

OWI AND RELATED ALCOHOL AND DRUG PENALTIES (AS OF DECEMBER 1, 2018)

| Conviction | Fine or Forfeiture | Confinement Sentence | Driving Consequences if Committed in Wisconsin | Consequences if Minor under 16 in Vehicle | Consequences if Committed in Another Jurisdiction | Occupational License |
|--|--|--|--|---|---|---|
| OWI, First Offense [346.63(1)] (Per se AC ≥ 0.08) [340.01(46m)(a)] | \$150-\$300 [346.65(2)(am)1.] (plus \$435 OWI surcharge) [346.655] | No. | Revocation: 6 - 9 month [343.30(1q)(b)2.] If AC is 0.15 or more: IID or 24/7 sobriety program required for 1 year [343.301(1g), (2m)] | Fine: \$350 - \$1100 [346.65(2)(f)1.] Jail: 5 days to 6 months [346.65(2)(f)1.] Rev./IID Max. Length: 12 - 18 months + confinement length [343.30(1q)(b)4m., 343.30(1r)] | Revocation: 6 months [343.31(2), (3)(b)] | Can apply immediately [343.30(1q)(b)2.] If IID is ordered: 0.02 PAC limit [340.01(46m)(c)] |
| OWI, Second Offense No prior OWI within 10 years nor Great Bodily Harm or Homicide by Intoxicated Use of offenses during offender's life. [346.63(1)] (Per se AC ≥ 0.08) [340.01(46m)(a)] | \$150-300 [346.65(2)(am)1.] (plus \$435 OWI surcharge) [346.655] | No. | Revocation: 6 - 9 month [343.30(1q)(b)2.] IID or 24/7 sobriety program required for 1 year [343.301(1g), (2m)] | Fine: \$350 - \$1100 [346.65(2)(f)1.] Jail: 5 days to 6 months [346.65(2)(f)1.] Rev./IID Max. Length: 12 - 18 months + confinement length [343.30(1q)(b)4m., 343.30(1r)] | Revocation: 6 months [343.31(2), (3)(b)] | Can apply immediately [343.30(1q)(b)2.] Absolute Sobriety Required [343.10(5)(a)2.] |
| OWI, Second Offense Prior OWI within 10 years or Great Bodily Harm or Homicide by Intoxicated Use of offense during offender's life. [346.63(1)] (Per se AC ≥ 0.08) [340.01(46m)(a)] | \$350-1,100 [346.65(2)(am)2.] (plus \$435 OWI surcharge) [346.655] | 5 days - 6 months [346.65(2)(am)2.] Safe Streets option: 5 days - 7 days [346.65(2)(bm)] | Revocation: 12 - 18 month + confinement length [343.30(1q)(b)3., 343.30(1r)] IID or 24/7 sobriety program required for 1 year to 18 months + confinement length [343.301(1g), (2m)] | Fine: \$700 - 2,200 [343.30(1q)(b)4m.] Jail: 10 days - 12 months [343.30(1q)(b)4m.] Rev./IID Max. Length: 2 - 3 years + confinement length [346.65(2)(f)2., 343.30(1r)] | Revocation: 1 year [343.31(2), (3)(a)] | Can apply after 45 days [343.30(1q)(b)3.] Absolute Sobriety Required [343.10(5)(a)2.] |
| OWI, Third Offense [346.63(1)] (Per se AC ≥ 0.08) [340.01(46m)(a)] | \$600-2,000 (Excessive BAC Escalator) ¹ [346.65(2)(am)3.] (plus \$435 OWI surcharge) [346.655] | 45 days - 1 year [346.65(2)(am)3.] Safe Streets option: 14 days - 1 year [346.65(2)(cm)] | Revocation: 2 - 3 year + confinement length [343.30(1q)(b)4., 343.30(1r)] IID or 24/7 sobriety program required for 1 year to 3 years + confinement length [343.301(1g), (2m)] | Fine: \$1,200 - 4,000 [343.30(1q)(b)4m.] Jail: 90 days - 2 years [343.30(1q)(b)4m.] Rev./IID Max. Length: 4 - 6 years + confinement length [346.65(2)(f)2., 343.30(1r)] | Revocation: 1 year [343.31(2), (3)(a)] | Can apply after 45 days [343.30(1q)(b)3.] Absolute Sobriety Required [343.10(5)(a)2.] |
| OWI, Fourth Offense [346.63(1)] (Per se AC > 0.02) [340.01(46m)(c)] | \$600-10,000 (Excessive BAC Escalator) ¹ [346.65(2)(am)4., 939.50(3)(h)] (plus \$435 OWI surcharge) [346.655] | Class H Felony 60 days - 6 years [346.65(2)(am)4., 939.50(3)(h)] Safe Streets option: 29 days - 6 years [346.65(2)(dm)] | Revocation: 2 - 3 year + confinement length [343.30(1q)(b)4., 343.30(1r)] IID or 24/7 sobriety program required for 1 year to 3 years + confinement length [343.301(1g), (2m)] | Fine: \$1,200 - 20,000 [343.30(1q)(b)4m.] Jail: 120 days - 12 years [343.30(1q)(b)4m.] Rev./IID Max. Length: 4 - 6 years + confinement length [346.65(2)(f)2., 343.30(1r)] | Revocation: 1 year [343.31(2), (3)(a)] | Can apply after 45 days [343.30(1q)(b)4.] Absolute Sobriety Required [343.10(5)(a)2.] |
| OWI, Fifth or Sixth Offense [346.63(1)] (Per se AC > .02) [340.01(46m)(c)] | \$600-25,000 (Excessive BAC Escalator) ¹ [346.65(2)(am)5., 939.50(3)(g)] (plus \$435 OWI surcharge) [346.655] | Class G Felony 6 months - 10 years [346.65(2)(am)5., 939.50(3)(g)] | Revocation: 2 - 3 year + confinement length [343.30(1q)(b)4., 343.30(1r)] IID or 24/7 sobriety program required for 1 year to 3 years + confinement length [343.301(1g), (2m)] | Fine: \$1,200 - 50,000 [343.30(1q)(b)4m.] Jail: 1 year - 20 years [343.30(1q)(b)4m.] Rev./IID Max. Length: 4 - 6 years + confinement length [346.65(2)(f)2., 343.30(1r)] | Revocation: 1 year [343.31(2), (3)(a)] | Can apply after 45 days [343.30(1q)(b)4.] Absolute Sobriety Required [343.10(5)(a)2.] |
| OWI, Seventh, Eighth, or Ninth Offense [346.63(1)] (Per se AC > .02) [340.01(46m)(c)] | Up to \$25,000 [346.65(2)(am)6., 939.50(3)(f)] (plus \$435 OWI surcharge) [346.655] | Class F Felony 3 - 12.5 years [346.65(2)(am)6., 939.50(3)(f)] | Revocation: 2 - 3 years + confinement length [343.30(1q)(b)4., 343.30(1r)] IID or 24/7 sobriety program required for 1 year to 3 years + confinement length [343.301(1g), (2m)] | Fine: Up to \$50,000 [343.30(1q)(b)4m.] Jail: 6 - 25 years [343.30(1q)(b)4m.] Rev./IID Max. Length: 4 - 6 years + confinement length [346.65(2)(f)2., 343.30(1r)] | Revocation: 1 year [343.31(2), (3)(a)] | Can apply after 45 days [343.30(1q)(b)4.] Absolute Sobriety Required [343.10(5)(a)2.] |
| OWI, Tenth or Greater Offense [346.63(1)] (Per se AC > .02) [340.01(46m)(c)] | Up to \$50,000 [346.65(2)(am)7., 939.50(3)(e)] (plus \$435 OWI surcharge) [346.655] | Class E Felony 4 - 15 years [346.65(2)(am)7., 939.50(3)(e)] | Revocation: 2 - 3 years + confinement length [343.30(1q)(b)4., 343.30(1r)] IID or 24/7 sobriety program required for 1 year to 3 years + confinement length [343.301(1g), (2m)] | Fine: Up to \$100,000 [343.30(1q)(b)4m.] Jail: 8 - 30 years [343.30(1q)(b)4m.] Rev./IID Max. Length: 4 - 6 years + confinement length [346.65(2)(f)2., 343.30(1r)] | Revocation: 1 year [343.31(2), (3)(a)] | Can apply after 45 days [343.30(1q)(b)4.] Absolute Sobriety Required [343.10(5)(a)2.] |
| Causing Injury While OWI with no prior OWI offense or chemical test refusal [346.63(2)(a)] | \$300-2,000 [346.65(3m)] (plus \$435 OWI surcharge) [346.655] | 30 days - 1 year [346.65(3m)] Safe Streets option: 15 days - 1 year [346.65(3r)] | Revocation: 1 - 2 years + confinement length [343.31(1)(am), (3)(e), (4)] If AC of 0.15 or higher: IID or 24/7 sobriety program required for 1 year to 2 years + confinement length [343.301(1g), (2m)] | Fine: \$600 - 4,000 [346.65(3m)] Jail: 60 days - 2 years [346.65(3m)] Rev./IID Max. Length: 2 - 4 years + confinement length [343.31(1)(am), (3), (4)] | Revocation: 1 - 2 years [343.31(1)(am), (3)(e)] | Can apply after 60 days [343.31(3m)(b)] If IID is ordered: 0.02 PAC limit [340.01(46m)(c)] |
| Causing Injury while OWI with prior OWI offense or chemical test refusal [346.63(2)(a)] | Up to \$10,000 [346.65(3p), 939.50(3)(h)] (plus \$435 OWI surcharge) [346.655] | Class H Felony Up to 6 years [939.50(3)(h)] | Revocation: 1 - 2 years + confinement length [343.31(1)(am), (3)(e), (4)] If AC of 0.15 or higher: IID or 24/7 sobriety program required for 1 year to 2 years + confinement length [343.301(1g), (2m)] | Fine: Up to \$20,000 [346.65(3p)] Jail: Up to 12 years [346.65(3p)] Rev./IID Max. Length: 2 - 4 years + confinement length [343.31(1)(am), (3), (4)] | Revocation: 1 - 2 years [343.31(1)(am), (3)(e)] | Can apply after 60 days, except if 2 or more offenses within 5 years can apply after 1 year [343.31(3m)(b)] Absolute Sobriety Required [343.10(5)(a)2.] |
| Causing Great Bodily Harm by OWI [940.25(1)] | Up to \$25,000 [939.50(3)(f)] (plus \$435 OWI surcharge) [346.655] | Class F Felony Up to 12.5 years [939.50(3)(f)] | Revocation: 2 years + confinement length [343.31(1)(a), (3)(f), (4)] If AC is 0.15 or more, or not first offense: IID or 24/7 sobriety program required for 1 year to 2 year + confinement length [343.301(1g), (2m)] | Rev./IID Max. Length: 4 years + confinement length [343.31(1)(a), (3)(f), (4)] *If unborn child is in vehicle: Rev./IID Max. Length: 4 years + confinement length [343.31(1)(a), (3)(f), (4)] | Revocation: 2 years [343.31(1)(a), (3)(f)] | Can apply after 120 days, except if 2 or more offenses within 5 years can apply after 1 year [343.31(3m)(a)] Absolute Sobriety Required [343.10(5)(a)2.] |
| Homicide While OWI [940.09(1)] | Up to \$100,000 [939.50(3)(c), (d)] (plus \$435 OWI surcharge) [346.655] | Class D Felony Up to 25 years If driver has prior OWI- related offense: Class C Felony, up to 40 years [939.50(3)(c), (d)] | Revocation: 5 years + confinement length [343.31(1)(a), (3)(c), (4)] If AC is 0.15 or more, or not first offense: IID or 24/7 sobriety program required for 1 year to 5 years + confinement length [343.301(1g), (2m)] | Rev./IID Max. Length: 10 years + confinement length [343.31(1)(a), (3)(c), (4)] *If unborn child is in vehicle: Rev./IID Max. Length: 10 years + confinement length [343.31(1)(a), (3)(c), (4)] | Revocation: 5 years [343.31(1)(a), (3)(c)] | Can apply after 120 days, except if 2 or more offenses within 5 years can apply after 1 year [343.31(3m)(a)] Absolute Sobriety Required [343.10(5)(a)2.] |

