

OWI AND RELATED ALCOHOL AND DRUG PENALTIES (AS OF 2009 ACT 100; JULY 1, 2010)

Conviction	Fine or Forfeiture	Jail	Suspension or Revocation	Occupational License	Alcohol Assessment	Demerit Points
OWI First ⁹ [346.63(1)(a),(am),(b)] (Per se AC ≥ .08) [340.01(46m)(a)] Restricted controlled substance [340.01(50m)] ¹⁴	\$150-\$300 ^{5,10} [346.65(2)(am)1] (plus \$365 OWI surcharge) [346.655]	No. If passenger < 16 yr old: 5 days to 6 months [346.65(2)(f)1]	6 - 9 month revocation ^{5,17} [343.30(1q)(b)2] If AC of 0.15 or higher: Vehicle equipped with IID ⁷ [343.301(1g)]	Can apply immediately [343.30(1q)(b)2]	Yes	6
OWI, Second ^{1,9,14} No prior OWI within 10 years nor Great Bodily Harm or Homicide by Intoxicated Use offenses during offender's life. [346.63(1)(a),(am),(b)] (Per se AC ≥ .08) [340.01(46m)(a)] Restricted controlled substance [340.01(50m)] ¹⁴	\$150-300 ^{5,10} [346.65(2)(am)1] (plus \$365 OWI surcharge) [346.655]	No. If passenger < 16 yr old: 5 days to 6 months [346.65(2)(f)1]	6 - 9 month revocation ^{5,17} [343.30(1q)(b)2] Vehicle equipped with IID ⁷ [343.301(1g)]	Can apply immediately [343.30(1q)(b)2]	Yes	6
OWI, Second ^{1,9,14} Prior OWI within 10 years or Great Bodily Harm or Homicide by Intoxicated Use offense during offender's life. (Per se AC ≥ .08) [340.01(46m)(a)]	\$350-1,100 ^{5,10} [346.65(2)(am)2] (plus \$365 OWI surcharge)	5 days - 6 months ^{5,10,18} [346.65(2)(am)2] Safe Streets option: 5 days - 7 days ¹⁵ [346.65(2)(bm)]	12 - 18 month revocation ^{5,17} [343.30(1q)(b)3] Vehicle equipped with IID ⁷ [343.301(1g)]	Can apply after 45 days ^{2,3} [343.30(1q)(b)3]	Yes	6
OWI, Third ^{1,9,14,16} (Per se AC ≥ .08) [340.01(46m)(a)]	\$600-2,000 ^{5,10} [346.65(2)(am)3] (plus \$365 OWI surcharge)	45 days - 1 year ^{5,18} [346.65(2)(am)3] Safe Streets option: 14 days - 1 year ¹⁵ [346.65(2)(cm)]	2 - 3 year revocation ^{5,17} [343.30(1q)(b)4] Vehicle equipped with IID ⁷ [343.301(1g)]	Can apply after 45 days ^{2,3} [343.30(1q)(b)4]	Yes	6
OWI, Fourth ^{1,9,14,16} none within previous 5 years (Per se AC > .02) [340.01(46m)(c)]	\$600-2,000 ^{5,10} [346.65(2)(am)4] (plus \$365 OWI surcharge)	60 days - 1 year ^{5,18} [346.65(2)(am)4] Safe Streets option: 14 days - 1 year ¹⁵ [346.65(2)(dm)]	2 - 3 year revocation ^{5,17} [343.30(1q)(b)4] Vehicle equipped with IID ⁷ [343.301(1g)]	Can apply after 45 days ^{2,3} [343.30(1q)(b)4]	Yes	6
OWI, Fourth ^{1,9,14,16} including 1 or more within previous 5 years [340.01(46m)(c)]	\$600-10,000 ^{5,10} [346.65(2)(am)4m] (plus \$365 OWI surcharge)	6 months - 6 years [346.65(2)(am)4m]	2 - 3 year revocation ^{5,17} [343.30(1q)(b)4] Vehicle equipped with IID ⁷ [343.301(1g)]	Can apply after 45 days ^{2,3} [343.30(1q)(b)4]	Yes	6
OWI, Fifth or Sixth ^{1,9,14,16} (Per se AC > .02) [340.01(46m)(c)]	\$600-10,000 ¹⁰ [346.65(2)(am)5] [939.50(3)(h)] (plus \$365 OWI surcharge)	6 months - 6 years ^{5,18} imprisonment [346.65(2am)5] [939.50(3)(h)]	2 - 3 year revocation ^{5,17} [343.30(1q)(b)4] Vehicle equipped with IID ⁷ [343.301(1g)]	Can apply after 45 days ^{2,3} [343.30(1q)(b)4]	Yes	6
OWI, Seventh, Eighth, or Ninth ^{1,9,14,16} (Per se AC > .02) [340.01(46m)(c)]	Up to \$25,000 ¹⁰ [346.65(2)(am)6] [939.50(3)(g)] (plus \$365 OWI surcharge)	3 - 10 years ¹⁸ imprisonment [346.65(2am)6] [939.50(3)(g)]	2 - 3 year revocation ^{5,17} [343.30(1q)(b)4] Vehicle equipped with IID ⁷ [343.301(1g)]	Can apply after 45 days ^{2,3} [343.30(1q)(b)4]	Yes	6
OWI, Tenth or more ^{1,9,14,16} (Per se AC > .02) [340.01(46m)(c)]	Up to \$25,000 ¹⁰ [346.65(2)(am)7] [939.50(3)(f)] (plus \$365 OWI surcharge)	4 - 12.5 years ¹⁸ imprisonment [346.65(2am)7] [939.50(3)(f)]	2 - 3 year revocation ^{5,17} [343.30(1q)(b)4] Vehicle equipped with IID ⁷ [343.301(1g)]	Can apply after 45 days ^{2,3} [343.30(1q)(b)4]	Yes	6
Causing Injury While OWI with no or one prior OWI offense or chem test refusal ^{9,14} [346.63(2)(a)]	\$300-2,000 ^{5,10} [346.65(3m)] (plus \$365 OWI surcharge)	30 days - 1 year ^{5,18} [346.65(3m)] Safe Streets option: 15 days - 1 year ¹⁵ [346.65(3r)]	1 - 2 year revocation ^{5,7,17} [343.31(3)(e)] Vehicle equipped with IID ⁷ [343.301(1g)]	Can apply after 60 days After 12 months if 2 or more offenses within 5 years [343.31(3m)(b)]	Yes	6
Causing Injury while OWI with 2 or more OWI offense or chem test refusal ^{9,14} [346.63(2)(a)]	Up to \$10,000 ^{5,10} [346.65(3p)] (plus \$365 OWI surcharge)	Up to 6 years [346.65(3p)]	2 - 3 year revocation ^{5,17} [343.30(1q)(b)4] Vehicle equipped with IID ⁷ [343.301(1g)]	Can apply after 60 days ^{2,3} After 12 months if 2 or more offenses within 5 years [343.30(1q)(b)4]	Yes	6
Causing Great ^{4,9,14} Bodily Harm by OWI [940.25(1)]	Up to \$25,000 ^{5,6,9,10} [939.50(3)(f)] (plus \$365 OWI surcharge)	Up to 12.5 years ^{5,6,9} imprisonment [939.50(3)(f)]	2 year revocation ^{4,5,6,17} [343.31(3)(f)] Vehicle equipped with IID ⁷ [343.301(1g)]	Can apply after 120 days After 12 months if 2 or more offenses within 5 years [343.31(3m)(a)]	Yes	6
Homicide While OWI ^{4,9,14} [940.09(1)]	Up to \$100,000 ^{5,6,9,10} [939.50(3)(c),(d)] (plus \$365 OWI surcharge)	Up to 25 years ^{5,6,9} If one or more prior OWI-related offense, up to 40 years [939.50(3)(c),(d)]	5 year revocation ^{4,5,6,17} [343.31(3)(c)] Vehicle equipped with IID ⁷ [343.301(1g)]	Can apply after 120 days After 12 months if 2 or more offenses within 5 years [343.31(3m)(a)]	Yes	6

