

TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

OFFENSES OCCURRING ON OR AFTER
April 2, 2008

Tenth Judicial District
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Benjamin D. Proctor, Chief Judge

TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Offenses Occurring On Or After April 2, 2008)

| 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 | \$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 |

| 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 | \$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)

| 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 | \$1,219.00 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)

| 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 | \$1,219.00 150 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)

| 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 | \$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 | |
| 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 | \$1,345.00 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)

| 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 | \$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 |

| 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 | \$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)

| 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 | \$1,227.00 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)

| 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 | \$1,983.00 150 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 |
|------------------------------------|------------------------------|-------------------------|--|---|
| FIRST OFFENSE | \$150-\$300 | 6-9 Months Revocation | 0 days | Not Applicable |
| SECOND OFFENSE | \$350 - \$1,100 | 12-18 Months Revocation | 60 days ⁴ | 5 Days to 6 Months ⁶ or at least 30 days community service |
| THIRD OFFENSE ¹ | \$600 - \$2,000 ³ | 24-36 Months Revocation | 90 days ⁵ | 30 Days to 12 Months ⁶ |
| FOURTH OFFENSE ² | \$600 - \$2,000 ³ | 24-36 Months Revocation | 90 days ⁵ | 60 Days to 12 Months ⁶ |

- 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].

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.

³ 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].

⁴Absolute sobriety during use.

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

⁶Not less than 48 consecutive hour period in county jail.