


<p><b>ALLAN B. TORHORST</b> Chief Judge 730 Wisconsin Avenue Racine, WI 53403-1274 Telephone: (262) 636-3133</p> <p><b>ANTHONY G. MILISAUSKAS</b> Deputy Chief Judge 912 56<sup>th</sup> Street Kenosha, WI 53140-3747 Telephone: (262) 653-2669</p> <p><b>DAVID M. REDDY</b> Presiding Judge Walworth County P.O. Box 1001 Elkhorn, WI 53121-1001 Telephone: (262) 741-7023</p> <p><b>LOUIS C. MOORE</b> District Court Administrator 730 Wisconsin Avenue Racine, WI 53403-1274 Telephone: (262) 636-3322</p>	<p>STATE OF WISCONSIN</p> <p><b>SECOND JUDICIAL DISTRICT</b></p> <p>RACINE COUNTY COURTHOUSE 730 WISCONSIN AVENUE RACINE, WISCONSIN 53403</p> <p>FAX (262) 636-3437</p>	 <p>Second Judicial District of Wisconsin</p> <p>Kenosha Racine Walworth</p>
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**MUNICIPAL COURT**  
OWI Sentencing Guidelines – Second District  
Effective July 14, 2015

<b>Non Commercial, Not Aggravated</b>					
<b>BAC Levels</b>	.08 - .149	.15 .169 *	.17 - .199	.20 - .249	.25+
<b>Forfeiture</b>	\$175.00	\$175.00	\$200.00	\$250.00	\$300.00
Penalty Surcharge <sup>1</sup>	\$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 <sup>2</sup>	\$38.00	\$38.00	\$38.00	\$38.00	\$38.00
Driver Improvement Surcharge <sup>3</sup>	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00
Safe Ride Program Surcharge <sup>4</sup>	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
Ignition Interlock Surcharge	NA	\$50.00	\$50.00	\$50.00	\$50.00
<b>Total Financial</b>	\$766.50	\$816.50	\$848.00	\$911.00	\$974.00
<b>Suspension/Revocation</b> <sup>5</sup>	6 months	6 months	7 months	8 months	9 months

\* drugs/controlled substances/restricted controlled substances

<b>Non Commercial, Aggravated</b>					
<b>BAC Levels</b>	.08 - .149	.15 .169 *	.17 - .199	.20 - .249	.25+
<b>Forfeiture</b>	\$200.00	\$200.00	\$250.00	\$300.00	\$300.00
Penalty Surcharge <sup>1</sup>	\$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 <sup>2</sup>	\$38.00	\$38.00	\$38.00	\$38.00	\$38.00
Driver Improvement Surcharge <sup>3</sup>	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00
Safe Ride Program Surcharge <sup>4</sup>	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
Ignition Interlock Surcharge	NA	\$50.00	\$50.00	\$50.00	\$50.00
<b>Total Financial</b>	\$798.00	\$848.00	\$911.00	\$974.00	\$974.00
<b>Suspension/Revocation</b> <sup>5</sup>	7 months	7 months	8 months	9 months	9 months

\* drugs/controlled substances/restricted controlled substances

**MINOR CHILD** - An offense with a child under 16 years of age in the vehicle is a misdemeanor and should be referred to the District Attorney for prosecution in Circuit Court.

**IGNITION INTERLOCK** – required for one year with BAC of .15 or higher and Refusals.

<sup>1</sup> Penalty Surcharge is 26% of the base fine.

<sup>2</sup> Court Cost: \$15.00 to \$38.00. Wis. Stat. § 814.65(1).

<sup>3</sup> Driver Improvement Surcharge: Increased from \$365.00 to \$435.00 on July 2, 2013.

<sup>4</sup> Safe Ride Program Surcharge created under Wis. Stat. § 346.657 for offenses committed on or after July 14, 2015.

<sup>5</sup> Mandatory revocation of 6 to 9 months with a BAC of .08 or greater. Wis. Stat. § 343.30(1q)(b)(2).