continued

Conviction	Fine or Forfeiture	Jail	Suspension or Revocation	Occupational License	Alcohol Assessment	Demerit Points
Chemical Test Refusal ^{1,9} (First) [343.305(9)]			1 year revocation ^{5,17} [343.305(10)(b)2] Vehicle equipped with IID ⁷ [343.305(10m)]	Can apply after 30 days [343.305(10)(b)2]	Yes	0
Chemical Test Refusal ^{1,7,9} (Second) [343.305(9)]			2 year revocation ^{5,17} [343.305(10)(b)2] Vehicle equipped with IID ⁷ [343.305(10m)]	Can apply after 90 days After 12 months if 2 or more offenses within 5 years [343.305(10)(b)3]	Yes	0
Chemical Test Refusal ^{1,7,9} (Third or greater) [343.305(9)]			3 year revocation ^{5,17} [343.305(10)(b)4] Vehicle equipped with IID ⁷ [343.305(10m)]	Can apply after 120 days After 12 months if 2 or more offenses within 5 years [343.305(10)(b)4]	Yes	0
Administrative Suspension for Prohibited Alcohol Concentration [343.305(7)]			6 month suspension [343.305(7)(a)] CDL disqualification (if CDL holder) [343.315(3)(b)]	Can apply immediately [343.305(8)(d)]		0
Open Container (Driver or passenger) ¹³ [346.935(1)]	\$100 [346.95(2m)]					

