

8TH JUDICIAL ADMINISTRATIVE DISTRICT
PAC SENTENCING GUIDELINES

Offenses committed
after January 1, 2014

Pursuant to Sec. 346.65(2m), Wis. Stats.

COSTS

FIRST OFFENSE

SECOND & SUBSEQUENT OFFENSES

Driver Improvement Surcharge (DIS)	\$435	\$435
Court Costs	\$ 25	\$163
Court Support Fee (CSF)	\$ 68	
Crime Lab & Drug Assessment (CLDA)	\$ 13	\$ 13
Justice Information Fee (JIF)	\$ 21.50	
Victim Witness Surcharge-Misdemeanor		\$ 67
Victim Witness Surcharge - Felony		\$ 92
Jail Assessment (JA)	\$ 10	1% or \$10, whichever is greater
Penalty Assessment (PA)	26%	26%
Ignition Interlock Surcharge (IIDS)	\$50 .15 or more	\$50 included in tables
Blood withdrawal cost	needs to be added to tables	needs to be added to tables

ADDITIONAL OWI PENALTIES

ALCOHOL ASSESSMENT:

The Court shall order the person to submit to and comply with an assessment by an approved public treatment facility for examination of the person's use of alcohol, controlled substances or controlled substance analogs and development of a driver safety plan for the person [§343.30(1q)(c)]. If the Court finds that the person is already covered by an assessment or is participating in a driver safety plan or has evidence presented to it by a County Department under §51.42 that the person has recently completed assessment, a driver safety plan or both, the Court is not required to make such an Order. [343.30(1q)(e)]

Court may order a reduction in court costs, fine or forfeiture to allow the offender to pay the difference for an alcohol assessment and driver safety plan [(§346.65)(2e)].

Court may order community service to reduce the amount of a fine or forfeiture [§346.65(2g)], or may order community service that demonstrates the adverse effects of substance abuse or driving under the influence, and may order a site visit that demonstrates the effects of substance abuse [§346.65(2g), §346.65(2i)].

Court may also order restitution [§346.65(2r)(a)].

COUNTY OFFERING REDUCED MINIMUM PERIOD OF IMPRISONMENT FOR SUCCESSFUL COMPLETION OF PROBATION INCLUDING ALCOHOL AND DRUG TREATMENT

In any county offering reduced minimum periods of imprisonment for successful completion of probation including Alcohol and Drug Treatment, the period of imprisonment shall not be less than 5 nor more than 7 days for a second offense (346.65(2j)(bm)), not less than 14 days for a 3rd offense (346.65(2j)(cm)) and not less than 29 days for a 4th Offense (346.65(2j)(cr)).

Ignition Interlock Devices (IIDS)

Ignition Interlock Devices (IIDS) will be mandatory on

1. All repeat OWI's.
2. All refusals

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3. All 1st Offense OWI's with a PAC .15 or higher.

IID must be installed on every vehicle titled or registered to the defendant unless doing so would cause an undue financial hardship. The length of IIDS restriction. Minimum 1 year, maximum possible revocation period plus actual imprisonment sentence (343.301(2m)). IID restriction begins on date DOT issues the offender any operator's license. Court has authority to impose IID installed on vehicle immediately or as of a later date. OWI offenders granted Huber law release privileges must submit proof of IID installation within 2 weeks of sentencing (303.08(10r)).

MITIGATING AND AGGRAVATING FACTORS IN SENTENCING

MITIGATING FACTORS:

- *Age of prior OAWI/BAC Offense/Conviction
- *Pre-conviction Assessment and Treatment
- *Good Driving Record; * Minimal Poor Driving
- *Cooperation with Authorities; * Positive Attitude/Steps Toward Problem Recognition
- *Blood Test Taken

AGGRAVATING FACTORS:

- *Poor Driving; * Accident or Injury Involved; *Poor Prior Driving Record; *Lack of Remorse
- *Recent Prior OAWI/BAC Offense/Conviction
- *Operating Without Valid Driving Privileges (i.e. OAR, OAS, OWL, HTO).
- *Circumstances of Consumption (Binge Drinking, Amount Consumed, Medication, Use, etc)
- *Poor/Limited Problem Recognition as Evidenced by Prior Treatment History or Lack Thereof
- *Uncooperative/Belligerent/Violent Toward Arresting Officer
- *Prior Uncounted Offenses for OAWI/BAC
- *For 3rd Plus Offenses: Previously Uncounted Offenses from January 1, 1988, per (1993 Wisconsin Act 317, Effective April 30, 1994
- *Combination of alcohol and controlled substance use

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Pursuant to Sec. 346.65(2m), Wis. Stats.

