

OWI, PAC, and Refusal Penalties

Conviction	Fine (criminal) or Forfeiture (civil)	Imprisonment and/or Probation	Revocation of License	Occupational License Waiting Period after Court Conviction	Ignition Interlock Device (IID)
OWI/PAC 1st, BAC <.15 346.63(1)(a) or (1)(b)	\$150-300 + costs 346.65(2)(am) 1	none	6-9 months 343.30(1q)(b) 2	immediately 343.30(1q)(b) 2	Not Required
OWI/PAC 1st, BAC .15 or > 346.63(1)(a) or (1)(b)	\$150-300 + costs 346.65(2)(am) 1	none	6-9 months 343.30(1q)(b) 2	immediately 343.30(1q)(b) 2	1 year 343.30(2m)
OWI 1st w/passenger <16 346.63(1)(a), (1)(am) or (1)(b)	\$350-1,100 + costs listed below 346.65(2)(f)1	5 days to 6 months jail 346.65(2)(f)1	12-18 months 343.30(1q)(b) 4m	immediately 343.30(1q)(b) 2	1 year-18 months 343.30(2m)
OWI 2nd/PAC>.08 346.63(1)(a), (1)(am) or (1)(b)	\$350-1,100 + costs listed below 346.65(2)(am) 2	5 days to 6 months jail 346.65(2)(am) 2 or 6 months to 2 years probation with at least 5 days jail as condition of probation 973.09(1)(d)	1 year-18 months 343.30(1q)(b) 3	45 days 343.30(1q)(b) 3	1 year-18 months 343.30(2m)
OWI 3rd/PAC>.08 346.63(1)(a), (1)(am) or (1)(b)	\$600-8,000 + costs listed below 346.65(2)(am) 3 346.65(2)(g)	45 days to 1 year jail 346.65(2)(am) 3 or 6 months to 2 years probation with at least 45 days jail as condition of probation, 973.09(1)(d)	2-3 years 343.30(1q)(b) 4	45 days 343.30(1q)(b) 4	1-3 years 343.30(2m)
OWI 4th/PAC>.02 misdemeanor if OWI 3rd > 5 years prior 346.63(1)(a), (1)(am) or (1)(b)	\$600-8,000 + costs listed below 346.65(2)(am) 4 346.65(2)(g)	60 days to 1 year jail 346.65(2)(am) 4 or 6 months to 3 years probation with at least 60 days jail as condition of probation, 973.09(1)(d)	2-3 years 343.30(1q)(b) 4	45 days 343.30(1q)(b) 4	1-3 years 343.30(2m)
OWI 4th/PAC>.02 felony if OWI 3rd < 5 years prior 346.63(1)(a), (1)(am) or (1)(b)	\$600-40,000 + costs listed below 346.65(2)(am) 4m 346.65(2)(g)	6 months jail to 6 years prison 346.65(2)(am) 4m or probation up to 3 years with at least 6 months jail as condition of probation 973.09(1)(d)	2-3 years 343.30(1q)(b) 4	45 days 343.30(1q)(b) 4	1-3 years 343.30(2m)
OWI 5th/6th/PAC>.02 346.63(1)(a), (1)(am) or (1)(b)	\$600-40,000 + costs listed below 346.65(2)(am) 5, 346.65(2)(g) Class H felony	6 months jail to 6 years prison 346.65(2)(am) 5 or probation up to 3 years with at least 6 months jail as condition of probation 973.09(1)(d)	2-3 years 343.30(1q)(b) 4	45 days 343.30(1q)(b) 4	1-3 years 343.30(2m)
OWI 7th, 8th, 9th/PAC>.02 346.63(1)(a), (1)(am) or (1)(b)	up to \$100,000 + costs listed below 346.65(2)(am) 6 Class G felony	3-10 years prison with mandatory minimum 3 years initial confinement 346.65(2)(am) 6	2-3 years 343.30(1q)(b) 4	45 days 343.30(1q)(b) 4	1-3 years 343.30(2m)
OWI 10th or subsequent/ PAC>.02 346.63(1)(a), (1)(am) or (1)(b)	up to \$100,000 + costs listed below 346.65(2)(am) 7 Class F felony	4-12.5 years prison with mandatory minimum 3 years initial confinement 346.65(2)(am) 7	2-3 years 343.30(1q)(b) 4	45 days 343.30(1q)(b) 4	1-3 years 343.30(2m)
Causing injury while OWI 346.63(2) a	\$300-2,000 + costs listed below 346.65(3m)	30 days to 1 year jail if jail imposed but jail not mandatory 346.65(3m). Class H felony if prior OWI 346.65(3p)	1-2 years 343.31(3)(e)	60 days or after 1 year if 2 or more OWI offenses within 5 years 343.31(3m)(b)	1-2 years 343.30(2m)
Causing GBH while OWI 940.09(1)	up to \$25,000 + costs listed below 939.50(3)(f) Class F felony	up to 12.5 years prison with up to 7.5 years initial confinement 939.50(3)(f) 940.25(1)	2 years 343.31(3)(f)	120 days or after 1 year if 2 or more offenses within 5 years 343.31(3m)(a)	1-2 years 343.30(2m) 940.25(1d)
Homicide while OWI 940.09(1)	up to \$100,000 + costs listed below 939.50(3)(d) Class D felony	up to 25 years prison, if 1 or more prior OWIs up to 40 years prison 939.50(3)(c), (3)(d), 940.09(1), .09(1c)(b)	5 years 343.31(3)(c)	120 days or after 1 year if 2 or more offenses within 5 years 343.31(3m)(a)	1-5 years 343.30(2m) 940.09(1d)
Chemical test refusal 1st 343.305(9)	none	none	1 year 343.305(10)(b) 2	30 days 343.305(10)(b) 2	1 year 343.30(2m)
Chemical test refusal 2nd 343.305(9)	none	none	2 years 343.305(10)(b) 3	90 days or after 1 year if 2 or more offenses within 5 years 343.305(10)(b) 3	1-2 years 343.30(2m)
Chemical test refusal 3rd or subsequent 343.305(9)	none	none	3 years 343.305(10)(b) 4	120 days or after 1 year if 2 or more offenses within 5 years 343.305(10)(b) 4	1-3 years 343.30(2m)
Administrative suspension 343.305(7) , (8)	none	none	6 month suspension (not revocation) 343.305(7)(a)	immediately 343.305(8)(d)	not required



