

FIFTH JUDICIAL DISTRICT

OWI
SENTENCING GUIDELINES

Citation Issued On or After
April 2, 2008

District Court Administrator
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Madison WI 53703-3295
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C. William Foust, Chief Judge

FIFTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Citations Issued on or after April 2, 2008)

FIRST OFFENSE

<u>NON-COMMERCIAL</u>	<u>BAC</u>	Minimum Driving No Accident	Aggravated Driving Accident or Injury Bad Driving Record
	.08 TO .099 forfeiture w/no costs	\$150 - \$175 6 mo Revocation	\$150-\$250 6-8 mo Revocation
Detectable amount of a restricted or controlled substance	.10 to .149	\$150 - \$175 6 mo. Revocation	\$150 - \$250 6-8 mo. Revocation
	.150 to .199	\$175 - \$225 7 mo. Revocation	\$200 - \$275 7-9 mo. Revocation
	.20 and above/refusal	\$225 - \$300 8-9 mo. Revocation	\$300 9 mo. Revocation

Penalty Range	Alcohol Assessment and Driver Safety Plan
<p>\$150 - \$300 forfeiture</p> <p>\$365 Driver Improvement Surcharge</p> <p>\$25 Court Costs</p> <p>\$ Penalty Surcharge (26%)</p> <p>\$10 Jail Surcharge</p> <p>\$12 Justice Information System Surcharge</p> <p>\$68 Court Support Surcharge</p> <p>\$8 Crime Lab/Drug Surcharge</p> <p>Revocation 6-9 mo. No waiting period for Occ. DL.</p> <p>Revocation for refusal 12 months (30 day wait period). 343.305(10)(b)2</p> <p>If minor passenger under 16, minimum and maximum forfeiture, fine and jail double. §346.65(2)(f).</p>	<p>Court may order</p> <ul style="list-style-type: none"> • Safety plan to include effect on victim or victim's family. • Community Service work that demonstrates adverse effects of substance abuse or OWI to reduce the amount of a forfeiture or fine. §346.65(2g)(a) • Site visit that demonstrates the effects of substance abuse. §346.65(2i) • Reduction of the forfeiture/fine and payment of the difference toward the cost of the alcohol assessment and driver safety plan. §346.65(2e) • Restitution. §346.65(2r)(a) <p>No assessment for 1st offense. BAC .08-.099 (343.30(1q)(c)1)</p>

FIFTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Citations Issued on or after April 2, 2008)

SECOND OFFENSE

<u>NON-COMMERCIAL</u>	<u>BAC</u>	<u>Minimum Driving No Accident</u>	<u>Aggravated Driving Accident or Injury Bad Driving Record</u>
Detectable amount of a restricted or controlled substance	.149 and below	\$350 - \$400 5 - 7 days jail 12 mo. revocation	\$400 - \$500 7 - 15 days jail 12 - 17 mo. revocation
	.150 to .199	\$350 - \$500 7 - 20 days jail 13 - 17 mo. revocation	\$400 - \$800 5 - 60 days jail 15-18 mo. revocation
	.20 and above/and refusal	\$400 - \$900 20 - 90 days jail 16 - 17 mo. revocation	\$500 - \$1100 30 - 180 days jail 17 - 18 mo. revocation
<p>Penalty Range</p> <p>5 days to 6 months jail or Monitored Home Detention in excess of mandatory minimum. §973.03(4). Minimum 48 consecutive hours jail. Minimum 5 days jail or 30 days CS. 346.65(2g)(d)</p> <p>\$350 - \$1100 fine</p> <p>\$365 Driver Improvement Surcharge</p> <p>\$20 Court Costs</p> <p>\$ Penalty Surcharge (26%)</p> <p>\$10 - \$11 Jail Surcharge 1% of fine or \$10, whichever is greater</p> <p>\$40 Victim/Witness Surcharge Part A</p> <p>\$20 Victim/Witness Surcharge Part B</p> <p>\$8 Crime Lab/Drug Surcharge</p> <p>Revocation 12-18 mo. 60 day waiting period for Occ. DL w/ absolute sobriety. 1 year wait if 2 OWI's in 5 years.</p> <p>Revocation for refusal 24 months. (90 day wait) 343.305(10)(b)3. 1 year wait if 2 or more offenses in 5 years</p> <p>If minor passenger under 16, minimum and maximum forfeiture, fine and jail double. §346.65(2)(f).</p>		<p>Alcohol Assessment and Driver Safety Plan</p> <p>Court may order</p> <ul style="list-style-type: none"> • Safety plan to include effect on victim or victim's family. • Community Service work that demonstrates adverse effects of substance abuse or OWI to reduce the amount of a forfeiture or fine. §346.65(2g)(a) • Site visit that demonstrates the effects of substance abuse. §346.65(2i) • Reduction of the forfeiture/fine and payment of the difference toward the cost of the alcohol assessment and driver safety plan. §346.65(2e) • Restitution. §346.65(2r)(a) <p>Court shall order</p> <ul style="list-style-type: none"> • Community service for defendant unable to pay the fine. §346.65(2g)(ag) • No huber if no compliance with assessment or driver safety plan • Interlock or immobilization on all vehicles if 2 or more offenses in 5 year period 343.301 	

FIFTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Citations Issued on or after April 2, 2008)

THIRD OFFENSE

<u>NON-COMMERCIAL</u>	<u>BAC</u>	<u>Minimum Driving No Accident</u>	<u>Aggravated Driving Accident or Injury Bad Driving Record</u>
Detectable amount of a restricted or controlled substance	.149 and below	\$600 - \$800 30 – 45 days jail 24 – 26 mo. Revocation	\$700 - \$900 40 – 90 days jail 24 – 30 mo. revocation
	.150 to .169	\$700 - \$1000 45 – 100 days jail 26 – 30 mo. Revocation	\$800 - \$1500 60 – 120 days jail 30 – 32 mo. revocation
	.177 to .199 (fine range double)	\$1200 - \$1600 (1200-4000) 45 – 100 days jail 26 – 30 mo. Revocation	\$1400 - \$1800 (1200 – 4000) 60 – 120 days jail 30 – 32 mo. Revocation
	.20 to .249 (fine range triple)	\$1800 - \$2400 (1800 – 6000) 60 – 150 days jail 32 –34 mo. Revocation	\$2100 - \$2700 (1800 – 6000) 90 days – 1 year jail 36 mo. Revocation
	.25 and above[and refusals] (fine range quadruple)	\$2400 - \$3200 (2400 – 8000) [\$800-\$1600] 60 – 150 days jail 32 –34 mo. Revocation	\$2800 - \$3600 (2400 – 8000) \$1000-\$2000 90 days – 1 year jail 36 mo. revocation
<p>Penalty Range</p> <p>30 days to 12 months jail or Monitored Home Detention in excess of mandatory minimum. §973.03(4). Minimum 48 consecutive hours jail.</p> <p>\$600 - \$2000 fine; .177-.199 doubles; .20-.249 triples; .25+ quadruples §346.65(2)(g)</p> <p>\$365 Driver Improvement Surcharge</p> <p>\$20 Court Costs</p> <p>\$ Penalty Surcharge (26%)</p> <p>\$10 - \$36 Jail Surcharge (1% of fine or \$10, whichever is greater)</p> <p>\$40 Victim/Witness Surcharge Part A</p> <p>\$20 Victim/Witness Surcharge Part B</p> <p>\$8 Crime Lab/Drug Surcharge</p> <p>Revocation 24-36 mo. 90 day waiting period for Occ. DL w/ absolute sobriety. 1 year wait if 2 OWI's in 5 years</p> <p>Revocation for refusal 36 moths (90 day wait) 343.305(10)(b)4. 1 year wait if 2 or more offenses in 5 years.</p> <p>If minor passenger under 16, minimum and maximum forfeiture, fine and jail double. §346.65(2)(f).</p>		<p>Alcohol Assessment and Driver Safety Plan</p> <p>Court may order</p> <ul style="list-style-type: none"> • Safety plan to include effect on victim or victim's family. • Community Service work that demonstrates adverse effects of substance abuse or OWI to reduce the amount of a forfeiture or fine. §346.65(2)(a) • Site visit that demonstrates the effects of substance abuse. §346.65(2i) • Reduction of the forfeiture/fine and payment of the difference toward the cost of the alcohol assessment and driver safety plan. §346.65(2e) • Restitution. §346.65(2r)(a) • Seizure and forfeiture of mv owned and used by defendant unless results in undue hardship or endanger health and safety. <p>Court shall order</p> <ul style="list-style-type: none"> • Community service for defendant unable to pay the fine. §346.65(2)(ag) • No huber if no compliance with assessment or driver safety plan • Interlock or immobilization if vehicle not seized if 2 or more offenses in 5 year period 343.301 	

FIFTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Citations Issued on or after April 2, 2008)

FOURTH OFFENSE

<u>NON-COMMERCIAL</u>	<u>BAC</u>	<u>Minimum Driving No Accident</u>	<u>Aggravated Driving Accident or Injury Bad Driving Record</u>
Detectable amount of a restricted or controlled substance	.149 and below	\$600 - \$1000 60 days jail 24 – 26 mo. Revocation	\$700 - \$2000 60 – 90 days jail 24 – 36 mo. revocation
	.150 to .169	\$700 - \$1000 60 - 150 days jail 26 – 30 mo. Revocation	\$800 - \$2000 60 – 210 days jail 30 – 36 mo. revocation
	.177 to .199 (fine range doubles)	\$1200 - \$2000 (1200 – 4000) 60 - 150 days jail 26 – 30 mo. Revocation	\$1400 - \$4000 (1200 – 4000) 60 – 210 days jail 30 – 36 mo. Revocation
	.20 to .249 (fine range triples)	\$1800 - \$3000 (1800 – 6000) 60 – 180 days jail 32 –36 mo. Revocation	\$2100 - \$6000 (1800 – 6000) 90 days – 1 year jail 36 mo. Revocation
	.25 and above [and refusal] (fine range quadruples)	\$2400 - \$4000 (2400 – 8000) [\$800-\$1500] 60 – 180 days jail 32 –36 mo. Revocation	\$2800 - \$8000 (2400 – 8000) \$1000-\$2000 90 days – 1 year jail 36 mo. revocation
<p>Penalty Range</p> <p>60 days to 12 months jail or Monitored Home Detention in excess of mandatory minimum. §973.03(4). Minimum 48 consecutive hours jail.</p> <p>\$600 - \$2000 fine; .177-.199 doubles; .20-.249 triples; .25+ quadruples §346.65(2)(g)</p> <p>\$365 Driver Improvement Surcharge</p> <p>\$20 Court Costs</p> <p>\$ Penalty Surcharge (26%)</p> <p>\$10 - \$80 Jail Surcharge(1% of fine or \$10 whichever is greater)</p> <p>\$40 Victim/Witness Surcharge Part A</p> <p>\$20 Victim/Witness Surcharge Part B</p> <p>\$8 Crime Lab/Drug Surcharge</p> <p>Revocation 24 - 36 mo. 90 day waiting period, AODA, for Occ. DL w/ absolute sobriety. 1 year wait if 2 OWI's in 5 years</p> <p>Revocation for refusal 36 months (90 day wait) 343.305(10)(b)4. 1 year wait if 2 or more offenses in 5 years.</p> <p>If minor passenger under 16, minimum and maximum forfeiture, fine and jail double. §346.65(2)(f).</p>		<p>Alcohol Assessment and Driver Safety Plan</p> <p>Court may order</p> <ul style="list-style-type: none"> • Safety plan to include effect on victim and victim's family. • Community Service work that demonstrates adverse effects of substance abuse or OWI to reduce the amount of a forfeiture or fine. §346.65(2)(a) • Site visit that demonstrates the effects of substance abuse. §346.65(2i) • Reduction of the forfeiture/fine and payment of the difference toward the cost of the alcohol assessment and driver safety plan. §346.65(2e) • Restitution. §346.65(2r)(a) • Seizure and forfeiture of mv owned and used by defendant unless results in undue hardship or endanger health and safety. <p>Court shall order</p> <ul style="list-style-type: none"> • Community service for defendant unable to pay the fine. §346.65(2)(ag) • no huber if no compliance with assessment or driver safety plan • interlock or immobilization on all vehicles if 2 or more offenses in 5 year period 343.301 • Probation must include mandatory minimum jail with good time. §§973.09(1)(d) and 302.43 	

FIFTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Citations Issued on or after April 2, 2008)

FIFTH OFFENSE (CLASS H FELONY)

<u>NON-COMMERCIAL</u>	<u>BAC</u>	<u>Minimum Driving No Accident</u>	<u>Aggravated Driving Accident or Injury Bad Driving Record</u>
Detectable amount of a restricted or controlled substance	.149 and below	\$600 - \$1000 180 - 360 days 24 – 26 mo. Revocation	\$700 - \$2000 180 days – 2 years 24 – 36 mo. revocation
	.150 to .169	\$700 - \$1000 180 days – 18 mo. 26 – 30 mo. Revocation	\$800 - \$2000 180 days – 3 years 30 – 36 mo. revocation
	.177 to .199 (fine range doubles)	\$1200 - \$2000 (1200 – 4000) 180 days – 18 mo. 26 – 30 mo. Revocation	\$1400 - \$4000 (1200 – 4000) 180 days – 3 years 30 – 36 mo. Revocation
	.20 to .249 (fine range triples)	\$1800 - \$3000 (1800 – 6000) 180 days – 30 months 32 – 36 mo. Revocation	\$2100 - \$6000 (1800 – 6000) 180 days – 6 years 36 mo. Revocation
	.25 and above [and refusal] (fine range quadruples)	\$2400 - \$4000 (2400 – 8000) [\$800-\$1500] 180 days – 30 mo. 32 – 36 mo. Revocation	\$2800 - \$8000 (2400 – 8000) \$1000-\$2000 180 days – 5 years 36 mo. revocation
<p>Penalty Range</p> <p>6 months to 5 (3/3) years jail or Monitored Home Detention in excess of mandatory minimum. §973.03(4). Minimum 48 consecutive hours jail. Incarceration discretionary.</p> <p>\$600 - \$2000 fine; .177-.199 doubles; .20-.249 triples; .25+ quadruples</p> <p>\$365 Driver Improvement Surcharge</p> <p>\$20 Court Costs</p> <p>\$ Penalty Surcharge (26%)</p> <p>\$10 - \$80 Jail Surcharge (1% of fine or \$10, whichever is greater)</p> <p>\$65 Victim/Witness Surcharge Part A</p> <p>\$20 Victim/Witness Surcharge Part B</p> <p>\$8 Crime Lab/Drug Surcharge</p> <p>Revocation 24 - 36 mo. 90 day waiting period, AODA, for Occ. DL w/ absolute sobriety. 1 year wait if 2 OWI's in 5 years</p> <p>Revocation for refusal 36 months (90 day wait) 343.305(10)(b)4. 1 year wait if 2 or more offenses in 5 years.</p> <p>If minor passenger under 16, minimum and maximum forfeiture, fine and jail double. §346.65(2)(f).</p>		<p>Alcohol Assessment and Driver Safety Plan</p> <p>Court may order</p> <ul style="list-style-type: none"> • Safety plan to include effect on victim or victim's family. • Community Service work that demonstrates adverse effects of substance abuse or OWI to reduce the amount of a forfeiture or fine. §346.65(2g)(a) • Site visit that demonstrates the effects of substance abuse. §346.65(2i) • Reduction of the forfeiture/fine and payment of the difference toward the cost of the alcohol assessment and driver safety plan. §346.65(2e) • Restitution. §346.65(2r)(a) • Seizure and forfeiture of mv owned and used by defendant unless results in undue hardship or endanger health and safety. • Ignition interlock or immobilization. §343.301 <p>Court shall order</p> <ul style="list-style-type: none"> • community service for defendant unable to pay the fine. §346.65(2g)(ag) • no huber if no compliance with assessment or driver safety plan • interlock or immobilization on all vehicles if 2 or more offenses in 5 year period 343.301 • Probation must include mandatory minimum jail with good time. §§973.09(1)(d) and 302.43 	

MUNICIPAL COURT
FIFTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Citations Issued on or after April 2, 2008)