2ND OFFENSE [§346.65(2)(b)] **or**

1st Offense with passenger under age 16

PENALTY RANGE

<u>Ignition Interlock Device:</u>	Minimum 1 year to a maximum of 18 months.
<u>PROBATION:</u>	Probation for up to 2 years may be used if the person is subjected to at least the mandatory minimum period of imprisonment [97309(1)(d)(1)].
<u>JAIL:</u> 5 days (1) - 6 months	Minimum and maximum imprisonment doubled if there was a minor passenger under age 16 [§346.65(2)(f)]. [Minimum 48 consecutive hours in jail (§346.65(7))]
<u>FINE:</u> \$350 - \$1100	Minimum and maximum fine is doubled if there was a minor passenger under age 16 [§346.65(2)(f)]

REVOCAATION: 12 - 18 months. Minimum and maximum period is doubled if there was a minor passenger under age 16 [§343.30(1q)(b)4m]. (Occupational - 45 day waiting period, and must complete Alcohol Assessment and be in compliance with drivers safety plan and absolute sobriety during use.)

<u>PAC LEVEL</u>	Mitigating Driving Factors	Aggravating Driving Factors
.099 or below	\$350.00 Fine + Costs	\$400.00 Fine + Costs
	10 days jail, \$1,379.00 Total	20 days jail, \$1,442.00 Total
.10 to .169	12 months revocation	13 months revocation
	\$450.00 Fine + Costs	\$500.00 Fine + Costs
.17 to .199	20 days jail, \$1,505.00 Total	30 days jail, \$1,568.00 Total
	13 months revocation	14 months revocation
.20 to .249	\$550.00 Fine + Costs	\$600.00 Fine + Costs
	40 days jail, \$1,631.00 Total	60 days jail, \$1,694.00 Total
.25 or above	14 months revocation	15 months revocation
	\$650.00 Fine + Costs	\$700.00 Fine + Costs
Refusal	60 days jail, \$1,757.00 Total	90 days jail, \$1,820.00 Total
	15 months revocation	16 months revocation
	\$750.00 Fine + Costs	\$800.00 Fine & Costs
	80 days jail, \$1,883.00 Total	120 days jail, \$1,946.00 Total
	17 months revocation	18 months revocation
	\$850.00 Fine + Costs	\$900.00 Fine + Costs
	100 days jail, \$2,009.00 Total	150 days jail, \$2,072.00 Total
	18 months revocation	18 months revocation

If separate finding of a refusal, 2 year revocation of operating privileges and 90 day waiting period for an occupational. *

Revocation period doubled if there was a minor passenger under age 16 [§343.305(10)(b)4m].

(1) §346.65(2g)(d) The Court shall ensure that the person is imprisoned for not less than 5 days or ordered to perform not less than 30 days of community service work under §973.03(3)(a).

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4TH OFFENSE [§346.65(2)(d)] (MISD)

Ignition Interlock Device: Minimum of 1 year to maximum of 36 months.
PROBATION: Probation for up to 3 years may be used if the person is subjected to at least the mandatory minimum period of imprisonment [973.09(1)(d)(1)].
JAIL: 60 days - 12 months (1) Minimum and maximum imprisonment doubled if there was a minor passenger under age 16 [§346.65(2)(f)]. Offense is a felony and place of imprisonment determined under §973.02.
 [Minimum 48 consecutive hours in jail (§346.65(7))]
FINE: \$600 - \$2000 Minimum and maximum fine is doubled if there was a minor passenger under age 16 [§346.65(2)(f)]
 (1) Minimum and maximum fine is doubled if PAC .17 to .199.
 (2) Minimum and maximum fine is tripled if PAC 0.20 to 0.249.
 (3) Minimum and maximum fine is quadrupled if PAC 0.25 or above.

REVOCAATION: 24 - 36 months. Minimum and maximum period is doubled if there was a minor passenger under age 16 [§343.30(1q)(b)4m]. *** (Occupational - 45 day waiting period, and must complete Alcohol Assessment and be in compliance with drivers safety plan and absolute sobriety during use.)

