court Costs	20.00	20.00	20.00	20.00	20.00	20.00	20.00
Victim/Witness Surcharge - Part A	40.00	40.00	40.00	40.00	40.00	40.00	40.00
Victim/Witness Surcharge - Part B	20.00	20.00	20.00	20.00	20.00	20.00	20.00
Penalty Surcharge	91.00	104.00	117.00	130.00	156.00	169.00	182.00
Jail Surcharge	10.00	10.00	10.00	10.00	10.00	10.00	10.00
Crime Lab and Drug Surcharge	8.00	8.00	8.00	8.00	8.00	8.00	8.00
Truck Driver Education Surcharge	8.00	8.00	8.00	8.00	8.00	8.00	8.00

TOTAL PENALTY	\$1,406.00	\$1,973.00	\$2,099.00	\$2,731.00	\$2,858.00	\$3,493.00	\$3,620.00
Fine	750.00	1200.00	1300.00	1800.00	1900.00	2400.00	2500.00
Driver Improvement Surcharge	355.00	355.00	355.00	355.00	355.00	355.00	355.00
Court Costs	20.00	20.00	20.00	20.00	20.00	20.00	20.00
Victim Witness Surcharge - Part A	40.00	40.00	40.00	40.00	40.00	40.00	40.00
Victim Witness Surcharge - Part B	20.00	20.00	20.00	20.00	20.00	20.00	20.00
Penalty Surcharge	195.00	312.00	338.00	468.00	494.00	624.00	650.00
Jail Surcharge	10.00	10.00	10.00	12.00	13.00	18.00	19.00
Crime Lab and Drug Surcharge	8.00	8.00	8.00	8.00	8.00	8.00	8.00
Truck Driver Education Surcharge	8.00	8.00	8.00	8.00	8.00	8.00	8.00

NOTE: Following is the breakdown of the various additional financial penalty enhancers
\$75.60 = \$60.00 fine plus \$15.60 penalty surcharge
\$100.80 = \$80.00 fine plus \$20.80 penalty surcharge