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**STATE OF WISCONSIN**

**SECOND JUDICIAL DISTRICT**

RACINE COUNTY COURTHOUSE  
 730 WISCONSIN AVENUE  
 RACINE, WISCONSIN 53403

FAX (262) 636-3437



**MUNICIPAL COURT**  
**OWI Sentencing Guidelines – Second District**  
**Effective 01-01-20**

Non Commercial Non Aggravated					
BAC Levels	.08-.149	.15-.169	.17-.199	.20-.249	.25+
Forfeiture	\$175.00	\$175.00	\$200.00	\$250.00	\$300.00
Penalty Surcharge	\$45.50	\$45.50	\$52.00	\$65.00	\$78.00
Jail Surcharge	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
Crime Lab Drug Surcharge	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
Court Costs	\$38.00	\$38.00	\$38.00	\$38.00	\$38.00
Driver Improvement Surcharge	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00
Safe Ride Program Surcharge	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
Ignition Interlock Surcharge	NA	\$50.00	\$50.00	\$50.00	\$50.00
Total Financial	\$766.50	\$816.50	\$848.00	\$911.00	\$974.00
Suspension/Revocation	6 Months	6 Months	7 Months	8 Months	9 Months
Occupational License Availability	Immediately				
Ignition Interlock Device Period	NA	12 Months			

Non Commercial Aggravated					
BAC Levels	.08-.149	.15-.169	.17-.199	.20-.249	.25+
Forfeiture	\$200.00	\$200.00	\$250.00	\$300.00	\$300.00
Penalty Surcharge	\$52.00	\$52.00	\$65.00	\$78.00	\$78.00
Jail Surcharge	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
Crime Lab Drug Surcharge	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
Court Costs	\$38.00	\$38.00	\$38.00	\$38.00	\$38.00
Driver Improvement Surcharge	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00
Safe Ride Program Surcharge	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
Ignition Interlock Surcharge	NA	\$50.00	\$50.00	\$50.00	\$50.00
Total Financial	\$798.00	\$848.00	\$911.00	\$974.00	\$974.00
Suspension/Revocation	7 Months	7 Months	7 Months	9 Months	9 Months
Occupational License Availability	Immediately				
Ignition Interlock Device Period	NA	12 Months			

<b>FIRST OFFENSE – CIRCUIT COURT</b>								
<b>Effective 01-01-20</b>								
BAC	.08-.149		.15-.199		.20-.249		.25+	
	NONAGG	AGG.	NONAGG	AGG.	NONAGG	AGG.	NONAGG	AGG.
Forfeiture	\$150.00	\$200.00	\$200.00	\$250.00	\$250.00	\$300.00	\$300.00	\$300.00
P.A..	\$39.00	\$52.00	\$52.00	\$65.00	\$65.00	\$78.00	\$78.00	\$78.00
J.S..	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
J.I.S.	\$21.50	\$21.50	\$21.50	\$21.50	\$21.50	\$21.50	\$21.50	\$21.50
C.L.D.S.	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
D.I.S.	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00
S.R.P.	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
COSTS	\$25.00	\$25.00	\$25.00	\$25.00	\$25.00	\$25.00	\$25.00	\$25.00
C.S.S.S.	\$68.00	\$68.00	\$68.00	\$68.00	\$68.00	\$68.00	\$68.00	\$68.00
I.I.D.	NA	NA	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
TOTAL	\$811.50	\$874.50	\$924.50	\$987.50	\$987.50	\$1,050.50	\$1,050.50	\$1,050.50
Revocation	6 Months	7 Months	7 Months	8 Months	8 Months	9 Months	9 Months	9 Months
Occupational License Availability	IMMEDIATELY SUBSEQUENT TO OFFENDER TAKING THE TEST							
Ignition Interlock Period	NA		12 MONTHS					