¹ The 10-year period for second offense is measured violation date to violation date. [346.65(2c)]. For a complete list of offenses that may be counted as prior offenses, see Wis. Stat. s. 343.307.

² Absolute sobriety is mandatory for an occupational license for persons with two or more suspensions, revocations or convictions. [343.10(5)(a)(2)]

³ Persons with two or more suspensions, revocations or convictions counted under 343.307(1), must complete assessment and be in compliance with a driver safety plan as well as submit proof of IID install to be eligible for an occupational license. [343.10(2)(e), 343.30(1q)(c)]

⁴ If repeat offender, every vehicle owned by the offender must be equipped with an ignition interlock device (IID). [940.09(1d), 940.25(1d)]

⁵ Fines, forfeitures, jail and revocation/suspension penalties are doubled for a person convicted of OWI if a person under 16 years of age was in the vehicle at the time of the offense. [343.30(1q)(b)4m, 343.305(10)(b)4m(em), 343.31(3)(bm)4m,(c),(e),(f) and 346.65(2)(f),(3m)]

⁶ Fines, forfeitures, jail and revocations or suspensions are doubled if a pregnant woman is in the vehicle at the time the driver committed the offense. 343.31(3)(c),(f)]

⁷ Unless undue financial hardship would ensue, every vehicle titled or registered in the offender's name must be equipped with IID. Also, the offender's Class D operating privileges must be restricted to vehicles equipped with IID. [343.301(1)(a) and (2)(a)] While subject to IID order, offender is subject to 0.02 AC per se limit. IID restriction on operating privilege begins on date DOT issues the offender any operator's license and continues for one year or the period of revocation, whichever is longer [343.301(2m)]. No occupational license may be issued to an offender who fails to pay \$50 IID Surcharge or who fails to comply with IID order.

⁸ Additional fees, assessments and surcharges also apply. [165.755(1), 302.46, 346.655(1), 757.05(1), 814.63(1), 814.65(1), 814.85(1), 814.86(1)]

⁹ If offense is committed while operating a commercial motor vehicle, then penalties include a 1 year CDL disqualification (3 year disqualification if transporting hazardous materials, or lifetime disqualification for 2nd offense since July 1, 1987). [343.315(2)(a)(b)(c)]

¹⁰ Forfeitures and fines are increased for OWI offenses with AC of 0.17 or higher. [346.65(2)(g)]

¹¹ For the scale of demerit points for all traffic violations, see Trans 101.02, Wisconsin Administrative Code, and 343.32(2); newly licensed and unlicensed drivers may be subject to increased demerit points. [343.32(2)(bc)]

¹² Persons whose operating privileges have been suspended or revoked may apply for an occupational license to drive between home and work or school. [343.10]

¹³ Both drivers and passengers can be ticketed for the presence of an unsealed container of an intoxicating beverage in the passenger compartment of a vehicle. [346.935]

¹⁴ 2003 Wisconsin Act 97, no person may operate a motor vehicle with any detectable presence of a restricted controlled substance in his or her bloodstream. Violations are treated as OWI, and are subject to the same penalties as OWI.

¹⁵ Under the "Safe Streets" option, mandatory minimum jail sentences are reduced only if the person completes probation including alcohol and other drug treatment.

¹⁶ For 3rd or subsequent offense, pre-sentence release and stay of execution of jail or prison term is prohibited until after mandatory minimum time of confinement has been served, with exceptions for probation or legal cause. [969.01(2)(a)]

¹⁷ Period of license revocation begins on date of conviction and is extended by the number of days the offender is sentenced to jail or prison. [343.30(1r)]

¹⁸ Probation is a sentencing option, but offender must serve at least the mandatory minimum jail or prison term.

SOURCE: DOT-Bureau of Transportation Safety; DOT-Office of General Counsel