

# OWI AND RELATED ALCOHOL AND DRUG<sup>16</sup> PENALTIES (AS OF 2007 ACT 226; MAY 30, 2008)

Conviction	Fine or Forfeiture <sup>9</sup>	Jail	Suspension or Revocation	Occupational License <sup>13</sup>	Alcohol Assessment <sup>5</sup>	Demerit Points <sup>12</sup>
OWI, First <sup>10</sup> [346.63(1)(a),(am),(b)] (Per se AC > .08) [340.01(46m)(a)] Restricted controlled substance [340.01(50m)] <sup>16</sup>	\$150-\$300 <sup>6</sup> [346.65(2)(am)1.] (plus \$365 OWI surcharge) <sup>14</sup> [346.655]	No	6-9 month revocation <sup>6</sup> [343.30(1q)(b)2]	Immediately [343.30(1q)(b)2]	Yes <sup>14</sup>	6
OWI, Second <sup>1,10,16</sup> (Per se AC > .08) [340.01(46m)(a)]	\$350-\$1,100 <sup>6</sup> [346.65(2)(am)2.] (plus \$365 OWI surcharge)	5 days to 6 months <sup>6</sup> [346.65(2)(b)] Winnebago County: 5 days - 7 days <sup>17</sup> [346.65(2)(bm)]	12-18 month revocation <sup>6</sup> [343.30(1q)(b)3] Vehicle immobilized or equipped with IID <sup>8</sup>	After 60 days <sup>2,3</sup> After 12 months if 2 or more offenses within 5 years [343.30(1q)(b)3],[343.307(1)]	Yes	6
OWI, Third <sup>1,10,16</sup> (Per se AC > .08) [340.01(46m)(a)]	\$600-\$2,000 <sup>6,11</sup> [346.65(2)(am)3.] (plus \$365 OWI surcharge)	30 days to 1 year <sup>6</sup> [346.65(2)(c)] Winnebago County: 10 days - 1 year <sup>17</sup> [346.65(2)(cm)]	2-3 year revocation <sup>6</sup> [343.30(1q)(b)4] Vehicle immobilized or equipped with IID or may be seized [346.65(6)(a)1] <sup>8</sup>	After 90 days <sup>2,3,9</sup> After 12 months if 2 or more offenses within 5 years [343.30(1q)(b)4]	Yes	6
OWI, Fourth <sup>1,10,16</sup> (Per se AC > .02) [340.01(46m)(c)]	\$600-\$2,000 <sup>6,11</sup> [346.65(2)(am)4.] (plus \$365 OWI surcharge)	60 days to 1 year <sup>6</sup> [346.65(2)(d)]	2-3 year revocation <sup>6</sup> [343.30(1q)(b)4] Vehicle immobilized or equipped with IID or may be seized <sup>8</sup>	After 90 days <sup>2,3</sup> After 12 months if 2 or more offenses within 5 years [343.30(1q)(b)4]	Yes	6
OWI, Fifth or sixth <sup>1,10,16</sup> (Per se AC > .02) [340.01(46m)(c)]	\$600-\$10,000 <sup>11</sup> [346.65(2)(am)5.] [939.50(3)(h)] (plus \$365 OWI surcharge)	6 months to 6 years <sup>6</sup> imprisonment [346.65(2)(e)] [939.50(3)(h)]	2-3 year revocation <sup>6</sup> [343.30(1q)(b)4] Vehicle immobilized or equipped with IID or may be seized <sup>8</sup>	After 90 days <sup>2,3</sup> After 12 months if 2 or more offenses within 5 years [343.30(1q)(b)4]	Yes	6
OWI, Seventh, Eighth, or Ninth <sup>1,10,16</sup> (Per se AC > .02) [340.01(46m)(c)]	Up to \$25,000 <sup>11</sup> [346.65(2)(am)6.] [939.50(3)(g)] (plus \$365 OWI surcharge)	Up to 10 years imprisonment [939.50(3)(g)]	2-3 year revocation <sup>6</sup> [343.30(1q)(b)4] Vehicle immobilized or equipped with IID or may be seized <sup>8</sup>	After 90 days <sup>2,3</sup> After 12 months if 2 or more offenses within 5 years [343.30(1q)(b)4]	Yes	6
OWI, Tenth or more <sup>1,10,16</sup> (Per se AC > .02) [340.01(46m)(c)]	Up to \$25,000 <sup>11</sup> [346.65(2)(am)7.] [939.50(3)(f)] (plus \$365 OWI surcharge)	Up to 12 years imprisonment [939.50(3)(f)]	2-3 year revocation <sup>6</sup> [343.30(1q)(b)4] Vehicle immobilized or equipped with IID or may be seized <sup>8</sup>	After 90 days <sup>2,3</sup> After 12 months if 2 or more offenses within 5 years [343.30(1q)(b)4]	Yes	6
Causing Injury <sup>10,16</sup> While OWI [346.63(2)(a)]	\$300-\$2,000 <sup>6,11</sup> [346.65(3m)] (plus \$365 OWI surcharge)	30 days to 1 year <sup>6</sup> [346.65(3m)] Winnebago County: 15 days - 1 year <sup>17</sup> [346.65(3r)]	1-2 year revocation <sup>6,8</sup> [343.31(3)(e)]	After 60 days After 12 months if 2 or more offenses within 5 years [343.31(3m)(b)]	Yes	6
Causing Great <sup>4,10,16</sup> Bodily Harm by OWI [940.25(1)]	Up to \$25,000 <sup>6,7,10,11</sup> [939.50(3)(f)] (plus \$365 OWI surcharge)	Up to 12.5 years <sup>6,7,10</sup> imprisonment [939.50(3)(f)]	2 year revocation <sup>4,6,7,8</sup> [343.31(3)(f)]	After 120 days After 12 months if 2 or more offenses within 5 years [343.31(3m)(a)]	Yes	6
Homicide While OWI <sup>4,10,16</sup> [940.09(1)]	Up to \$100,000 <sup>6,7,10,11</sup> [939.50(3)(c),(d)] (plus \$365 OWI surcharge)	Up to 25 years or, <sup>6,7,10</sup> if one or more prior OWI-related offense, up to 40 years [930.50(3)(c),(d)]	5 year revocation <sup>4,6,7</sup> [343.31(3)(c)]	After 120 days After 12 months if 2 or more offenses within 5 years [343.31(3m)(a)]	Yes	6
Chemical Test Refusal <sup>10</sup> (First) [343.305(9)]			1 year revocation <sup>6</sup> [(343.305(10)(b)2)]	After 30 days [(343.305(10)(b)2)]	Yes	0
Chemical Test Refusal <sup>1,10</sup> (Second) [343.305(9)]			2 year revocation <sup>6</sup> [343.305(10)(b)3] Vehicle immobilized or equipped with IID <sup>8</sup> [343.305(10m)]	After 90 days <sup>3</sup> After 12 months if 2 or more offenses within 5 years [343.305(10)(b)3]	Yes	0
Chemical Test Refusal <sup>1,10</sup> (Third or greater) [343.305(9)]			3 year revocation <sup>6</sup> [343.305(10)(b)4] Vehicle immobilized or equipped with IID or may be seized <sup>8</sup> [343.305(10m)]	After 120 days <sup>3</sup> 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)]	Immediately [343.305(8)(d)]		0
Open Container (Driver or passenger) <sup>15</sup> [346.935]	\$100 [346.95(2m)]					0