¹"Lifetime" revocation for a person convicted in WI or another jurisdiction of a controllable alcohol offense in the person's lifetime, or 2 controllable alcohol offenses in any 25-year period plus 2 other offenses that are Ch. 341 to 348 felony offenses or WI motor vehicle offenses involving second degree reckless homicide, homicide by intoxicated use of a firearm or vehicle, or homicide by intoxicated use of a vehicle. [343.31(1m)]. No occupational license possible. [Id.]

| Conviction | Fine or Forfeiture | Confinement Sentence | Driving Consequences if Committed in Wisconsin | Consequences if Minor under 16 in Vehicle | Consequences if Committed in Another Jurisdiction | Occupational License |
|---|---|----------------------|--|---|---|---|
| Chemical Test Refusal (First Offense) [343.305(9)] | None | None | Revocation: 1 year [343.305(10)(b)2.] IID or 24/7 sobriety program required for 1 year [343.301(1g)(a)1., (2m), 343.305(10m)] | Rev./IID Max. Length: 2 years [343.305(10)(b)4m.] | CDL only | Can apply after 30 days [343.305(10)(b)2.] 0.02 PAC limit [340.01(46m)] |
| Chemical Test Refusal (Second Offense) No prior OWI within 10 years nor Great Bodily Harm or Homicide by Intoxicated Use offenses during offender's life. [343.305(9)] | None | None | Revocation: 1 year [343.305(10)(b)2., (b)3.] IID or 24/7 sobriety program required for 1 year [343.301(1g)(a)1., (2m), 343.305(10m)] | Rev./IID Max. Length: 2 years [343.305(10)(b)4m.] | CDL only | Can apply after 30 days [343.305(10)(b)2.] Absolute Sobriety Required [343.10(5)(a)2.] |
| Chemical Test Refusal (Second Offense) Prior OWI within 10 years or Great Bodily Harm or Homicide by Intoxicated Use offenses during offender's life. [343.305(9)] | None | None | Revocation: 2 year [343.305(10)(b)3.] IID or 24/7 sobriety program required for 1 year to 2 years + confinement length [343.301(1g)(a)1., (2m), 343.305(10m)] | Rev./IID Max. Length: 4 years [343.305(10)(b)4m.] | CDL only | Can apply after 90 days, except if 2 or more offenses within 5 years: Can apply after 1 year [343.305(10)(b)3.] Absolute Sobriety Required [343.10(5)(a)2.] |
| Chemical Test Refusal (Third or Greater Offense) [343.305(9)] | None | None | Revocation: 3 years [343.305(10)(b)4.] IID or 24/7 sobriety program required for 1 year to 3 years + confinement length [343.301(1g)(a)1., (2m), 343.305(10m)] | Rev./IID Max. Length: 6 years [343.305(10)(b)4m.] | CDL only | Can apply after 120 days except if 2 or more offenses within 5 years: Can apply after 1 year [343.305(10)(b)4.] Absolute Sobriety Required [343.10(5)(a)2.] |
| Administrative Suspension for Prohibited Alcohol Concentration [343.305(7)] | None | None | 6 month suspension (7)(a) [343.305] | N/A | CDL only | Can apply immediately [343.305(8)(d)] |
| Open Container (Driver or passenger) ² [346.935(1)] (Commercial Motor Vehicle) [346.63(7)(a)3.] | \$100 [346.95(2m)] If commercial motor vehicle is involved: Add \$10 [346.65(2u)(a)] | None | If commercial motor vehicle is involved: 24-hour disqualification [343.315(2)(g), 346.65(2u)(b)] | N/A | N/A | N/A |

