

# TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

OFFENSES OCCURRING ON OR AFTER

July 1, 2009

(Corrected May 4, 2010)

Tenth Judicial District  
4410 Golf Terrace  
Eau Claire, WI 54701  
(715) 839-4826

Benjamin D. Proctor, Chief Judge

## TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Offenses Occurring On Or After July 1, 2009)

<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	\$691.50 6-month revocation	\$754.50 7-month revocation
	.10 to 169 OR A Detectable Amount of a Restricted or Controlled Substance	\$691.50 6-month revocation	\$754.50 7-month revocation
	.17 to .199	\$754.50 7-month revocation	\$817.50 8-month revocation
	.20 and above or refusal	\$817.50 8-month revocation	\$880.50 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>
	.169 and below OR A Detectable Amount off a Restricted or Controlled Substance	\$916.00 10 days jail 12-month revocation	\$979.00 30 days jail 14-month revocation
	.17 to .199	\$979.00 10 days jail 14-month revocation	\$1,042.00 40 days jail 16 month revocation
	.20 and above or refusal	\$1,042.00 20 days jail 16-month revocation	\$1,105.00 60 days jail 18-month revocation

## TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Offenses Occurring On Or After July 1, 2009)

<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>
	.169 and below  OR  A Detectable Amount of a Restricted or Controlled Substance	\$1,231.00  60 days jail  24-month revocation  Immobilization or ignition interlock required; seizure and forfeiture optional.	\$1,294.00  80 days jail  27-month revocation  Immobilization or ignition interlock required; seizure and forfeiture optional.
	.17 to .199	\$1,989.00  80 days jail  27-month revocation  Immobilization or ignition interlock required; seizure and forfeiture optional.	\$2,116.00  110 days jail  30-month revocation  Immobilization or ignition interlock required; seizure and forfeiture optional.
	.20 to .249 or refusal	\$2,751.00  110 days jail  30-month revocation  Immobilization or ignition interlock required seizure and forfeiture optional	\$2,878.00  140 days jail  30-month revocation  Immobilization or ignition interlock required; seizure and forfeiture optional
	.25 and Above	\$3,513.00  110 days jail  30-month revocation  Immobilization or ignition interlock required; seizure and forfeiture optional	\$3,640.00  140 days jail  30-month revocation  Immobilization or ignition interlock required; seizure and forfeiture optional.

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 July 1, 2009)

<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>
	.079 and below	\$1,231.00 150 days jail 27-month revocation Seizure optional	\$1,294.00 170 days jail 30-month revocation Seizure optional
	.08 to .169  OR A Detectable Amount of a Restricted or Controlled Substance	\$1,609.00 230 days jail 27-month revocation Seizure optional	\$1,672.00 270 days jail 30-month revocation Seizure optional
	.17 to .199	\$1,989.00 270 days jail 30 month revocation Seizure optional	\$2,116.00 330 days jail 33-month revocation Seizure optional
	.20 to .249 or refusal	\$2,751.00 330 days jail 33-month revocation Seizure optional	\$2,878.00 350 days jail 36-month revocation Seizure optional
	.25 and Above	\$3,513.00 330 days jail 33-month revocation Seizure optional	\$3,640.00 350 days jail 36-month revocation Seizure optional.

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 July 1, 2009)

<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 12-month revocation	\$600.00 14-month revocation
346.63(1)(a)	.08 to .099	\$880.50 12-month revocation	\$1,006.50 14-month revocation
	.10 to .169 OR A Detectable Amount of a Restricted or Controlled Substance	\$880.50 12-month revocation	\$1,006.50 14-month revocation
	.17 to .199	\$1,006.50 14-month revocation	\$1,132.50 16-month revocation
	.20 and above or refusal	\$1,132.50 16-month revocation	\$1,132.50 18-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>
	.169 and below OR A Detectable Amount of a Restricted or Controlled Substance	\$1,357.00 10 days jail 12-month revocation	\$1,483.00 40 days jail 14-month revocation
	.17 to .199	\$1,483.00 20 days jail 14-month revocation	\$1,609.00 50 days jail 16-month revocation
	.20 and above or refusal	\$1,609.00 30 days jail 16-month revocation	\$1,735.00 70 days jail 18-month revocation

Concerning penalties when there is a minor passenger under 16 years of age, see section 346.65(2)(f) and for revocation periods see section 343.30(1q)(b)(4m), 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 July 1, 2009)

