

# TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

OFFENSES OCCURRING ON OR AFTER  
April 2, 2008

Tenth Judicial District  
405 South Barstow Street, Suite C  
Eau Claire, WI 54701-3606  
(715) 839-4826

Benjamin D. Proctor, Chief Judge

## TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Offenses Occurring On Or After April 2, 2008)

<b>FIRST OFFENSE</b>	<b>BAC Level</b>	<b>Minimum Driving and No Accident</b>	<b>Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct</b>
346.63(1)(b)	.08 to .099	\$250.00 6-month revocation	\$300.00 7-month revocation
346.63(1)(a)	.08 to .099	\$677.00 6-month revocation	\$740.00 7-month revocation
	.10 to 169 OR A Detectable Amount of a Restricted or Controlled Substance	\$677.00 6-month revocation	\$740.00 7-month revocation
	.17 to .199	\$740.00 7-month revocation	\$803.00 8-month revocation
	.20 and above or refusal	\$803.00 8-month revocation	\$866.00 9-month revocation

<b>SECOND OFFENSE</b>	<b>BAC Level</b>	<b>Minimum Driving and No Accident</b>	<b>Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct</b>	<b>If the defendant fails to complete assessment from any prior offense, enhance the penalties in the prior two columns as set forth below:</b>
	.169 and below OR A Detectable Amount of a Restricted or Controlled Substance	\$904.00 10 days jail 12-month revocation	\$967.00 30 days jail 14-month revocation	Plus \$75.60 Plus 20 days jail Plus 2-month revocation
	.17 to .199	\$967.00 10 days jail 14-month revocation	\$1,030.00 40 days jail 16 month revocation	Plus \$75.60 Plus 20 days jail Plus 2-month revocation
	.20 and above or refusal	\$1,030.00 20 days jail 16-month revocation	\$1,093.00 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 April 2, 2008)

<b>THIRD OFFENSE</b>	<b>BAC Level</b>	<b>Minimum Driving and No Accident</b>	<b>Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct</b>	<b>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</b>
	.169 and below  OR  A Detectable Amount of a Restricted or Controlled Substance	\$1,219.00  60 days jail  24-month revocation  Immobilization or ignition interlock required; seizure and forfeiture optional.	\$1,282.00  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	\$1,977.00  80 days jail  27-month revocation  Immobilization or ignition interlock required; seizure and forfeiture optional.	\$2,104.00  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	\$2,739.00  110 days jail  30-month revocation  Immobilization or ignition interlock required seizure and forfeiture optional	\$2,866.00  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	\$3,501.00  110 days jail  30-month revocation  Immobilization or ignition interlock required; seizure and forfeiture optional	\$3,628.00  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 April 2, 2008)

<b>FOURTH OFFENSE</b>	<b>BAC Level</b>	<b>Minimum Driving and No Accident</b>	<b>Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct</b>	<b>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</b>
	.079 and below	\$1,219.00 150 days jail 27-month revocation Seizure optional	\$1,282.00 170 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	\$1,597.00 230 days jail 27-month revocation Seizure optional	\$1,660.00 270 days jail 30-month revocation Seizure optional	Plus 100.10 Plus 30 days jail Plus 3-month revocation
	.17 to .199	\$1,977.00 270 days jail 30 month revocation Seizure optional	\$2,104.0 330 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	\$2,739.00 330 days jail 33-month revocation Seizure optional	\$2,866.00 350 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	\$3,501.00 330 days jail 33-month revocation Seizure optional	\$3,628.00 350 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 April 2, 2008)