"Lifetime" revocation possible. See this column, page 1.

Notes:

Definition of Operating while Intoxicated

Under Wisconsin law, a driver is considered to be operating while intoxicated if:

- (1) the driver is under the influence of an intoxicant so that his ability to operate a vehicle was impaired [346.63(1)(a)];
- (2) the driver has an alcohol concentration in excess of what the law allows. This limit generally decreases for problem drivers. The PAC (prohibited alcohol concentration) for first, second and third offenders is 0.08. For fourth and subsequent offenders as well as for all drivers who are subject to an ignition interlock order, the PAC is 0.02 [340.01(46m), 346.63(1)(b)]; or
- (3) the driver has any amount of a restricted controlled substance in his/her blood [340.01(50m), 346.63(1)(b)].

Period between Offenses

The period between offenses are measured violation date to violation date. [346.65(2e)].

Occupational Licenses

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] Obtaining an occupational license will require payment of \$240 (\$50 reinstatement fee + \$140 OWI-related fee + \$40 occupational fee license + \$10 license issuance fee). [343.21(1)(j), (jr), (k), (n)] No occupational license may be issued to an offender who fails to pay \$50 IID Surcharge. [343.10(2)(f)] 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), (f), 343.30(1q)(c)]

Ignition Interlock Devices (IIDs) and 24/7 Sobriety Programs

Courts enter IID orders on any repeat offender, any first offender with a BAC of 0.15 or more and any person who refuses a chemical test. [343.301(1g)] A driver subject to an IID order will have his/her Class D operating privileges restricted for a minimum of 1 year to a maximum period equal to the length of the driver's revocation (which includes extensions for confinement and for having a minor under 16 or an unborn child in the vehicle at the time of the offense). [343.301(2m)] The IID restriction will begin on the date the driver obtains any license (including occupational license) in Wisconsin. [343.301(2m)] The IID order also requires the installation of IIDs on every vehicle titled or registered in the driver's name, unless undue financial hardship would result. [343.301(1g), (1m)] Courts can require the vehicle order to begin immediately. Courts will charge a \$50 IID Surcharge when issuing IID orders. [343.301(5)] A 24/7 sobriety program may be substituted for IID participation, if court approved. [343.301(1g)(am)2.]

Minor under 16 in Vehicle at Time of Offense

Penalties are often doubled if a minor under the age of 16 was in the vehicle at the time of the offense. For a first OWI offense and a second OWI offense with no prior offenses in the preceding 10 years, fines are more than doubled, jail time is added and revocation penalties are doubled. (See chart.) For a second OWI offense with prior convictions within 10 years of offense as well as third or greater OWI offenses and causing injury while intoxicated offenses, fines/forfeitures, jail time and suspensions/revocations penalties are doubled. For causing great bodily harm or homicide while intoxicated offenses and chemical test refusals, the revocation penalties are doubled. [343.30(1q)(b)4m, 343.305(10)(b)4m, 343.31(3)(c), (e), (f) and 346.65(2)(f), (3m), (3p)] Penalties and the revocation are also doubled for causing great bodily harm or homicide by intoxicated use if an unborn child is in the vehicle at the time of the offense. [343.31(3)(c), (f)]

Huber Release

Regardless of when the a court orders IIDs to be installed, an offender cannot be released from jail under the Huber Law unless IIDs are installed in each vehicle to which the order applies within 2 weeks of being convicted. Failure to install IIDs within this 2 week period will result in being ineligible for Huber release for the duration of the sentence. This failure cannot be corrected by installing the IIDs at a later time. Sheriffs lack any discretionary power in imposing this Huber release restriction. [303.08(10r)] An offender will also be required to submit to assessment and treatment as a condition of Huber release unless he/she lacks sufficient funds to comply. [303.08(10m)]

Consequences to Holders of Commercial Drivers Licenses

If any of the listed offenses (except Open Container offenses) are committed while operating a commercial motor vehicle or were committed by a holder of a commercial drivers license (CDL) after September 30, 2005, the following sanctions are applicable:

- (1) for first offenders, a 1-year CDL disqualification (a 3-year CDL disqualification if transporting hazardous materials) [343.315(2)(a), (b)]; or
- (2) for 2nd and subsequent offenders (with first offense after July 1, 1987), a lifetime CDL disqualification. [346.315(2)(c)]

"Safe Street" Option

A modified probation option known as "Safe Street" is available for certain second, third, fourth OWI offenses and first offense causing injury by intoxicated use of a motor vehicle. Mandatory jail sentences are reduced only if the person completes probation, including alcohol and other drug treatment. This option may only be used once in a person's lifetime.

Demerit Points

All offenses listed on this chart result in the assessment of demerit points except chemical test refusals, administrative suspensions and open container violations. 6 demerit points are assessed for these violations committed by drivers holding regular licenses. Drivers who have never been licensed, or who hold instruction permits or probationary licenses, are assessed 12 demerit points. [343.32(2)(bc)] For the scale of demerit points for all traffic violations, see Trans 101.02, Wisconsin Administrative Code, and 343.32(2).

Prior Offenses

For a complete list of offenses that may be counted as prior offenses, see 343.307.

Additional Fees

In addition to fines and forfeitures, fees, assessments and surcharges will be applied pursuant to 165.755(1), 302.46, 343.301(5), 346.655(1), 757.05(1), 814.63(1), 814.65(1), 814.85(1) and/or 814.86(1).

Mandatory Time of Confinement

For 3rd or subsequent offense, post-conviction and pre-sentence release and stay of execution of jail or prison term is prohibited. [969.01(2)(a)] Probation is a sentencing option for offenders convicted of 2nd – 6th offense OWI, but they must serve at least the mandatory minimum jail term. [973.09(1)(d), 973.09(2)(a)1.d., 973.09(2)(am)]. Imprisonment is required as part of a mandatory bifurcated sentence for OWI 7th and above. [346.65(2)(am)6. and 7., State v. Williams, 2014 WI 64, FN 5.] Fourth or greater offense OWI offenders may be confined in a facility located in the city of Milwaukee for the purpose of allowing the offender to complete an alcohol and other drug abuse treatment program. [973.09(4)(b).]

Start of Revocation

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)]

Motor Vehicles

Operation of a motor vehicle is an element of all offenses except the felony offenses of causing great bodily harm or homicide by intoxicated use of any type of vehicle.