<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	\$699.50 6-month revocation	\$762.50 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	\$762.50 7-month revocation	\$825.50 8-month revocation
	.10 to .15 OR A Detectable Amount of a Restricted or Controlled Substance	\$825.50 8-month revocation	\$888.50 9-month revocation
	.151 and Above	\$825.50 8-month revocation	\$888.50 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>
	.04 to less than .079	\$924.00 10 days jail 12-month revocation	\$987.00 40 days jail 14-month revocation
	.08 to .15	\$987.00 20 days jail 14-month revocation	\$1,050.00 80 days jail 16-month revocation
	.151 and above OR A Detectable Amount of a Restricted or Controlled Substance	\$1,050.00 40 days jail 16-month revocation	\$1,113.00 120 days jail 18-month revocation

# TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES - COMMERCIAL MOTOR VEHICLE

(COMMERCIAL CONTINUED)

(Offenses Occurring On Or After July 1, 2009)

<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>
	.04 to less than .079	\$1,239.00  90 days jail  24-month revocation  Immobilization or ignition interlock required; seizure optional	\$1,302.00  120 days jail  27-month revocation  Immobilization or ignition interlock required; seizure optional
	.08 to .15	\$1,302.00  120 days jail  27-month revocation  Immobilization or ignition interlock required; seizure optional	\$1,365.00  150 days jail  30-month revocation  Immobilization or ignition interlock required; seizure optional
	.151 to .169  OR A Detectable Amount of a Restricted or Controlled Substance	\$1,365.00  150 days jail  30-month revocation  Immobilization or ignition interlock required; seizure optional	\$1,428.00  180 days jail  33-month revocation  Immobilization or ignition interlock required; seizure optional

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 July 1, 2009)

<b>THIRD OFFENSE (Continued)</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>
	.17 to .199	\$1,997.00  150 days jail  30-month revocation  Immobilization or ignition interlock required; seizure optional	\$2,124.00  180 days jail  33-month revocation  Immobilization or ignition interlock required; seizure optional
	.20 to .249	\$2,759.00  150 days jail  30-month revocation  Immobilization or ignition interlock required; seizure optional	\$2,886.00  180 days jail  33-month revocation  Immobilization or ignition interlock required; seizure optional
	.25 and Above	\$3,521.00  150 days jail  30-month revocation  Immobilization or ignition interlock required; seizure optional	\$3,648.00  180 days jail  33-month revocation  Immobilization or ignition interlock required; seizure optional

# TENTH JUDICIAL DISTRICT OWI SENTENCING GUIDELINES

(Offenses Occurring On or After July 1, 2009)

## PENALTY RANGES

	<b>FINE/FORF RANGE</b>	<b>REVOCAION</b>	<b>WAITING PERIOD FOR OCCUPATIONAL LICENSE</b>	<b>JAIL TIME OR MONITORED HOME DETENTION</b>
<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</b> <sup>1</sup>	\$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</b> <sup>2</sup>	\$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 a 48 consecutive hour period in county jail.

<b>STATUTORY REFERENCES RELATING TO OWI</b>	
CHIEF JUDGE TO ADOPT GUIDELINES	346.65(2m)(a)
COURT REVOCATION & SUSPENSION	343.30
PENALTY SURCHARGE	757.05(1), 814.75(18)
JAIL SURCHARGE	302.46, 814.75(14)
CRIME LAB & DRUG SURCHARGE	165.755, 814.75(3)
VICTIM-WITNESS SURCHARGE. A and B	973.045, 814.75(5)
COURT COSTS	814.60, 814.63
COURT COSTS – MUNICIPAL	814.65(1)
JUSTICE INFORMATION SURCHARGE	814.86(1), 814.75(15)
COURT SUPPORT SURCHARGE	814.85(1)(a), 814.75(2)
DRIVE IMPROVEMENT SURCHARGE	346.655, 814.75(9)
BAC PENALTY ENHANCER	346.65(2)(g)
TRUCK DRIVER EDUCATION SURCHARGE	349.04(1), 814.75(23)
PROHIBITED ALCOHOL CONTENT...	340.01(46m)
...AND VIOLATION OF	346.63(1)
SUSPENSION/REVOCATION	343.30(1q)(b)
REFUSAL	343.305(9), (10), (10m)
DRUNK DRIVING PENALTIES	346.65(2)
COMMERCIAL DRUNK DRIVING	346.63(5)(a)
COMMERCIAL DRUNK DRIVING PENALTIES	346.65(2j)
IGNITION INTERLOCK	343.301(1) and (2)
MINOR PASSENGER UNDER 16	346.65(2)(f)
MINOR PASSENGER UNDER 16 (COMMERCIAL)	346.65(2j)(d)
VEHICLE SEIZURE/FORFEITURE	346.65(6)
STATUTORY AUTHORITY FOR IDIP PROGRAM	85.53