<u>PAC LEVEL</u>	Mitigating Driving Factors	Aggravating Driving Factors
.099 or below	\$800.00 Fine + Costs 100 days jail, \$1,946.00 Total 36 month revocation	\$900.00 Fine + Costs 125 days jail, \$2,072.00 Total 36 month revocation
.10 to .169	\$1,000.00 Fine + Costs 125 days jail, \$2,198.00 Total 36 month revocation	\$1,100.00 Fine + Costs 150 days jail, \$2,325.00 Total 36 month revocation
.17 to .199 (1)	\$1,400.00 Fine + Costs 150 days jail, \$2,706.00 Total 36 month revocation	\$1,500.00 Fine + Costs 175 days jail, \$2,833.00 Total 36 month revocation
.20 to .249 (2)	\$2,000.00 Fine + Costs 175 days jail, \$3,468.00 Total 36 month revocation	\$2,100.00 Fine + Costs 200 days jail, \$3,595.00 Total 36 month revocation
.25 or above (3)	\$2,600.00 Fine + Costs 200 days jail \$4,230.00 Total 36 month revocation	\$2,700.00 Fine + Costs 225 days jail, \$4,357.00 Total 36 month revocation
Refusal	\$2,000.00 Fine + Costs 250 days jail \$3,468.00 Total 36 month revocation	\$2,000.00 Fine + Costs 275 days jail, \$3,468.00 Total 36 month revocation

If separate finding of a refusal, 3 year revocation of operating privileges and 120 day waiting period for an occupational. * Revocation period doubled if there was a minor passenger under age 16 [§343.305(10)(b)4m]

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4TH IF FELONY AND SUBSEQUENT OFFENSES [§346.65(2)(e)]

Ignition Interlock Device: Minimum of 1 year to a maximum of 36 months.

PROBATION: Probation may be used for Class H felony only if the person is subjected to at least the mandatory minimum period of imprisonment [973.09(1)(d)(1)].

INCARCERATION: [Offense is a Felony and place of imprisonment determined under §973.02].

6-Months – 6 years (a) Class H*
 3 years – 10 years (a) Class G*
 4 years – 12..5 years(a) Class F*

COURT’S DISCRETION AS TO LENGTH OF JAIL OR PRISON SENTENCE. COURT SHOULD CONSIDER ORDERING PRE-SENTENCE REPORT.

(a) Minimum and maximum imprisonment doubled if there was a minor passenger under age 16 [§346.65(2)(f)].
 [Minimum 48 consecutive hours in jail (§346.65(7))]

FINE: \$600 - \$10,000 Class H
 \$0 - \$25,000 Class G
 \$0 - \$25,000 Class F

Minimum and maximum fine is doubled if there was a minor passenger under age 16 [§346.65(2)(f)]

(1) Minimum and maximum fine is doubled if PAC .17 to .199.
 (2) Minimum and maximum fine is tripled if PAC 0.20 to 0.249.
 (3) Minimum and maximum fine is quadrupled if PAC .25 or above.

REVOCAATION: 24 - 36 months. Minimum and maximum period is doubled if there was a minor passenger under age 16 [§343.30(1q)(b)4m].

*** (Occupational - 45 day waiting period, and must complete Alcohol Assessment and be in compliance with drivers safety plan and absolute sobriety during use.)

<u>PAC LEVEL</u>	Mitigating Driving Factors	Aggravating
.099 or	\$1,000.00 Fine + Costs (INCARCERATION-SEE ABOVE) \$2,273.00 Total 36 month revocation	\$1,100.00 Fine + Costs \$2,400.00 Total 36 month revocation
.10 to .169	\$1,200.00 Fine + Costs (INCARCERATION-SEE ABOVE) \$2,527.00 Total 36 month revocation	\$1,300.00 Fine + Costs \$2,554.00 Total 36 month revocation
.17 to .249	\$1,600.00 Fine + Costs (INCARCERATION-SEE ABOVE) \$3,035.00 Total 36 month revocation	\$1,700.00 Fine + Costs \$3,162.00 Total 36 month revocation
.20 to .249	\$2,200.00 Fine + Costs (INCARCERATION-SEE ABOVE) \$3,797.00 Total 36 month revocation	\$2,300.00 Fine + Costs \$3,924.00 Total 36 month revocation

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.25 or above	\$2,800.00 Fine + Costs (INCARCERATION-SEE ABOVE)	\$2,900.00 Fine + Costs
	\$4,559.00 Total	\$4,686.00 Total
	36 month revocation	36 month revocation
Refusal	\$3,000.00 Fine + Costs (INCARCERATION-SEE ABOVE)	\$3,500.00 Fine + Costs
	\$4,813.00 Total	\$5,448.00 Total
	36 month revocation	36 month revocation

** If separate finding of a refusal, 3 year revocation of operating privileges and 120 day waiting period for an occupational. *** Revocation period doubled if there was a minor passenger under age 16 [343.305(10)(b)4m].