Footnotes:

¹ Excessive BAC Escalator: Forfeitures and fines are doubled if offense was committed with an AC between 0.17 and 0.199; tripled if AC is between 0.20 and 0.249; and quadrupled if AC exceeds 0.25. [346.65(2)(g)]

² 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]

³ "Lifetime" revocation does not apply to a 4th to 10th or greater OWI offender if the offender did not commit his/her 4th offense within 15 years of his/her 3rd offense. [343.31(1m)(b)] Reinstatement possible after 10 years. [Id.]

OWI AND RELATED ALCOHOL AND DRUG PENALTIES (AS OF NOVEMBER 7, 2017)

| Conviction | Fine or Forfeiture | Confinement Sentence | Driving Consequences if Committed in Wisconsin | Consequences if Minor under 16 in Vehicle | Consequences if Committed in Another Jurisdiction | Occupational License |
|---|--|--|--|---|--|---|
| OWI, First Offense [346.63(1)] (Per se AC ≥ 0.08) [340.01(46m)(a)] | \$150-\$300 [346.65(2)(am)1.] (plus \$435 OWI surcharge) [346.655] | No. | Revocation: 6 - 9 month [343.30(1q)(b)2.] If AC is 0.15 or more: IID or 24/7 sobriety program required for 1 year [343.301(1g), (2m)] | Fine: \$350 - \$1100 [346.65(2)(f)1.] Jail: 5 days to 6 months [346.65(2)(f)1.] Rev./IID Max. Length: 12 - 18 months + confinement length [343.30(1q)(b)4m., 343.30(1r)] | Revocation: 6 months [343.31(2), (3)(b)] | Can apply immediately [343.30(1q)(b)2.] If IID is ordered: 0.02 PAC limit [340.01(46m)(c)] |
| OWI, Second Offense No prior OWI within 10 years nor Great Bodily Harm or Homicide by Intoxicated Use offenses during offender's life. [346.63(1)] (Per se AC ≥ 0.08) [340.01(46m)(a)] | \$150-300 [346.65(2)(am)1.] (plus \$435 OWI surcharge) [346.655] | No. | Revocation: 6 - 9 month [343.30(1q)(b)2.] IID or 24/7 sobriety program required for 1 year [343.301(1g), (2m)] | Fine: \$350 - \$1100 [346.65(2)(f)1.] Jail: 5 days to 6 months [346.65(2)(f)1.] Rev./IID Max. Length: 12 - 18 months + confinement length [343.30(1q)(b)4m., 343.30(1r)] | Revocation: 6 months [343.31(2), (3)(b)] | Can apply immediately [343.30(1q)(b)2.] Absolute Sobriety Required [343.10(5)(a)2.] |
| OWI, Second Offense Prior OWI within 10 years or Great Bodily Harm or Homicide by Intoxicated Use offense during offender's life. [346.63(1)] (Per se AC ≥ 0.08) [340.01(46m)(a)] | \$350-1,100 [346.65(2)(am)2.] (plus \$435 OWI surcharge) [346.655] | 5 days - 6 months [346.65(2)(am)2.] Safe Streets option: 5 days - 7 days [346.65(2)(bm)] | Revocation: 12 - 18 month + confinement length [343.30(1q)(b)3., 343.30(1r)] IID or 24/7 sobriety program required for 1 year to 18 months + confinement length [343.301(1g), (2m)] | Fine: \$700 - 2,200 [343.30(1q)(b)4m.] Jail: 10 days - 12 months [346.65(2)(f)1.] Rev./IID Max. Length: 2 - 3 years + confinement length [346.65(2)(f)2., 343.30(1r)] | Revocation: 1 year [343.31(2), (3)(a)] | Can apply after 45 days [343.30(1q)(b)3.] Absolute Sobriety Required [343.10(5)(a)2.] |
| OWI, Third Offense [346.63(1)] (Per se AC ≥ 0.08) [340.01(46m)(a)] | \$600-2,000 (Excessive BAC Escalator) ¹ [346.65(2)(am)3.] (plus \$435 OWI surcharge) [346.655] | 45 days - 1 year [346.65(2)(am)3.] Safe Streets option: 14 days - 1 year [346.65(2)(cm)] | Revocation: 2 - 3 year + confinement length [343.30(1q)(b)4., 343.30(1r)] IID or 24/7 sobriety program required for 1 year to 3 years + confinement length [343.301(1g), (2m)] | Fine: \$1,200 - 4,000 [343.30(1q)(b)4m.] Jail: 90 days - 2 years [343.30(1q)(b)4m.] Rev./IID Max. Length: 4 - 6 years + confinement length [346.65(2)(f)2., 343.30(1r)] | Revocation: 1 year [343.31(2), (3)(a)] | Can apply after 45 days [343.30(1q)(b)3.] Absolute Sobriety Required [343.10(5)(a)2.] |
| OWI, Fourth Offense [346.63(1)] (Per se AC > 0.02) [340.01(46m)(c)] | \$600-10,000 (Excessive BAC Escalator) ¹ [346.65(2)(am)4., 939.50(3)(h)] (plus \$435 OWI surcharge) [346.655] | Class H Felony 60 days - 6 years [346.65(2)(am)4., 939.50(3)(h)] Safe Streets option: 29 days - 6 years [346.65(2)(dm)] | Revocation: 2 - 3 year + confinement length [343.30(1q)(b)4., 343.30(1r)] IID or 24/7 sobriety program required for 1 year to 3 years + confinement length [343.301(1g), (2m)] | Fine: \$1,200 - 20,000 [343.30(1q)(b)4m.] Jail: 120 days - 12 years [343.30(1q)(b)4m.] Rev./IID Max. Length: 4 - 6 years + confinement length [346.65(2)(f)2., 343.30(1r)] | Revocation: 1 year [343.31(2), (3)(a)] | Can apply after 45 days [343.30(1q)(b)4.] Absolute Sobriety Required [343.10(5)(a)2.] |
| OWI, Fifth or Sixth Offense [346.63(1)] (Per se AC > .02) [340.01(46m)(c)] | \$600-25,000 (Excessive BAC Escalator) ¹ [346.65(2)(am)5., 939.50(3)(g)] (plus \$435 OWI surcharge) [346.655] | Class G Felony 6 months - 10 years [346.65(2)(am)5., 939.50(3)(g)] | Revocation: 2 - 3 year + confinement length [343.30(1q)(b)4., 343.30(1r)] IID or 24/7 sobriety program required for 1 year to 3 years + confinement length [343.301(1g), (2m)] | Fine: \$1,200 - 50,000 [343.30(1q)(b)4m.] Jail: 1 year - 20 years [343.30(1q)(b)4m.] Rev./IID Max. Length: 4 - 6 years + confinement length [346.65(2)(f)2., 343.30(1r)] | Revocation: 1 year [343.31(2), (3)(a)] | Can apply after 45 days [343.30(1q)(b)4.] Absolute Sobriety Required [343.10(5)(a)2.] |
| OWI, Seventh, Eighth, or Ninth Offense [346.63(1)] (Per se AC > .02) [340.01(46m)(c)] | Up to \$25,000 [346.65(2)(am)6., 939.50(3)(f)] (plus \$435 OWI surcharge) [346.655] | Class F Felony 3 - 12.5 years [346.65(2)(am)6., 939.50(3)(f)] | Revocation: 2 - 3 years + confinement length [343.30(1q)(b)4., 343.30(1r)] IID or 24/7 sobriety program required for 1 year to 3 years + confinement length [343.301(1g), (2m)] | Fine: Up to \$50,000 [343.30(1q)(b)4m.] Jail: 6 - 25 years [343.30(1q)(b)4m.] Rev./IID Max. Length: 4 - 6 years + confinement length [346.65(2)(f)2., 343.30(1r)] | Revocation: 1 year [343.31(2), (3)(a)] | Can apply after 45 days [343.30(1q)(b)4.] Absolute Sobriety Required [343.10(5)(a)2.] |
| OWI, Tenth or Greater Offense [346.63(1)] (Per se AC > .02) [340.01(46m)(c)] | Up to \$50,000 [346.65(2)(am)7., 939.50(3)(e)] (plus \$435 OWI surcharge) [346.655] | Class E Felony 4 - 15 years [346.65(2)(am)7., 939.50(3)(e)] | Revocation: 2 - 3 years + confinement length [343.30(1q)(b)4., 343.30(1r)] IID or 24/7 sobriety program required for 1 year to 3 years + confinement length [343.301(1g), (2m)] | Fine: Up to \$100,000 [343.30(1q)(b)4m.] Jail: 8 - 30 years [343.30(1q)(b)4m.] Rev./IID Max. Length: 4 - 6 years + confinement length [346.65(2)(f)2., 343.30(1r)] | Revocation: 1 year [343.31(2), (3)(a)] | Can apply after 45 days [343.30(1q)(b)4.] Absolute Sobriety Required [343.10(5)(a)2.] |
| Causing Injury While OWI with no prior OWI offense or chemical test refusal [346.63(2)(a)] | \$300-2,000 [346.65(3m)] (plus \$435 OWI surcharge) [346.655] | 30 days - 1 year [346.65(3m)] Safe Streets option: 15 days - 1 year [346.65(3r)] | Revocation: 1 - 2 years + confinement length [343.31(1)(am), (3)(e), (4)] If AC of 0.15 or higher: IID or 24/7 sobriety program required for 1 year to 2 years + confinement length [343.301(1g), (2m)] | Fine: \$600 - 4,000 [346.65(3m)] Jail: 60 days - 2 years [346.65(3m)] Rev./IID Max. Length: 2 - 4 years + confinement length [343.31(1)(am), (3), (4)] | Revocation: 1 - 2 years [343.31(1)(am), (3)(e)] | Can apply after 60 days [343.31(3m)(b)] If IID is ordered: 0.02 PAC limit [340.01(46m)(c)] |
| Causing Injury while OWI with prior OWI offense or chemical test refusal [346.63(2)(a)] | Up to \$10,000 [346.65(3p), 939.50(3)(h)] (plus \$435 OWI surcharge) [346.655] | Class H Felony Up to 6 years [939.50(3)(h)] | Revocation: 1 - 2 years + confinement length [343.31(1)(am), (3)(e), (4)] If AC of 0.15 or higher: IID or 24/7 sobriety program required for 1 year to 2 years + confinement length [343.301(1g), (2m)] | Fine: Up to \$20,000 [346.65(3p)] Jail: Up to 12 years [346.65(3p)] Rev./IID Max. Length: 2 - 4 years + confinement length [343.31(1)(am), (3), (4)] | Revocation: 1 - 2 years [343.31(1)(am), (3)(e)] | Can apply after 60 days , except if 2 or more offenses within 5 years can apply after 1 year [343.31(3m)(b)] Absolute Sobriety Required [343.10(5)(a)2.] |
| Causing Great Bodily Harm by OWI [940.25(1)] | Up to \$25,000 [939.50(3)(f)] (plus \$435 OWI surcharge) [346.655] | Class F Felony Up to 12.5 years [939.50(3)(f)] | Revocation: 2 years + confinement length [343.31(1)(a), (3)(f), (4)] If AC is 0.15 or more, or not first offense: IID or 24/7 sobriety program required for 1 year to 2 year + confinement length [343.301(1g), (2m)] | Rev./IID Max. Length: 4 years + confinement length [343.31(1)(a), (3)(f), (4)] *If unborn child is in vehicle: Rev./IID Max. Length: 4 years + confinement length [343.31(1)(a), (3)(f), (4)] | Revocation: 2 years [343.31(1)(a), (3)(f)] | Can apply after 120 days, except if 2 or more offenses within 5 years can apply after 1 year [343.31(3m)(a)] Absolute Sobriety Required [343.10(5)(a)2.] |
| Homicide While OWI [940.09(1)] | Up to \$100,000 [939.50(3)(c), (d)] (plus \$435 OWI surcharge) [346.655] | Class D Felony Up to 25 years If driver has prior OWI-related offense: Class C Felony, up to 40 years [939.50(3)(c), (d)] | Revocation: 5 years + confinement length [343.31(1)(a), (3)(c), (4)] If AC is 0.15 or more, or not first offense: IID or 24/7 sobriety program required for 1 year to 5 years + confinement length [343.301(1g), (2m)] | Rev./IID Max. Length: 10 years + confinement length [343.31(1)(a), (3)(c), (4)] *If unborn child is in vehicle: Rev./IID Max. Length: 10 years + confinement length [343.31(1)(a), (3)(c), (4)] | Revocation: 5 years [343.31(1)(a), (3)(c)] | Can apply after 120 days, except if 2 or more offenses within 5 years can apply after 1 year [343.31(3m)(a)] Absolute Sobriety Required [343.10(5)(a)2.] |