<b>FIRST OFFENSE</b>	<b>BAC Level</b>	<b>Minimum Driving and No Accident</b>	<b>Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct</b>	
346.63(1)(b)	.08 to .099	\$500.00 6-month revocation	\$600.00 7-month revocation	
346.63(1)(a)	.08 to .099	\$866.00 6-month revocation	\$992.00 7-month revocation	
	.10 to .169 OR A Detectable Amount of a Restricted or Controlled Substance	\$866.00 6-month revocation	\$992.00 7-month revocation	
	.17 to .199	\$992.00 7-month revocation	\$1,118.00 8-month revocation	
	.20 and above or refusal	\$1,118.00 8-month revocation	\$1,244.00 9-month revocation	
<b>SECOND OFFENSE</b>	<b>BAC Level</b>	<b>Minimum Driving and No Accident</b>	<b>Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct</b>	<b>If the defendant fails to complete assessment from any prior offense, enhance the penalties in the prior two columns as set forth below:</b>
	.169 and below OR A Detectable Amount of a Restricted or Controlled Substance	\$1,345.00 10 days jail 12-month revocation	\$1,471.00 40 days jail 14-month revocation	Plus \$75.60 Plus 20 days jail Plus 2-month revocation
	.17 to .199	\$1,471.00 20 days jail 14-month revocation	\$1,597.00 50 days jail 16-month revocation	Plus \$75.60 Plus 20 days jail Plus 2-month revocation
	.20 and above or refusal	\$1,597.00 30 days jail 16-month revocation	\$1,723.00 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 April 2, 2008)

<b>FIRST OFFENSE</b>	<b>BAC Level</b>	<b>Minimum Driving and No Accident</b>	<b>Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct</b>
	.04 to less than .079	\$685.00 6-month revocation	\$748.00 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	\$748.00 7-month revocation	\$811.00 8-month revocation
	.10 to .15 OR A Detectable Amount of a Restricted or Controlled Substance	\$811.00 8-month revocation	\$874.00 9-month revocation
	.151 and Above	\$811.00 8-month revocation	\$874.00 9-month revocation

<b>SECOND OFFENSE</b>	<b>BAC Level</b>	<b>Minimum Driving and No Accident</b>	<b>Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct</b>	<b>If the defendant fails to complete assessment from any prior offense, enhance the penalties in the prior two columns as set forth below:</b>
	.04 to less than .079	\$912.00 10 days jail 12-month revocation	\$975.00 40 days jail 14-month revocation	Plus \$75.60 Plus 20 days jail Plus 2-month revocation
	.08 to .15	\$975.00 20 days jail 14-month revocation	\$1,038.00 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	\$1,038.00 40 days jail 16-month revocation	\$1,101.00 120 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 April 2, 2008)

<b>THIRD OFFENSE</b>	<b>BAC Level</b>	<b>Minimum Driving and No Accident</b>	<b>Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct</b>	<b>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</b>
	.04 to less than .079	\$1,227.00 90 days jail 24-month revocation Immobilization or ignition interlock required; seizure optional	\$1,290.00 120 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	\$1,290.00 120 days jail 27-month revocation Immobilization or ignition interlock required; seizure optional	\$1,353.00 150 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	\$1,353.00 150 days jail 30-month revocation Immobilization or ignition interlock required; seizure optional	\$1,416.00 180 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 April 2, 2008)

<b>THIRD OFFENSE</b> (Continued)	<b>BAC Level</b>	<b>Minimum Driving and No Accident</b>	<b>Aggravated Driving, Accident or Injury, Bad Driving Record or Abusive Conduct</b>	<b>If either of the following are present, enhance the penalties in the prior two columns accordingly:</b> 1. More than 3 OWIs in the Last 15 Years 2. Failure to Complete Assessment from Prior Offense
	.17 to .199	\$1,983.00  150 days jail  30-month revocation  Immobilization or ignition interlock required; seizure optional	\$2,109.00  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	\$2,741.00  150 days jail  30-month revocation  Immobilization or ignition interlock required; seizure optional	\$2,868.00  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	\$3,503.00  150 days jail  30-month revocation  Immobilization or ignition interlock required; seizure optional	\$3,630.00  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 April 2, 2008)

### PENALTY RANGES

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

- 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 than 6 months nor more than 5 years [See Section 346.65(2)(e), Wisconsin Statutes and 1998 WI Act 237].

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<sup>1</sup>Court 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].

<sup>2</sup>Court 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.

<sup>3</sup> 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].

<sup>4</sup>Absolute sobriety during use.

<sup>5</sup>Completion of Alcohol Assessment/Driver Safety Plan and absolute sobriety during use.

<sup>6</sup>Not less than 48 consecutive hour period in county jail.