FIRST OFFENSE

<u>NON-COMMERCIAL</u>	<u>BAC</u>	Minimum Driving No Accident	Aggravated Driving Accident or Injury Bad Driving Record
	.08 to .099	\$150 - \$175 6 mo Revocation	\$150-\$250 6-8 mo Revocation
Detectable amount of a restricted or controlled substance	.10 to .149	\$150 - \$175 6 mo. Revocation	\$150 - \$250 6-8 mo. Revocation
	.150 to .199	\$175 - \$225 7 mo. Revocation	\$200 - \$275 7-9 mo. Revocation
	.20 and above/refusal	\$225 - \$300 8-9 mo. Revocation	\$300 9 mo. Revocation

Penalty Range	Alcohol Assessment and Driver Safety Plan
<p>\$150 - \$300 forfeiture \$365 Driver Improvement Surcharge \$15-\$23 Court Costs (814.65(1)) \$ Penalty Surcharge (26%) \$10 Jail Surcharge \$8 Crime Lab/Drug Surcharge</p> <p>Revocation 6-9 mo. No waiting period for Occ. DL.</p> <p>Revocation for refusal 12 months (30 day wait period). 343.305(10)(b)2</p> <p>If minor passenger under 16, minimum and maximum forfeiture, fine and jail double. §346.65(2)(f).</p>	<p>Court may order</p> <ul style="list-style-type: none"> • Safety plan to include effect on victim or victim's family. • Community Service work that demonstrates adverse effects of substance abuse or OWI to reduce the amount of a forfeiture or fine. §346.65(2g)(a) • Site visit that demonstrates the effects of substance abuse. §346.65(2i) • Reduction of the forfeiture/fine and payment of the difference toward the cost of the alcohol assessment and driver safety plan. §346.65(2e) • Restitution. §346.65(2r)(a) <p>If convicted of PAC: No assessment for 1st offense and no mandatory assessment of surcharges. PAC .08-.099 (343.30(1q)(c)1) .</p>

FIFTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Citations Issued on or after April 2, 2008)

FIRST OFFENSE

<u>COMMERCIAL</u> 346.63(5)	<u>BAC</u>	Minimum Driving No Accident	Aggravated Driving Accident or Injury Bad Driving Record
	.04 to .079	\$150 - \$175 6 mo. Suspension	\$150 - \$225 6-8 mo. Suspension
	.08 to .099	\$150 - \$175 6 mo. Revocation Forfeiture and TDEA only	\$150 - \$225 6 – 8 mo. Revocation Forfeiture and TDEA only
Detectable amount of a restricted or controlled substance.	.10 to .15	\$175 - \$225 7 mo. Revocation	\$200 - \$275 7-9 mo. Revocation
	.151 and above	\$225 - \$300 8-9 mo. Revocation	\$300 9 mo. Revocation

Penalty Range	Alcohol Assessment and Driver Safety Plan
<p>\$150 - \$300 forfeiture</p> <p>\$365 Driver Improvement Surcharge</p> <p>\$25 Court Costs</p> <p>\$ Penalty Surcharge (26%)</p> <p>\$10 Jail Surcharge</p> <p>\$12 Justice Information System Surcharge</p> <p>\$68 Court Support Surcharge</p> <p>\$8 Crime Lab/Drug Surcharge</p> <p>\$8 Truck Driver Education Surcharge</p> <p>Revocation 6-9 mo. Not mandatory</p> <p>If minor passenger under 16, minimum and maximum forfeiture, fine and jail double. §346.65(2j)(d).</p>	<p>Court may order</p> <ul style="list-style-type: none"> • Community Service work to reduce the amount of a forfeiture or fine. §346.65(2g)(a) • Site visit that demonstrates the effects of substance abuse. §346.65(2i) • Reduction of the forfeiture/fine and payment of the difference toward the cost of the alcohol assessment and driver safety plan. §346.65(2e) • Restitution. §346.65(2r)(a)

FIFTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Citations Issued on or after April 2, 2008)