| Conviction | Fine or Forfeiture | Confinement Sentence | Driving Consequences if Committed in Wisconsin | Consequences if Minor under 16 in Vehicle | Consequences if Committed in Another Jurisdiction | Occupational License |
|--|--|----------------------|--|---|---|---|
| Chemical Test Refusal (First Offense) [343.305(9)] | None | None | Revocation: 1 year [343.305(10)(b)2.] IID or 24/7 sobriety program required for 1 year [343.301(1g)(a)1., (2m), 343.305(10m)] | Rev./IID Max. Length: 2 years [343.305(10)(b)4m.] | CDL only | Can apply after 30 days [343.305(10)(b)2.] 0.02 PAC limit [340.01(46m)] |
| Chemical Test Refusal (Second Offense) No prior OWI within 10 years nor Great Bodily Harm or Homicide by Intoxicated Use offenses during offender's life. [343.305(9)] | None | None | Revocation: 1 year [343.305(10)(b)2., (b)3.] IID or 24/7 sobriety program required for 1 year [343.301(1g)(a)1., (2m), 343.305(10m)] | Rev./IID Max. Length: 2 years [343.305(10)(b)4m.] | CDL only | Can apply after 30 days [343.305(10)(b)2.] Absolute Sobriety Required [343.10(5)(a)2.] |
| Chemical Test Refusal (Second Offense) Prior OWI within 10 years or Great Bodily Harm or Homicide by Intoxicated Use offenses during offender's life. [343.305(9)] | None | None | Revocation: 2 year [343.305(10)(b)3.] IID or 24/7 sobriety program required for 1 year to 2 years + confinement length [343.301(1g)(a)1., (2m), 343.305(10m)] | Rev./IID Max. Length: 4 years [343.305(10)(b)4m.] | CDL only | Can apply after 90 days, except if 2 or more offenses within 5 years: Can apply after 1 year [343.305(10)(b)3.] Absolute Sobriety Required [343.10(5)(a)2.] |
| Chemical Test Refusal (Third or Greater Offense) [343.305(9)] | None | None | Revocation: 3 years [343.305(10)(b)4.] IID or 24/7 sobriety program required for 1 year to 3 years + confinement length [343.301(1g)(a)1., (2m), 343.305(10m)] | Rev./IID Max. Length: 6 years [343.305(10)(b)4m.] | CDL only | Can apply after 120 days except if 2 or more offenses within 5 years: Can apply after 1 year [343.305(10)(b)4.] Absolute Sobriety Required [343.10(5)(a)2.] |
| Administrative Suspension for Prohibited Alcohol Concentration [343.305(7)] | None | None | 6 month suspension [343.305(7)(a)] | N/A | CDL only | Can apply immediately [343.305(8)(d)] |
| Open Container (Driver or passenger) ² [346.935(1)] (Commercial Motor Vehicle) [346.63(7)(a)3.] | \$100 [346.95(2m)] If commercial motor vehicle is involved: Add \$10 [346.65(2u)(a)] | None | If commercial motor vehicle is involved: 24-hour disqualification [343.315(2)(g), 346.65(2u)(b)] | N/A | N/A | N/A |