ALLAN B. TORHORST  
Chief Judge  
730 Wisconsin Avenue  
Racine, WI 53403-1274  
Telephone: (262) 636-3133

ANTHONY G. MILISAUSKAS  
Deputy Chief Judge  
912 56<sup>th</sup> Street  
Kenosha, WI 53140-3747  
Telephone: (262) 653-2669

DAVID M. REDDY  
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Telephone: (262) 636-3322

STATE OF WISCONSIN

**SECOND JUDICIAL DISTRICT**

RACINE COUNTY COURTHOUSE  
730 WISCONSIN AVENUE  
RACINE, WISCONSIN 53403

FAX (262) 636-3437



**CIRCUIT COURT**  
OWI Sentencing Guidelines – Second District  
Effective JANUARY 1, 2017

SECOND JUDICIAL DISTRICT OWI GUIDELINES – 1ST OFFENSE (CIRCUIT COURT) EFFECTIVE 07/14/2015								
B.A.C.	.08-.149		.15-.199 *		.20-.249		.25+ OR REFUSAL	
	NONAGGRAVATED	AGGRAVATED	NONAGGRAVATED	AGGRAVATED	NONAGGRAVATED	AGGRAVATED	NONAGGRAVATED	AGGRAVATED
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.	N/A	N/A	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
<b>TOTAL</b>	<b>\$811.50</b>	<b>\$874.50</b>	<b>\$924.50</b>	<b>\$987.50</b>	<b>\$987.50</b>	<b>\$1,050.50</b>	<b>\$1,050.50</b>	<b>\$1,050.50</b>
<b>REVOCAATION</b>	<b>6 months</b>	<b>7 months</b>	<b>7 months</b>	<b>8 months</b>	<b>8 months</b>	<b>9 months</b>	<b>9 months</b>	<b>9 months</b>

\* drugs/controlled substances/ restricted controlled substances

SECOND JUDICIAL DISTRICT OWI GUIDELINES – 2ND OFFENSE EFFECTIVE 07/14/2015								
B.A.C.	LESS THAN .15		.15-.199 *		.20-.249		.25+ OR REFUSAL	
	NONAGGRAVATED	AGGRAVATED	NONAGGRAVATED	AGGRAVATED	NONAGGRAVATED	AGGRAVATED	NONAGGRAVATED	AGGRAVATED
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
<b>TOTAL</b>	<b>\$1,429.00</b>	<b>\$1,492.00</b>	<b>\$1,492.00</b>	<b>\$1,555.00</b>	<b>\$1,555.00</b>	<b>\$1,618.00</b>	<b>\$1,618.00</b>	<b>\$1,681.00</b>
<b>JAIL</b>	<b>30 days</b>	<b>60 days</b>	<b>60 days</b>	<b>90 days</b>	<b>90 days</b>	<b>120 days</b>	<b>120 days</b>	<b>180 days</b>
<b>REVOCAATION</b>	<b>12 months</b>	<b>14 months</b>	<b>14 months</b>	<b>16 months</b>	<b>16 months</b>	<b>18 months</b>	<b>18 months</b>	<b>18 months</b>

\* drugs/controlled substances/ restricted controlled substances

SECOND JUDICIAL DISTRICT OWI GUIDELINES – 3RD OFFENSE EFFECTIVE 07/14/2015									
B.A.C.	LESS THAN .15		.15-.199 *		.20-.249		.25+		REFUSAL
	NONAGGRAVATED	AGGRAVATED	NONAGGRAVATED	AGGRAVATED	NONAGGRAVATED	AGGRAVATED	NONAGGRAVATED	AGGRAVATED	
FINE	\$600.00	\$650.00	\$1,200.00	\$1,300.00	\$1,800.00	\$1,950.00	\$2,400.00	\$2,600.00	\$2,000.00
P.A.	\$156.00	\$169.00	\$312.00	\$338.00	\$468.00	\$507.00	\$624.00	\$676.00	\$520.00
J.S.	\$10.00	\$10.00	\$12.00	\$13.00	\$18.00	\$19.50	\$24.00	\$26.00	\$20.00
C.L.D.S.	\$13.00	\$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	\$435.00
S.R.P.	\$50.00	\$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	\$163.00
V/W	\$67.00	\$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	\$200.00
I.I.D.	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00
<b>TOTAL</b>	<b>\$1,744.00</b>	<b>\$1,807.00</b>	<b>\$2,502.00</b>	<b>\$2,629.00</b>	<b>\$3,264.00</b>	<b>\$3,454.50</b>	<b>\$4,026.00</b>	<b>\$4,280.00</b>	<b>\$3,518.00</b>
<b>JAIL</b>	<b>90 days</b>	<b>180 days</b>	<b>180 days</b>	<b>270 days</b>	<b>270 days</b>	<b>360 days</b>	<b>360 days</b>	<b>360 days</b>	<b>360 days</b>
<b>REVOCAION</b>	<b>24 months</b>	<b>27 months</b>	<b>27 months</b>	<b>30 months</b>	<b>30 months</b>	<b>33 months</b>	<b>36 months</b>	<b>36 months</b>	<b>36 months</b>