<b>FIRST OFFENSE – CIRCUIT COURT-MINOR IN VEHICLE</b>								
<b>Effective 01-01-20</b>								
BAC	.08-.149		.15-.199		.20-.249		.25+	
	NONAGG	AGG.	NONAGG	AGG.	NONAGG	AGG.	NONAGG	AGG.
Forfeiture	\$150.00	\$200.00	\$200.00	\$250.00	\$250.00	\$300.00	\$300.00	\$300.00
P.A..	\$39.00	\$52.00	\$52.00	\$65.00	\$65.00	\$78.00	\$78.00	\$78.00
J.S..	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
J.I.S.	\$21.50	\$21.50	\$21.50	\$21.50	\$21.50	\$21.50	\$21.50	\$21.50
C.L.D.S.	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
D.I.S.	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00
S.R.P.	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
COSTS	\$25.00	\$25.00	\$25.00	\$25.00	\$25.00	\$25.00	\$25.00	\$25.00
C.S.S.S.	\$68.00	\$68.00	\$68.00	\$68.00	\$68.00	\$68.00	\$68.00	\$68.00
I.I.D.	NA	NA	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
TOTAL	\$811.50	\$874.50	\$924.50	\$987.50	\$987.50	\$1,050.50	\$1,050.50	\$1,050.50
Revocation	12 MONTHS – 18 MONTHS							
Jail	5 DAYS – 6 MONTHS							
Ignition Interlock Period	NA		12 MONTHS					
Occupational License	IMMEDIATELY SUBSEQUENT TO OFFENDER TAKING THE TEST							

<b>SECOND OFFENSE</b> Effective 01-01-20								
BAC	.08-.149		.15-.199		.20-.249		.25+	
	NONAGG	AGG.	NONAG G	AGG.	NONAG G	AGG	NONAGG	AGG.
Fine	\$350.00	\$400.00	\$400.00	\$450.00	\$450.00	\$500.00	\$500.00	\$550.00
P.A.	\$91.00	\$104.00	\$104.00	\$117.00	\$117.00	\$130.00	\$130.00	\$143.00
J.S.	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
C.L.D.S.	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
D.I.S.	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00
S.R.P.	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
COSTS	\$163.00	\$163.00	\$163.00	\$163.00	\$163.00	\$163.00	\$163.00	\$163.00
V/W	\$67.00	\$67.00	\$67.00	\$67.00	\$67.00	\$67.00	\$67.00	\$67.00
DNA	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00
I.I.D.	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
TOTAL	\$1,429.00	\$1,492.00	\$1,492.00	\$1,555.00	\$1,550.00	\$1,618.00	\$1,618.00	\$1,681.00
Revocation	12 Months	14 Months	14 Months	16 Months	16 Months	18 Months	18 Months	18 Months
Jail	30 days	60 days	60 days	90 days	90 days	120 days	120 days	120 days
Probation	12 Months – 18 Months							
Interlock Period	NA		12 Months – 18 Months					
Occupational License	AFTER 45 DAYS IF ASSESSMENT AND DRIVER'S SAFETY PLAN COMPLETED AND IN COMPLIANCE WITH IGNITION INTERLOCK REQUIREMENTS							

Fine Range: \$350 - \$1,100

Jail Term: Not less than 5 days nor more than 6 months

For Minor in Vehicle - 346.65(2)(f)2, Wis. Stats:

Fine Range: \$700 - \$2,200

Jail Term: Not less than 10 days nor more than 12 months

<b>THIRD OFFENSE</b>								
<b>Effective 01-01-20</b>								
<b>INELIGIBLE FOR BAIL AFTER CONVICTION PER SEC. 969.01(2)(a), WIS. STATS.</b>								
<b>INELIGIBLE FOR STAY OF SENTENCE PER SEC. 973.15(8)(a)(3), WIS. STATS.</b>								
BAC	.08-.169		.17-.199		.20-.249		.25+	
	NONAGG	AGG.	NONAGG	AGG.	NONAGG	AGG.	NONAGG	AGG.
Fine **	\$600.00	\$800.00	\$1,200.00	\$1,300.00	\$1,800.00	\$2,000.00	\$2,400.00	\$2,600.00
P.A..	\$156.00	\$208.00	\$312.00	\$338.00	\$468.00	\$520.00	\$624.00	\$676.00
J.S.	\$10.00	\$10.00	\$12.00	\$13.00	\$18.00	\$20.00	\$24.00	\$26.00
C.L.D.S.	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
D.I.S.	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00
S.R.P.	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
COSTS	\$163.00	\$163.00	\$163.00	\$163.00	\$163.00	\$163.00	\$163.00	\$163.00
V/W - Misd	\$67.00	\$67.00	\$67.00	\$67.00	\$67.00	\$67.00	\$67.00	\$67.00
V/W – Felony	\$92.00	\$92.00	\$92.00	\$92.00	\$92.00	\$92.00	\$92.00	\$92.00
DNA								
Misdemeanor	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00
Felony	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00
I.I.D.	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
<b>TOTAL:</b>								
<b>Misdemeanor</b>	\$1,744.00	\$1,996.00	\$2,502.00	\$2,629.00	\$3,264.00	\$3,518.00	\$4,026.00	\$4,280.00
<b>Felony</b>	\$1,769.00	\$2,071.00	\$2,577.00	\$2,704.00	\$3,339.99	\$3,593.00	\$4,101.00	\$4,355.00
Revocation	24 Months	27 Months	27 Months	30 Months	30 Months	33 Months	36 Months	36 Months
Incarceration	90 days	180 days	180 days	270 days	270 days	360 days	360 days	360 days