Notes:

Definition of Operating while Intoxicated

Under Wisconsin law, a driver is considered to be operating while intoxicated if:

- (1) the driver is under the influence of an intoxicant so that his ability to operate a vehicle was impaired [346.63(1)(a)];
- (2) the driver has an alcohol concentration in excess of what the law allows. This limit generally decreases for problem drivers. The PAC (prohibited alcohol concentration) for first, second and third offenders is 0.08. For fourth and subsequent offenders as well as for all drivers who are subject to an ignition interlock order, the PAC is 0.02 [340.01(46m), 346.63(1)(b)]; or
- (3) the driver has any amount of a restricted controlled substance in his/her blood [340.01(50m), 346.63(1)(b)].

Period between Offenses

The period between offenses are measured violation date to violation date. [346.65(2e)].

Occupational Licenses

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] Obtaining an occupational license will require payment of \$240 (\$50 reinstatement fee + \$140 OWI-related fee + \$40 occupational fee license + \$10 license issuance fee). [343.21(1)(j), (jr), (k), (n)] No occupational license may be issued to an offender who fails to pay \$50 IID Surcharge. [343.10(2)(f)] 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), (f), 343.30(1q)(c)]

Ignition Interlock Devices (IIDs) and 24/7 Sobriety Programs

Courts enter IID orders on any repeat offender, any first offender with a BAC of 0.15 or more and any person who refuses a chemical test. [343.301(1g)] A driver subject to an IID order will have his/her Class D operating privileges restricted for a minimum of 1 year to a maximum period equal to the length of the driver's revocation (which includes extensions for confinement and for having a minor under 16 or an unborn child in the vehicle at the time of the offense). [343.301(2m)] The IID restriction will begin on the date the driver obtains any license (including occupational license) in Wisconsin. [343.301(2m)] The IID order also requires the installation of IIDs on every vehicle titled or registered in the driver's name, unless undue financial hardship would result. [343.301(1g), (1m)] Courts can require the vehicle order to begin immediately. Courts will charge a \$50 IID Surcharge when issuing IID orders. [343.301(5)] A 24/7 sobriety program may be substituted for IID participation, if court approved. [343.301(1g)(am)2.]

Minor under 16 in Vehicle at Time of Offense

Penalties are often doubled if a minor under the age of 16 was in the vehicle at the time of the offense. For a first OWI offense and a second OWI offense with no prior offenses in the preceding 10 years, fines are more than doubled, jail time is added and revocation penalties are doubled. (See chart.) For a second OWI offense with prior convictions within 10 years of offense as well as third or greater OWI offenses and causing injury while intoxicated offenses, fines/forfeitures, jail time and suspensions/revocations penalties are doubled. For causing great bodily harm or homicide while intoxicated offenses and chemical test refusals, the revocation penalties are doubled. [343.30(1q)(b)4m, 343.305(10)(b)4m, 343.31(3)(c), (e), (f) and 346.65(2)(f), (3m), (3p)] Penalties and the revocation are also doubled for causing great bodily harm or homicide by intoxicated use if an unborn child is in the vehicle at the time of the offense. [343.31(3)(c), (f)]

Huber Release

Regardless of when the a court orders IIDs to be installed, an offender cannot be released from jail under the Huber Law unless IIDs are installed in each vehicle to which the order applies within 2 weeks of being convicted. Failure to install IIDs within this 2 week period will result in being ineligible for Huber release for the duration of the sentence. This failure cannot be corrected by installing the IIDs at a later time. Sheriffs lack any discretionary power in imposing this Huber release restriction. [303.08(10r)] An offender will also be required to submit to assessment and treatment as a condition of Huber release unless he/she lacks sufficient funds to comply. [303.08(10m)]

Consequences to Holders of Commercial Drivers Licenses

If any of the listed offenses (except Open Container offenses) are committed while operating a commercial motor vehicle or were committed by a holder of a commercial drivers license (CDL) after September 30, 2005, the following sanctions are applicable:

- (1) for first offenders, a 1-year CDL disqualification (a 3-year CDL disqualification if transporting hazardous materials) [343.315(2)(a), (b)]; or
- (2) for 2nd and subsequent offenders (with first offense after July 1, 1987), a lifetime CDL disqualification. [346.315(2)(c)]

"Safe Street" Option

A modified probation option known as "Safe Street" is available for certain second, third, fourth OWI offenses and first offense causing injury by intoxicated use of a motor vehicle. Mandatory jail sentences are reduced only if the person completes probation, including alcohol and other drug treatment. This option may only be used once in a person's lifetime.

Demerit Points

All offenses listed on this chart result in the assessment of demerit points except chemical test refusals, administrative suspensions and open container violations. 6 demerit points are assessed for these violations committed by drivers holding regular licenses. Drivers who have never been licensed, or who hold instruction permits or probationary licenses, are assessed 12 demerit points. [343.32(2)(bc)] For the scale of demerit points for all traffic violations, see Trans 101.02, Wisconsin Administrative Code, and 343.32(2).

Prior Offenses

For a complete list of offenses that may be counted as prior offenses, see 343.307.

Additional Fees

In addition to fines and forfeitures, fees, assessments and surcharges will be applied pursuant to 165.755(1), 302.46, 343.301(5), 346.655(1), 757.05(1), 814.63(1), 814.65(1), 814.85(1) and/or 814.86(1).

Mandatory Time of Confinement

For 3rd or subsequent offenses, post-conviction and pre-sentence release and stay of execution of jail or prison term is prohibited. [969.01(2)(a)] Probation is a sentencing option for offenders convicted of 2nd – 6th offense OWI, but they must serve at least the mandatory minimum jail term. [973.09(1)(d), 973.09(2)(a)1.d., 973.09(2)(am)]. Imprisonment is required as part of a mandatory bifurcated sentence for OWI 7th and above. [346.65(2)(am)6. and 7., State v. Williams, 2014 WI 64, FN 5.] Fourth or greater offense OWI offenders may be confined in a facility located in the city of Milwaukee for the purpose of allowing the offender to complete an alcohol and other drug abuse treatment program. [973.09(4)(b).]