\* drugs/controlled substances/restricted controlled substances

#### 4<sup>th</sup> Offense OWI

A fourth-offense OWI is a Class H felony, punishable by a fine of \$600 to \$10,000, imprisonment of 60 days to six years, or both. Under the Act, all fourth-offense OWI offenses are treated the same, regardless of when the offender committed an earlier OWI offense.

#### 5<sup>th</sup> or 6<sup>th</sup> Offense OWI

A fifth- or sixth-offense OWI is a Class G felony, punishable by a fine of \$600 to \$25,000, imprisonment of six months to 10 years, or both.

SECOND JUDICIAL DISTRICT OWI GUIDELINES – FELONY 4TH, 5TH OR 6TH OFFENSE EFFECTIVE 01/01/17									
B.A.C.	LESS THAN .15		.15-.199 *		.20-.199		.25+		REFUSAL
	NONAGGRAVATED	AGGRAVATED	NONAGGRAVATED	AGGRAVATED	NONAGGRAVATED	AGGRAVATED	NONAGGRAVATED	AGGRAVATED	
FINE	\$1,200.00	\$1,600.00	\$2,400.00	\$3,200.00	\$3,600.00	\$4,800.00	\$4,800.00	\$6,400.00	\$2,000.00
P.A.	\$312.00	\$416.00	\$624.00	\$832.00	\$936.00	\$1,248.00	\$1,248.00	\$1,664.00	\$520.00
J.S.	\$12.00	\$16.00	\$24.00	\$32.00	\$36.00	\$48.00	\$48.00	\$64.00	\$20.00
C.L.D.S.	\$13.00	\$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	\$435.00
S.R.P.	\$50.00	\$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	\$163.00
V/W	\$92.00	\$92.00	\$92.00	\$92.00	\$92.00	\$92.00	\$92.00	\$92.00	\$92.00
DNA	\$250.00	\$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	\$50.00
<b>TOTAL</b>	<b>\$2,577.00</b>	<b>\$3,085.00</b>	<b>\$4,101.00</b>	<b>\$5,117.00</b>	<b>\$5,625.00</b>	<b>\$7,149.00</b>	<b>\$7,149.00</b>	<b>\$9,181.00</b>	<b>\$3,593.00</b>
<b>JAIL/PRISON</b>	<b>6 mos.-6 yrs.</b>	<b>6 mos.-6 yrs.</b>	<b>6 mos.-6 yrs.</b>	<b>6 mos.-6 yrs.</b>	<b>6 mos.-6 yrs.</b>	<b>6 mos.-6 yrs.</b>	<b>6 mos.-6 yrs.</b>	<b>6 mos.-6 yrs.</b>	<b>360 days</b>
<b>REVOCAION</b>	<b>36 months</b>	<b>36 months</b>	<b>36 months</b>	<b>36 months</b>	<b>36 months</b>	<b>36 months</b>	<b>36 months</b>	<b>36 months</b>	<b>36 months</b>

\* drugs/controlled substances/ restricted controlled substances

#### 7<sup>th</sup>, 8<sup>th</sup>, or 9<sup>th</sup> Offense OWI

A seventh-, eighth-, or ninth-offense OWI is a Class F felony, punishable by a fine of up to \$25,000, imprisonment of three years to 12 ½ years, or both.