SECOND OFFENSE

COMMERCIAL 346.63(5) 346.65(2j)	BAC	Minimum Driving No Accident	Aggravated Driving Accident or Injury Bad Driving Record
	.04 to .10	\$300 - \$400 5 – 7 days jail 12 mo. revocation	\$400 - \$500 7 – 15 days jail 12 – 17 mo. revocation
Detectable amount of a restricted or controlled substance.	.10 to .15	\$350 - \$500 7 – 20 days jail 13 - 17 mo. revocation	\$400 - \$800 5 – 60 days jail 15-18 mo. revocation
	.151 and above	\$400 - \$900 20 –90 days jail 16 - 17 mo. revocation	\$500 - \$1000 30 – 180 days jail 17 -18 mo. revocation
<p>Penalty Range</p> <p>5 days to 6 months jail or Monitored Home Detention in excess of mandatory minimum. §973.03(4). Minimum 48 consecutive hours jail. Minimum 5 days jail or 30 days CS. 346.65(2g)(d)</p> <p>\$350 - \$1100 fine</p> <p>\$365 Driver Improvement Surcharge</p> <p>\$20 Court Costs</p> <p>\$ Penalty Surcharge (26%)</p> <p>\$10 Jail Surcharge</p> <p>\$40 Victim/Witness Surcharge Part A</p> <p>\$20 Victim/Witness Surcharge Part B</p> <p>\$8 Crime Lab/Drug Surcharge</p> <p>\$8 Truck Driver Education Surcharge</p> <p>Revocation 12-18 months not mandatory.</p> <p>If minor passenger under 16, minimum and maximum forfeiture, fine and jail double. §346.65(2j)(d).</p>		<p>Alcohol Assessment and Driver Safety Plan</p> <p>Court may order</p> <ul style="list-style-type: none"> • Community Service work to reduce the amount of a forfeiture or fine. §346.65(2g)(a) • Site visit that demonstrates the effects of substance abuse. §346.65(2i) • Reduction of the forfeiture/fine and payment of the difference toward the cost of the alcohol assessment and driver safety plan. §346.65(2e) • Restitution. §346.65(2r)(a) 	

FIFTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Citations Issued on or after April 2, 2008)

THIRD OFFENSE

<u>COMMERCIAL</u> 346.63(5) 346.65(2j)	<u>BAC</u>	Minimum Driving No Accident	Aggravated Driving Accident or Injury Bad Driving Record
	.04 to .10	\$600 - \$800 30 – 45 days jail 24 – 26 mo. Revocation	\$700 - \$900 40 – 90 days jail 24 – 30 mo. revocation
Detectable amount of a restricted or controlled substance.	.10 to .15	\$700 - \$1000 45 – 100 days jail 26 – 30 mo. Revocation	\$800 - \$1500 60 – 120 days jail 30 – 32 mo. revocation
	.151 and above	\$1800 - \$2000 60 – 150 days jail 32 –34 mo. Revocation	\$1800 - \$2000 90 days – 1 year jail 36 mo. Revocation
Penalty Range 30 days to 12 months jail or Monitored Home Detention in excess of mandatory minimum. §973.03(4). Minimum 48 consecutive hours jail. \$600 - \$2000 fine \$365 Driver Improvement Surcharge \$20 Court Costs \$ Penalty Surcharge (26%) \$10-\$20 Jail Surcharge (1% of fine or \$10 whichever is greater) \$40 Victim/Witness Surcharge Part A \$20 Victim/Witness Surcharge Part B \$8 Crime Lab/Drug Surcharge \$8 Truck Driver Education Surcharge Revocation 24-36 mo. 90 day waiting period for Occ. DL w/ absolute sobriety. 1 year wait if 2 OWI's in 5 years If minor passenger under 16 equals a felony and minimum and maximum forfeiture, fine and jail double. §346.65(2j)(d).		Alcohol Assessment and Driver Safety Plan Court may order <ul style="list-style-type: none"> • Community Service work to reduce the amount of a forfeiture or fine. §346.65(2g)(a) • Site visit that demonstrates the effects of substance abuse. §346.65(2i) • Reduction of the forfeiture/fine and payment of the difference toward the cost of the alcohol assessment and driver safety plan. §346.65(2e) • Restitution. §346.65(2r)(a) 	