Start of Revocation

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)]

Motor Vehicles

Operation of a motor vehicle is an element of all offenses except the felony offenses of causing great bodily harm or homicide by intoxicated use of any type of vehicle.

¹ Excessive BAC Escalator: Forfeitures and fines are doubled if offense was committed with an AC between 0.17 and 0.199; tripled if AC is between 0.20 and 0.249; and quadrupled if AC exceeds 0.25. [346.65(2)(g)]

² 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]

COMMERCIAL DRIVER LICENSE ALCOHOL AND OTHER DRUG OFFENSES AND RELATED PENALTIES (As of May 7, 2018)

| VIOLATION IN CMV | FINE/FORFEITURE/JAIL³ | Effect on CDL | EFFECT ON CLASS D/M LICENSE |
|--|---|---|---|
| Any Measurable Alcohol concentration (AC> 0.0), possession of alcohol, operation within 4 hours after consuming [346.63(7)] | \$10 forfeiture [346.65(2u)(a)] | 24 Hr Out-of-Service [343.3159(2)(g)] | 346.63(7)(a)3.: 3 Demerit points |
| AC ≥ .04 and < .08 ^{2,4} 1 st Offense [346.63(5)] | \$150-\$300 forfeiture ^{1,8} [346.65(2j)(am)] | 1 Yr Disq 3 Yr Disq if (H) [343.315(2)(a),(b)] | None. |
| AC ≥ .04 and < .08 ^{2,4} 2 nd Offense [346.63(5)] | \$300-\$1,000 fine ^{1,8,11} 5 days - 6 mo jail [346.65(2j)(am)1.] Safe Streets option 5 days - 7 days ¹⁰ [346.65(2j)(bm)] | Lifetime Disq [343.315(2)(c)] | None. |
| AC ≥ .04 and < .08 ^{2,4} 3rd or Subsequent Offense [346.63(5)] | \$600-\$2,000 fine ^{1,8,11} 45 days - 1 yr jail [346.65(2j)(am)2.] Safe Streets option Not less than 14 days ^{10,11} [346.65(2j)(cm)] | Lifetime Disq [343.315(2)(c)] | None. |
| AC ≥ .04 and < .08 ² Causing Injury [346.63(6)] | \$300-\$2,000 fine ^{1,8} 30 days - 1 yr jail [346.65(3m)3.] Safe Streets option Not less than 15 days ^{1,10} [346.65(3r)] | 1 Yr Disq / 3 Yr if (H) (life for 2nd offense) [343.315(2)6.,(b),(c)] | 1 year revocation ¹ [343.31(1)(ar),(3)(a)] |
| AC ≥ 0.04 < 0.08 ² Causing Injury if any prior OWI related offense [346.63(6) ¹² , 346.65(3p), 343.307(1)] ⁴ | Class H Felony Max \$10,000 fine and 1 yr - 3 yr prison [939.50(3)(h)] [973.01 (2) (b) 8.] | 1 Yr Disq / 3 Yr if (H) (life for 2nd offense) [343.315(2)6.,(b),(c)] | 1 year revocation ¹ [343.31(1)(ar),(3)(a)] |
| AC ≥ .04 and < .08 Causing Great Bodily Harm [940.25(1)(bm)] | Class F Felony Up to \$25,000 fine ^{6,7,8} and 1 – 7.5 yrs prison [939.50(3)(f) 973.01(2)(b)gm] [973.01(2)(b)6m.] | 1 Yr Disq / 3 Yr if (H) (life for 2nd offense) [343.315(2)6.,(b),(c)] | 2 year revocation ^{1,7,9} [343.31(3)(f)] |
| AC ≥ .04 and < .08 Causing Death [940.09(1)(bm), 343.307(2)] ⁴ | Class D or C Felony (if one or more than one prior convictions) Up to \$100,000 fine ^{6,7,8} and (1- 15/25 yrs of prison (1 st /repeat offense): [939.50(3)(c),(d)] [973.01(2)(b)3. and 4.] | 1 Yr Disq / 3 Yr if (H) (life for 2nd offense) [343.315(2)6.,(b),(c)] | 5 year revocation ^{1,9} [343.31(3)(c)] |
| Using a CMV to make, dispense, or distribute drugs feloniously [343.315(2)(e), 961.41(1),(1m)] | Varies depending upon drug crime | Lifetime Disq [343.315(2)(e)] | 1 year revocation ⁹ [343.31(1)(c),(3)(a)] |
| VIOLATION IN ANY CLASS VEHICLE | FINE/FORFEITURE/JAIL³ | Effect on CDL | EFFECT ON CLASS D/M LICENSE |
| OWI or Chemical Test Refusal: [346.63(1)(a), (am) or (b), 343.305(9)(a), (am), 343.307(2)] | See OWI Chart ⁵ | (Total # of CMV violations before 9/30/2005 + Any vehicle violations on or after 9/30/2005) [343.315 (1g)] 24 Hr Out-of-Service [343.305(7)(b), (9)(am)] 1 offense: 1 Yr Disq [343.315(2)(a)] 3 Yr Disq if Haz Mat [343.315(2)(b)] 2 or more offenses: lifetime disqualification. [343.315 (2) (c)] | See OWI Chart ⁵ |

¹ Fines, forfeitures, jail and revocation / suspension penalties are increased for a person convicted of OWI when a person under 16 years of age was in the vehicle at the time of the offense. [343.30(1q)(b)4m and (3)(e), 343.305(10)(b)4m, 343.31(3)(c), 346.65(2)(f), (2j)(d),(2q) and (3m)]. For third and subsequent regular OWI offenses, fines are also increased according to blood alcohol level. [346.65(2)(g)]

² If AC meets or exceeds .08 or the prohibited alcohol concentration as defined in 340.01(46m), or involves the detectable presence of restricted controlled substances, the offense is punishable under 346.63(1) or 346.63(2)(am), with CDL disqualification under 343.315.

³ 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)].

⁴ Prior offenses counted include injury or homicide by intoxicated motor vehicle use, and other OWI-related offenses committed after January 1, 1989, or the date specified in the relevant statute. [343.305(10)(b)(2), 949.09(1), 940.25, 343.307].

⁵ The Department chart titled OWI AND RELATED ALCOHOL AND DRUG PENALTIES is available online at <http://wisconsindot.gov/Documents/safety/education/drunken-driv/owi-penchrtr.pdf>

⁶ No occupational license may permit the operation of any motor vehicles for which the applicant did not hold valid authorization at the time of revocation or suspension of the person's license or operating privilege. [343.10(2)(c)]

⁷ Fines, jail penalties and revocation periods are doubled if an unborn child is present in the vehicle at the time of the offense. [343.31(3)(f), 940.25(1)(c)]

⁸ Plus OWI \$435 surcharge. [346.655]

⁹ A court may order vehicles owned by the offender be equipped with an ignition interlock device (IID), and/or the offender's operating privilege for class D vehicles may be restricted to operating only IID equipped vehicles. [343.305(10m), 940.25(1d), 940.09(1d), 343.301]

¹⁰ Under the "Safe Streets" option, mandatory minimum jail sentences are reduced only if the offender successfully completes probation including alcohol and other drug treatment. [346.65(2j)(bm),(cm), (er) or (3-1)].

¹¹ Probation is a sentencing option, but offender must serve at least the mandatory minimum jail term. [346.65(2j), (3r)].