\*\* Per Sec. 346.65(2)(g) 1-3 the min and max fines double for a PAC of .17-.199; triple for a PAC of .20-.249; and quadruple for a PAC of .25 & Up, Therefore:

600	-	2000	PAC	< .17
1200	-	4000	PAC:	.17 - .199
1800	-	6000	PAC:	.20 - .249
2400	-	8000	PAC:	.25 & UP

Jail Term: Not less than 45 days nor more than 12 Months

**For Minor in Vehicle - 346.65(2)(f)2 – FELONY OFFENSE**

Fine Range: Min & Max Double  
 Jail Term: 90 days to 24 Months

<b>FOURTH OFFENSE – CLASS H FELONY – FOR OFFENSES COMMITTED ON OR AFTER 01/01/17</b> <b>MITIGATING FACTORS</b> <b>Effective 01-01-20</b>					
<b>INELIGIBLE FOR BAIL AFTER CONVICTION PER SEC. 969.01(2)(a), WIS. STATS.</b> <b>INELIGIBLE FOR STAY OF SENTENCE PER SEC. 973.15(8)(a)(3), WIS. STATS.</b>					
PAC	.02 - .079	.08 - .169	.17 - .199	.20 - .249	.25 +
Fine**	\$1,000.00	1,800.00	\$2,800.00	\$3,800.00	\$4,800.00
<i>P.A.</i>	\$260.00	\$468.00	\$728.00	\$988.00	\$1,248.00
<i>J.S.</i>	\$10.00	\$18.00	\$28.00	\$38.00	\$48.00
<i>C.L.D.S.</i>	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
<i>D.I.S.</i>	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00
<i>S.R.P.</i>	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
<i>COSTS</i>	\$163.00	\$163.00	\$163.00	\$163.00	\$163.00
<i>V/W</i>	\$92.00	\$92.00	\$92.00	\$92.00	\$92.00
<i>DNA</i>	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00
<i>I.I.D.</i>	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
<b>TOTAL</b>	<b>\$2,323.00</b>	<b>\$3,339.00</b>	<b>\$4,609.00</b>	<b>\$5,879.00</b>	<b>\$7,149.00</b>
Revocation	36 MONTHS				
Incarceration	60 DAYS – 72 MONTHS (6 YEARS)				
Probation	UP TO 3 YEARS				
Interlock Period	12 MONTHS – 36 MONTHS				
Occupational License	AFTER 45 DAYS IF ASSESSMENT AND DRIVER’S SAFETY PLAN COMPLETED AND COMPLIANCE WITH IGNITION INTERLOCK REQUIREMENTS				

\*\* Per Sec. 346.65(2)(g) 1-3 the min and max fines double for a PAC of .17-.199; triple for a PAC of .20-.249; and quadruple for a PAC of .25 & Up, Therefore:

600	-	10,000	PAC < .17
1200	-	20,000	PAC .17 - .199
1800	-	30,000	PAC .20- .249
2400	-	40,000	PAC .25 & UP

Incarceration Range: Not less than 60 days nor more than 6 years (3 years IC- 3 years ES)

**For Minor in Vehicle - 346.65(2)(f)2:**

Fine: Min. & Max Fines Double  
 Incarceration: Min. & Max. Terms Double

**FOURTH OFFENSE – CLASS H FELONY – FOR OFFENSES COMMITTED ON OR AFTER 01/01/17  
AGGRAVATING FACTORS  
Effective 01-01-20**