#### 10th OR SUBSEQUENT OFFENSE OWI

A 10th- or subsequent offense OWI is a Class E felony, punishable by a fine of up to \$50,000, imprisonment of four years to 15 years, or both.

## SENTENCING CONSIDERATIONS

**If minor (under 16) passenger is in the vehicle, all fines, jail and revocations are doubled. Third and Fourth offenses become felonies.**

### **-Driver Safety Plan Are Required in All Cases**

**-Fines & Forfeitures** may be reduced in cases of inability to pay with reduction in amount applied to surcharge/plan costs.

-Plan may have victim awareness component including effect on victim and victim's family.

**-Restitution** may be ordered by the Court.

**-Community Service** MUST be ordered by the Court to reduce the fine or forfeiture if offender cannot pay fine. Court to determine amount of reduction in fine for each hour of community service work performed. Wis. Stat. §346.65(2g)(ag).

**-Site Visits** to Emergency Room or Alcohol Treatment Facility may be ordered.

**-Points** are assigned by the DMV in all cases (6).

**-Huber privileges** are NOT available unless the offender complies with Alcohol Surcharge, Ignition Interlock Orders, and Driver Safety Plan. (Exception for offender who cannot comply because of insufficient funds to obtain surcharge) Wis. Stat. §303.065(2m).

**Effective 01/01/01, offenses committed before 01/01/89 are not counted for penalty purposes. For an offense occurring more than ten (10) years ago, but after 1988, a second offense is charged as a first offense, however, the offense remains on the record and a third offense is charged as a third offense. (Exception: Prior offenses for Homicide by Intoxicated Use of a Motor Vehicle, Wis. Stat. § 940.09(1), and Causing Great Bodily Harm by Intoxicated Use of a Motor Vehicle Wis. Stat. § 940.25, will be included without restriction as to the date of the offense.)**

## AGGRAVATING AND MITIGATING FACTORS

The guidelines which follow 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 fit.

If the mitigating factors dominate, then the "Not Aggravated" matrix would seem 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 penalties, within the confines of the appropriate grid, should be employed.

### **Some examples of mitigating factors are:**

- No evidence of unsafe driving other than intoxication
- No accident
- No or minimal prior offense record in Wisconsin and elsewhere
- Cooperation with arresting officers
- No injury to others
- No minor passengers
- Extrajudicial penalties (loss of job, etc.)
- Responsible efforts to deal with problem
- Low income (as to financial aspects of penalty only)

**Some examples of aggravating factors are:**

- Driving after revocation
- Accident
- Unsafe driving beyond mere intoxication
- Injury to others
- Prior uncounted offenses for OWI
- Lengthy prior driving record for other types of offenses
- Time and location of driving
- Interval since last offense
- Failure to comply with surcharge ordered in the past
- Lack of insurance coverage

**OCCUPATIONAL LICENSES**

**1. Waiting Period**

1<sup>st</sup> offenders who have taken the test are eligible for an immediate occupational license.

All others are eligible after the expiration of a 45 day waiting period, and proof that they have:

- completed the required statutory assessment
- they are in compliance with the ordered drivers safety plan
- they are in compliance with Ignition Interlock requirements

**2. Surcharge & Plan**

After 2<sup>nd</sup> or subsequent OWI or OWI-related offense, applicant must have completed the current surcharge and be complying with the driver safety plan.

**3. Absolute Sobriety**

An absolute sobriety (0.0%) requirement is imposed on all operation by users who have two or more OWI or OWI-related offenses

**4. Ignition Interlock**

Applicant must comply with all requirement of the use of vehicles equipped with a functioning ignition interlock device if applicants vehicles were ordered to have the ignition interlock placed on them under Wis. Stat. §346.65(6)(a). See Wis. Stat. §343.10(5)(a)3.

**KEY**

P.A.	Penalty Surcharge
J.S.	Jail Surcharge
J.I.S.	Justice Information Services Fee
C.L.D.S.	Crime Lab & Drug Surcharge
D.I.S.	Driver Improvement Surcharge
S.R.P.	Safe Ride Program Surcharge
Costs	Court Costs
C.S.S.S.	Court Support Services Fee
I.I.D.	Ignition Interlock Device
V/W	Victim-Witness Surcharge