*4th, 5th or 6th Offense is a Class H Felony

* 7th, 8th or 9th Offense is a Class G Felony

*10th Offense or more is a Class F Felony

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FIRST OFFENSE**COMMERCIAL MOTOR VEHICLES**

Citations Issues After January 1, 2014

BAC Level	.040 to .08	
	Mitigated	Aggravated
Penalty	769.50	858.50
Forfeiture	150.00	200.00
DIS	435.00	435.00
Costs	25.00	25.00
CSF	68.00	68.00
(26% of Forfeiture) PA	39.00	78.00
JA	10.00	10.00
JISF	21.50	21.50
CL/DL	13.00	13.00
TDEA	8.00	8.00
Suspension	0(DMV)	0(DMV)

PENALTY RANGE**FORFEITURE:** \$150 minimum to \$400 maximum**DIS:** Increase per §346.655**SUSPENSION:** NOT MANDATORY**ALCOHOL ASSESSMENT**

1. Court may order community service work to reduce the amount of a forfeiture. Court may also order restitution.
2. If there is a minor passenger under 16 years of age in the commercial motor vehicle at the time of violation, the minimum and maximum forfeiture is doubled.

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SECOND OFFENSE**COMMERCIAL MOTOR VEHICLES**

Citations Issued After January 1, 2014

BAC Level	.040 to .080	
	Mitigated	Aggravated
Jail	20 days	40 days
Penalty	1131.00	1257.00
Fine	300.00	400.00
DIS	435.00	435.00
Costs	20.00	20.00
VWS	67.00	67.00
(26% of Fine) PA	78.00	104.00
JA	10.00	10.00
CL/DL	13.00	13.00
TDEA	8.00	8.00
DNA Surcharge	200.00	200.00
Revocation/Suspension	0(DMV)	0 (DMV)

PENALTY RANGE**FINE AMOUNT:** \$300 minimum to \$1000 maximum**DIS:** Increase per \$346.655**VWS:** VWS may not be waived, reduced or forgiven [\$973.045(1)]**JAIL:** Not less than 5 days or ordered to perform not less than 30 days of community service work nor more than 6 months.**REVOCAION/SUSPENSION:** NOT MANDATORY**ALCOHOL ASSESSMENT**

1. Court may order community service work to reduce the amount of a fine. Court may also order restitution.
2. If there is a minor passenger under 16 years of age in the commercial motor vehicle at the time of the violation, the minimum and maximum fine is doubled.

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THIRD OFFENSE**COMMERCIAL MOTOR VEHICLES**

Citations Issued After January 1, 2014

BAC Level	.040 to .080	
	Minimum Driving	Aggravated Driving
	<i>No Accident</i>	<i>Accident or Injury</i>
		<i>Bad Driving Record</i>
Jail	120 days	180 days
Penalty	1509.00	1635.00
Fine	600.00	700.00
DIS	435.00	435.00
Costs	20.00	20.00
VWS	67.00	67.00
(26% of Fine) PA	156.00	182.00
JA	10.00	10.00
CL/DL	13.00	13.00
TDEA	8.00	8.00
DNA Surcharge	200.00	200.00
Revocation/Suspension	0(DMV)	0(DMV)

PENALTY RANGE**FINE AMOUNT:** \$600 minimum to \$2000 maximum**JAIL:** 30 days - 12 months**DIS:** Increase per §346.655**VWS:** VWS may not be waived, reduced or forgiven [§973.045(1)]**REVOCATION/SUSPENSION:** NOT MANDATORY**ALCOHOL ASSESSMENT**

1. Court may order community service work to reduce the amount of a fine. Court may also order restitution.
2. If there is a minor passenger under 16 years of age in the commercial motor vehicle at the time of the violation, the minimum and maximum fine is doubled.

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