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STATE OF WISCONSIN

SECOND JUDICIAL DISTRICT

RACINE COUNTY COURTHOUSE
730 WISCONSIN AVENUE
RACINE, WISCONSIN 53403

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MUNICIPAL COURT

OWI Sentencing Guidelines – Second District

Offenses Occurring on or after January 1, 2014

Non Commercial, Not 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 ¹	\$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 ²	\$38.00	\$38.00	\$38.00	\$38.00	\$38.00
Driver Improvement Surcharge ³	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00
Ignition Interlock Surcharge	NA	\$50.00	\$50.00	\$50.00	\$50.00
Total Financial	\$716.50	\$766.50	\$798.00	\$861.00	\$924.00
Suspension/Revocation ⁴	6 months	6 months	7 months	8 months	9 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 ¹	\$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 ²	\$38.00	\$38.00	\$38.00	\$38.00	\$38.00
Driver Improvement Surcharge ³	\$435.00	\$435.00	\$435.00	\$435.00	\$435.00
Ignition Interlock Surcharge	NA	\$50.00	\$50.00	\$50.00	\$50.00
Total Financial	\$748.00	\$798.00	\$861.00	\$924.00	\$914.00
Suspension/Revocation ⁴	7 months	7 months	8 months	9 months	9 months

*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. (See attached)

¹ Penalty Surcharge is 26% of the base fine.

² Court Cost: \$15.00 to \$38.00 [§814.65(1)].

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

⁴ Mandatory revocation of 6-9 months with a BAC of .08 or greater [§343.30(1q)(b)(2)].

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OWI Sentencing Guidelines: Effective January 1, 2014

**SECOND JUDICIAL DISTRICT OWI GUIDELINES – 1ST OFFENSE (CIRCUIT COURT)
 EFFECTIVE 1/1/2014**

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
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
TOTAL	\$761.50	\$824.50	\$874.50	\$937.50	\$937.50	\$1,000.50	\$1,000.50	\$1,000.50
REVOCATION	6 months	7 months	7 months	8 months	8 months	9 months	9 months	9 months

**SECOND JUDICIAL DISTRICT OWI GUIDELINES – 2ND OFFENSE
 EFFECTIVE 1/1/2014**

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
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	\$1,379.00	\$1,442.00	\$1,442.00	\$1,505.00	\$1,505.00	\$1,568.00	\$1,568.00	\$1,631.00
JAIL	30 days	60 days	60 days	90 days	90 days	120 days	120 days	180 days
REVOCATION	12 months	14 months	14 months	16 months	16 months	18 months	18 months	18 months

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. §346.65(2g)(ag), Stats

-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) §303.065(2m), Stats.

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, §940.09(1), Stats., and Causing Great Bodily Harm by Intoxicated Use of a Motor Vehicle §940.25, Stats., 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 and 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 offence 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 offences for OWI
- lengthy prior driving record for other types of offences
- Time and location of driving
- Interval since last offence
- Failure to comply with surcharge ordered in the past
- Lack of insurance coverage

Occupational Licenses

1. Waiting Period

1st 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 2nd 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 §346.65(6)(a). See 343.10(5)(a)3., Stats.