- <sup>1</sup> Generally, second offenses are counted within a 10-year period. Third and subsequent are counted within an individual's lifetime dating back to 1/1/89. [346.65(2)(b)-(c), 343.305(10)(b)3-4, 1997 Wis. Act 237- s. 9348(2f)] The 10-year and lifetime periods are measured from the date of refusal or violation that resulted in conviction. [346.65(2c)]
- <sup>2</sup> Absolute sobriety is mandatory for an occupational license for persons with two or more suspensions, revocations or convictions. [343.10(5)(a)(2)]
- <sup>3</sup> 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 to be eligible for an occupational license. [343.10(2)(c), 343.30(1q)(c)]
- <sup>4</sup> If repeat offender, court may immobilize, equip with an ignition interlock device (IID) or seize vehicle. [940.09(1d), 940.25(1d)]
- <sup>5</sup> Assessment of the offender's use of alcohol or controlled substances is required except for first offenses where alcohol concentration (AC) >.08 and <.10. [343.30 (1q)(c)]
- <sup>6</sup> 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).] For third and subsequent OWI offenses, fines are increased according to AC. [346.65(2)]
- <sup>7</sup> 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)]
- <sup>8</sup> The vehicle owned by the offender and used in the offense may be immobilized or equipped with IID or the offender's operating privileges may be restricted to vehicles equipped with IID. [343.301(1)(a) and (2)(a)] For second or subsequent offenses, if there are 2 or more enumerated offenses committed within any 5 years such operating privilege restrictions are mandatory and all vehicles titled or registered in the offenders' name must be immobilized or equipped with IID. [343.301(1)(a) and (2)(a), 343.305(10m)] For third or subsequent the vehicle may be seized and forfeited. [346.65(6)(a)1]
- <sup>9</sup> Additional fees, assessments and surcharges will also apply except for first OWI offense where AC > .08 and < .10 [165.755(1), 302.46, 346.655(1), 757.05(1), 814.63(1), 814.65(1), 814.85(1), 814.86(1)]
- <sup>10</sup> If offense is committed while operating a commercial motor vehicle, then penalties will 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)]
- <sup>11</sup> For third or subsequent OWI offenses, fines are increased according to AC. [346.65(2)(g)]
- <sup>12</sup> 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)]
- <sup>13</sup> 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]
- <sup>14</sup> No OWI surcharge and no assessment of offender's alcohol or controlled substance use for first offense prohibited alcohol content [346.63(1)(b)] if AC > .08 and <.10. An OWI surcharge and an assessment are required for all first prohibited alcohol convictions where AC > .10 and for all first OWI convictions. [346.655(1), 343.30(1q)(c)1]
- <sup>15</sup> 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]
- <sup>16</sup> 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.
- <sup>17</sup> Winnebago County jail sentences are reduced only if the person successfully completes probation including alcohol and other drug treatment. 2005 Act 389.

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