**INELIGIBLE FOR BAIL AFTER CONVICTION PER SEC. 969.01(2)(a), WIS. STATS.  
INELIGIBLE FOR STAY OF SENTENCE PER SEC. 973.15(8)(a)(3), WIS. STATS.**

PAC	.02 - .079	.08 - .169	.17 - .199	.20 - .249	.25 +
Fine**	\$1,600.00	\$2,600.00	\$3,200.00	\$4,600.00	\$6,400.00
P.A.	\$416.00	\$780.00	\$832.00	\$1,196.00	\$1,664.00
J.S.	\$16.00	\$26.00	\$32.00	\$46.00	\$64.00
C.L.D.S.	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
D.I.S.	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00
S.R.P.	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
COSTS	\$163.00	\$163.00	\$163.00	\$163.00	\$163.00
V/W	\$92.00	\$92.00	\$92.00	\$92.00	\$92.00
DNA	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00
I.I.D.	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
TOTAL	\$3,085.00	\$4,459.00	\$5,108.00	\$6,895.00	\$9,181.00
Revocation	36 MONTHS				
Incarceration	60 DAYS – 72 MONTHS (6 YEARS)				
Probation	UP TO 3 YEARS				
Interlock Period	12 MONTHS – 36 MONTHS				
Occupational License	AFTER 45 DAYS IF ASSESSMENT AND DRIVER’S SAFETY PLAN COMPLETED AND COMPLIANCE WITH IGNITION INTERLOCK REQUIREMENTS				

\*\* Per Sec. 346.65(2)(g) 1-3 the min and max fines double for a PAC of .17-.199; triple for a PAC of .20-.249; and quadruple for a PAC of .25 & Up, Therefore:

600	-	10,000	PAC < .17
1200	-	20,000	PAC .17 - .199
1800	-	30,000	PAC .20- .249
2400	-	40,000	PAC .25 & UP

Incarceration Range: Not less than 60 days nor more than– 6 years (3 years IC- 3 years ES)

**For Minor in Vehicle - 346.65(2)(f)2:**

Fine: Min. & Max Fines Double  
Incarceration: Min. & Max. Terms Double

**FIFTH & SIXTH OFFENSE – CLASS G FELONY  
MITIGATING FACTORS  
Effective 01-01-20**

**INELIGIBLE FOR BAIL AFTER CONVICTION PER SEC. 969.01(2)(a), WIS. STATS.  
INELIGIBLE FOR STAY OF SENTENCE PER SEC. 973.15(8)(a)(3), WIS. STATS.**

PAC	.02 - .079	.08 - .169	.17 - .199	.20 - .249	.25 +
Fine**	\$1,600.00	\$2,600.00	\$3,200.00	\$4,600.00	\$6,400.00
P.A.	\$416.00	\$780.00	\$832.00	\$1,196.00	\$1,664.00
J.S.	\$16.00	\$26.00	\$32.00	\$46.00	\$64.00
C.L.D.S.	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
D.I.S.	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00
S.R.P.	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
COSTS	\$163.00	\$163.00	\$163.00	\$163.00	\$163.00
V/W	\$92.00	\$92.00	\$92.00	\$92.00	\$92.00
DNA	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00
I.I.D.	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
TOTAL	\$3,085.00	\$4,459.00	\$5,108.00	\$6,895.00	\$9,181.00
Revocation	36 MONTHS				
Incarceration	6 MONTHS – 120 MONTHS (10 YEARS)				
Probation	UP TO 5 YEARS				
Interlock Period	12 MONTHS – 36 MONTHS				
Occupational License	AFTER 45 DAYS IF ASSESSMENT AND DRIVER'S SAFETY PLAN COMPLETED AND COMPLIANCE WITH IGNITION INTERLOCK REQUIREMENTS				

\*\* Per Sec. 346.65(2)(g) 1-3 the min and max fines double for a PAC of .17-.199; triple for a PAC of .20-.249; and quadruple for a PAC of .25 & Up, Therefore:

600	-	25,000	PAC < .17
1200	-	50,000	PAC .17 - .199
1800	-	75,000	PAC .20 - .29
2400	-	100,000	PAC .25 & UP

Incarceration Term: Not less than 6 months nor more than 10 years (5 years IC- 5 Years ES)

**For Minor in Vehicle - 346.65(2)(f)2:**

Fine: Min. & Max Fines Double  
Incarceration: Min. & Max. Terms Double

**FIFTH & SIXTH OFFENSE – CLASS G FELONY  
AGGRAVATING FACTORS  
Effective 01-01-20**

**INELIGIBLE FOR BAIL AFTER CONVICTION PER SEC. 969.01(2)(a), WIS. STATS.  
INELIGIBLE FOR STAY OF SENTENCE PER SEC. 973.15(8)(a)(3), WIS. STATS.**

PAC	.02 - .079	.08 - .169	.17 - .199	.20 - .249	.25 +
Fine*	\$2,200.00	\$3,200.00	\$3,800.00	\$5,200.00	\$7,000.00
P.A.	\$572.00	\$832.00	\$988.00	\$1,352.00	\$1,820.00
J.S.	\$22.00	\$32.00	\$38.00	\$52.00	\$70.00
C.L.D.S.	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
D.I.S.	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00
S.R.P.	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
COSTS	\$163.00	\$163.00	\$163.00	\$163.00	\$163.00
V/W	\$92.00	\$92.00	\$92.00	\$92.00	\$92.00
DNA	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00
I.I.D.	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
TOTAL	\$3,847.00	\$5,108.00	\$5,879.00	\$7,657.00	\$9,943.00
Revocation	36 MONTHS				
Incarceration	60 DAYS – 72 MONTHS (6 YEARS)				
Probation	UP TO 3 YEARS				
Interlock Period	12 MONTHS – 36 MONTHS				
Occupational License	AFTER 45 DAYS IF ASSESSMENT AND DRIVER’S SAFETY PLAN COMPLETED AND COMPLIANCE WITH IGNITION INTERLOCK REQUIREMENTS				

\*\* Per Sec. 346.65(2)(g) 1-3 the min and max fines double for a PAC of .17-.199; triple for a PAC of .20-.249; and quadruple for a PAC of .25 & Up, Therefore:

600	-	25,000	PAC < .17
1200	-	50,000	PAC .17 - .199
1800	-	75,000	PAC .20 - .249
2400	-	100,000	PAC .25 & UP

Incarceration Term: Not less than 6 months nor more than 10 years (5 years IC- 5 Years ES)

**For Minor in Vehicle - 346.65(2)(f)2:**

Fine: Min. & Max Fines Double  
 Incarceration: Min. & Max. Terms Double



**SEVENTH & EIGHTH & NINTH OFFENSE – CLASS F FELONY**  
**Effective 01-01-20**

**INELIGIBLE FOR BAIL AFTER CONVICTION PER SEC. 969.01(2)(a), WIS. STATS.**  
**INELIGIBLE FOR STAY OF SENTENCE PER SEC. 973.15(8)(a)(3), WIS. STATS.**

Revocation	24 MONTHS – 36 MONTHS
Incarceration	<b><i>UP TP 12.5 YEARS WITH A MINIMUM 3 YEAR CONFINEMENT PERIOD</i></b>
Probation	NOT APPLICABLE
Interlock Period	12 MONTHS – 36 MONTHS
Occupational License	AFTER 45 DAYS IF ASSESSMENT AND DRIVER’S SAFETY PLAN COMPLETED AND COMPLIANCE WITH IGNITION INTERLOCK REQUIREMENTS

**For Minor in Vehicle - 346.65(2)(f)2:**

Fine: Min. & Max Fines Double  
 Incarceration: Min. & Max. Terms Double

**TENTH OR SUBSEQUENT OFFENSE – CLASS E FELONY**  
**Effective 01-01-20**

**INELIGIBLE FOR BAIL AFTER CONVICTION PER SEC. 969.01(2)(a), WIS. STATS.**  
**INELIGIBLE FOR STAY OF SENTENCE PER SEC. 973.15(8)(a)(3), WIS. STATS.**