¹² If the person injured was an adult who was in the vehicle operated by the person violating s. 346.63 (2) or (6), the court may impose a sentence that is less than the minimum sentence required under sub. (3m) if the court finds that the best interest of the community will be served and the public will not be harmed by the sentence. [346.65(3t)].

Note: Similar convictions in other jurisdictions may cause a driver to lose his or her Commercial Driver's License.

Note: Similar convictions in other jurisdictions may cause a driver to lose his or her Commercial Driver's License.
 CMV = Commercial motor vehicle OWI = Operating while intoxicated
 CDL = Commercial driver license AC = Alcohol concentration
 Disq = Disqualified (cannot drive CMV or get CDL-OCC)
 (H) = Hauling hazardous materials requiring placarding [343.125] at time of offense
 OCC = Occupational license

UNDERAGE ALCOHOL OFFENSES AND RELATED PENALTIES (As of June 1, 2017)

| Convictions | Fine, Forfeiture, Demerit Points ⁵ | Driver License Suspension | Supervised Work Program | Court Ordered Stay ¹ | Assessment ¹ |
|---|---|--|---|---|---|
| Absolute Sobriety "Not a Drop" Law (If under age 21) [346.63 (2m)] | \$200 fine ³ [346.65(2q)]; 4 Demerit Points [343.32 (2) (b)] | 3 month suspension [343.30(1p)] Occupational – immediately | | | |
| Underage Alcohol (Procure or Misrepresent Age)(age 17-20) [125.07(4)(a)] or local ordinance | 1st: \$250-\$500 forfeiture 2nd in a year: \$300-\$500 3rd in a year: \$500-\$750 4th & subsequent in a year: \$750-\$1,000 [125.07(4)(bs)] | 1st: 30-90 day suspension 2nd: up to 1 yr. suspension 3rd & subsequent: up to 2 yr. suspension [343.30(6)(b)] | Yes - Court option as an alternative [125.07(4)(bs)] | Yes - Court option as an alternative [125.07(4)(e)2] | Mandatory, if Court orders stay of sentence [125.07(4)(e)2a] |
| Juvenile Alcohol (Procure or Misrepresent Age) (under 17) [125.07(4)(a)] or local ordinance | 1st: \$250-\$500 forfeiture 2nd in a year: \$300-\$500 3rd & subsequent in a year: \$500 [938.344(2b)(a)-(c)] | 1st: 30-90 day suspension 2nd: up to 1 yr. suspension 3rd & subsequent: up to 2 yr. suspension [343.30(6)(b)] | Yes - Court option as an alternative [938.344(2b)] | Yes - Court option as an alternative [938.344(2g)(a)] | Mandatory, if Court orders stay of sentence [938.344(2g)(a)1] |
| Underage Alcohol (Knowingly possess or Consume) (age 17-20) [125.07(4)(b)] or local ordinance | 1st: \$100-\$200 forfeiture 2nd in a year: \$200-\$300 3rd in a year: \$300-\$500 4th & subsequent in a year: \$500-\$1,000 [125.07(4)(c)] | 1st: 30-90 day suspension ⁴ 2nd: up to 1 yr. suspension 3rd & subsequent: up to 2 yr. suspension [343.30(6)(b)] | Yes - Court option as an alternative [125.07(4)(c)] | Yes - Court option as an alternative [125.07(4)(e)2] | Mandatory, if Court orders stay of sentence [125.07(4)(e)2a] |
| Juvenile Alcohol (Possess or Consume) (age 17-20) [125.07(4)(b)] or local ordinance | 1st: Up to \$50 forfeiture 2nd in a year: Up to \$100 3rd & subsequent in a year: Up to \$500 [938.344(2)(a)-(c)] | 1st: 30-90 day suspension 2nd: up to 1 yr. suspension 3rd & subsequent: up to 2 yr. suspension [343.30(6)(b)] | Yes - Court option as an alternative [938.344(2)] | Yes - Court option as an alternative [938.344(2g)(a)] | Mandatory, if Court orders stay of sentence [938.344(2g)(a)1] |
| Underage False ID (Use or Possess) (age 17-20) [125.085(3)(b)] | \$300-\$1,250 forfeiture [125.085(3)(bd)] | 30-90 day suspension [343.30(6)(bm)] | Yes - Court option as an alternative [125.085(3)(bd)] | | |
| Juvenile False ID (Use or Possess) (under 17) [125.085(3)(b)] | 1st: \$100-\$500 forfeiture 2nd in a year: \$300-\$500 3rd & subsequent in a year: \$500 [938.344(2d)(a)-(c)] | 1st: 30-90 day suspension 2nd: up to 1 yr. suspension 3rd & subsequent: up to 2 yr. suspension [343.30(6)(b)] | Yes - Court option as an alternative [938.344(2d)] | Yes - Court option as an alternative [938.344(2g)(a)] | Mandatory, if Court orders stay of sentence [938.344(2g)(a)1] |
| Intoxicants In Vehicle (Underage persons) [346.93] | \$20-\$400 forfeiture [346.93(2g)] | 1st: 30 – 90 day suspension 2nd: up to 1 yr. suspension 3rd & subsequent: up to 2 yr. suspension [343.30(6)(b)] | | | |

¹ If the defendant agrees, the court may stay enforcement of the sentence conditioned on voluntary AODA assessment and participation in a court-approved alcohol abuse education program or enrollment in a treatment program; however, the court may not stay, suspend or modify a mandatory driver's license suspension.

² Suspension is permissive for 1st offense, but mandatory for 2nd and subsequent offenses within 12 months that involve a motor vehicle. [938.344(2b), 343.30(6)(b)]

³ Forfeiture, costs and period of suspension are doubled if a passenger under 16 years of age was in the vehicle at the time of the offense. [343.30(1p), 346.65(2q)]

⁴ If a person does not hold a valid license at the time of disposition, the suspension period begins on the date on which the person is first eligible for issuance, renewal, or reinstatement of an operator's license. [343.30(6)(b),(d)]

⁵ Additional fees, assessment and surcharges will apply. [See e.g. 165.755(1), 346.655(1)]

COMMENTS ON PENALTIES FOR UNDERAGE ALCOHOL OFFENSES

Persons whose licenses are suspended or revoked for underage alcohol violations other than *Absolute Sobriety* are eligible for occupational licenses 15 days after the suspension or revocation begins. [343.10(2)(a)4] Those whose licenses are suspended for violating the *Absolute Sobriety* or "Not a Drop" law are eligible for occupational licenses immediately. [346.63(2m)]

Like persons aged 21 or older, underage persons are subject to the provisions of Wisconsin laws prohibiting operating/driving motor vehicles while intoxicated. These laws include impairment/intoxication resulting from the use of illegal, over the counter or prescription drugs or combinations of drugs or alcohol. It is illegal in Wisconsin to operate snowmobiles, all-terrain vehicles, motor boats, off road motorcycles and other motor vehicles with a detectable presence of restricted controlled substances in the bloodstream or while under the influence of an intoxicant. [350.101, 23.33(4c), 23.335 (12), 30.681, 346.63]. A person is also prohibited from operating an aircraft while intoxicated. [114.09].

Underage Alcohol conviction records of juveniles (under age 17) are largely confidential. The Department of Transportation may not disclose information concerning a suspension, revocation or restriction as a result of a juvenile's underage alcohol conviction to any person other than a court, district attorney, municipal prosecuting attorney, law enforcement agency, the underage individual or his/her parents or legal guardian. [343.30(5), 343.24(3)]

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