Revocation	24 MONTHS – 36 MONTHS
Incarceration	<b><i>UP TO 15 YEARS WITH A MINIMUM 4 YEAR CONFINEMENT PERIOD</i></b>
Probation	NOT APPLICABLE
Interlock Period	12 MONTHS – 36 MONTHS
Occupational License	AFTER 45 DAYS IF ASSESSMENT AND DRIVER’S SAFETY PLAN COMPLETED AND COMPLIANCE WITH IGNITION INTERLOCK REQUIREMENTS

**For Minor in Vehicle - 346.65(2)(f)2:**

Fine: Min. & Max Fines Double  
 Incarceration: Min. & Max. Terms Double

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**SENTENCING CONSIDERATIONS**

1. As indicated on the relevant matrix, third offense OWI with passenger in vehicle is now a felony offense. A fourth offense OWI is also a felony.
2. Driver's safety plan is required in all cases. Plan may have victim awareness component including effect on victim and victim's family.
3. Forfeitures and fines may be reduced in cases of inability to pay with reduction in amount applied to surcharge/plan costs.
4. Community service must be ordered by the court to reduce the forfeitures and fines if the offender cannot pay the same. The court is to determine amount of reduction in fine for each hour of community service work performed. Sec. 346.65(2g)(ag), Wis. Stats.
5. Restitution may be ordered by the court.
6. Site visits to emergency room or alcohol treatment facility may be ordered by the court.
7. Demerit points are assigned by the DMV in all cases.
8. Huber privileges are not available unless the offender complies with Alcohol Surcharge, Ignition Interlock orders and Driver's Safety Plan. (Exception for offender who cannot comply because of insufficient funds to obtain surcharge). Sec. 303.065(2m), Wis. Stats.

**IGNITION INTERLOCK**

1. Required for all offenses except for 1<sup>st</sup> offense OWI where BAC is under .15.
2. Applicant must comply with all requirements of the use of vehicles equipped with a functioning ignition interlock device if applicant's vehicle(s) were ordered to have the ignition interlock device placed on them under Wis. Stats. 346.65(6)(a), Wis. Stats.
3. IID may start/end on a different date than revocation as revocation period is extended by the number of days to which the court sentences the defendant to imprisonment in a jail or prison for an offense related to the revocation. Sec. 343.30(1r), Wis. Stats.

**AGGRAVATING AND MITIGATING FACTORS**

The guidelines suggest what may be appropriate penalties in situations which are either aggravated or not aggravated. The presence or absence of mitigating or aggravating circumstances in each case will dictate into which of the two matrixes the case more readily fits.

If the mitigating factors dominate, then the “Not Aggravated” matrix would seem more appropriate, with the degree of mitigation dictating the choice of what penalties, within the confines of the appropriate grid, ought to be imposed. If the aggravating factors dominate, then that matrix would seem appropriate, with the degree of aggravation dictating what penalty, within the confines of the appropriate grid, should be utilized.

**Some examples of mitigating factors are, but not limited to:**

- No evidence of unsafe driving other than intoxication
- No Accident
- No injuries
- No or minimal prior offenses in Wisconsin or elsewhere
- Valid driver’s license held at time of offense
- No minor passengers or other at risk individuals, i.e. pregnant passengers; individuals with disabilities, etc.
- No evidence of texting or use of electronic devices at time of driving
- Age of any prior OWI/PAC offenses – passage of time
- Cooperation with law enforcement
- Responsible efforts to address AODA issues
- Sincere show of remorse
- Extrajudicial penalties incurred (loss of job, etc.)

**Some examples of aggravating factors are, but not limited to:**

- Driving without valid driver's license, i.e. after revocation, etc.
- Evidence of unsafe driving beyond mere intoxication
- Accident
- Injuries sustained by others
- Property damage sustained by others
- Prior moving violations; Prior uncounted OWI offenses
- Lengthy prior driving record
- Time and location of driving, i.e. high traffic and pedestrian area, school zones, etc.
- Age of prior OWI/PAC offense
- Prior criminal record
- Uncooperative with law enforcement
- Violation of court orders, i.e. driving restrictions, absolute sobriety, etc.
- Violations of custody release monitoring rules
- Missed court appearances
- Lack of remorse
- Lack of efforts to address AODA issues
- Failure to comply with surcharges ordered in the past
- Lack of insurance
- Minor passenger or at risk individuals in vehicle, i.e. pregnant passengers; individuals with disabilities, etc.