HAYES
 &
ROTHSTEIN



OWI, PAC, and Refusal Penalties

ATTORNEYS AND COUNSELORS AT LAW

HAYES & ROTHSTEIN

- 1. Prior Offenses.** Violations occurring on or after January 1, 1989, 1997 Wis. Act 237 s 9348(2f). Second offense prosecution only if prior violation within 10 years. 346.65(2)(am) 2. Date of violation is determinative. 346.65(2c). Sec. 343.307(1) lists offenses included as prior convictions.
- 2. Assessment.** Upon conviction the Court shall order an assessment by an approved public treatment facility (one per county of residence) for examination of use of alcohol/controlled substances and development of driver safety plan. Non-compliance with assessment or driver safety plan results in revocation of operating privileges until in compliance. 343.30(1q)(c) 1.
- 3. Imprisonment.** If sentencing to occur after date of conviction for OWI 3rd or subsequent, defendant must be remanded to jail until sentencing. 969.01(2)(a). Sentencing court may stay beginning of jail up to 60 days except for convictions for OWI 3rd or subsequent. 973.15(8)(a)3. Court may grant Huber privilege for leaving the jail during necessary and reasonable hours to: seek employment, engage in employment training, work, perform community service, conduct self-employed occupation including housekeeping and attending the needs of the person's family, attend court proceedings as a party or witness under subpoena, attend school, obtain medical treatment, obtain counseling or therapy, attend assessment, attend parenting education class, and meet with probation officer, 303.08(1). Option of home detention program is under the exclusive control of the county sheriff. 302.425(2). All earnings to be paid to the sheriff, 303.08(3), (4), and (5). Jail good time credit is 1/4 of jail term. 302.43. The rule that there is no good time for a jail term being served as a condition of probation does not apply to any conviction for an offense that provides a mandatory or presumptive minimum period of 1 year or less of imprisonment. 973.09(1)(d). Sheriff may not permit release if non-compliant with assessment or driver safety plan unless unable to pay for assessment or driver safety plan. 303.08(10m). Sheriff may not permit release unless within 2 weeks after the Court issues the order the person submits proof that an Ignition Interlock Device installed under Sec. 343.301 in each motor vehicle to which the order applies. 303.08(10r). A person convicted of OWI 2nd or subsequent shall be required to remain in the county jail for not less than a 48-consecutive-hour period. 364.65(7).
- 4. Penalty Enhancers.** For OWI 2nd or subsequent, having passenger under age 16 results in doubling of minimum and maximum fines and imprisonment, 346.65(2)(f) 2 and of revocations. 343.30(1q)(b)4m. Conviction for OWI 3rd or subsequent becomes a felony and place of imprisonment shall be determined under Sec. 973.02. 346.65(2)(f) 2. Causing injury by intoxicated use becomes felony with applicable minimum and maximum fines or periods of imprisonment doubled and place of imprisonment determined under 973.02. 346.65(3m). License revocation doubles to 10 years for homicide if minor passenger under age 16 or an unborn child, 343.31(3)(c). Causing injury while intoxicated becomes a Class H felony if there is 1 prior OWI conviction; if passenger under age 16, offense is a felony with maximum fine and imprisonment doubled. 346.65(3p).
- 5. Probation.** The term of probation for a misdemeanor under Sec. 346.63 shall be not less than 6 months nor more than 2 years. 973.09(2)(a)1. d. Up to 3 years for misdemeanor 4th offense. 973.09(2)(am). Misdemeanor probation may be increased by 1 year if 2 or more misdemeanors at same time and by 2 years if 5 or more misdemeanors at same time. 973.09(2)(a) 2. For felony convictions there must be at least 1 year of probation but not more than either the maximum term of initial confinement in prison for the crime or 3 years, whichever is greater. 973.09(2)(b)1. Felony probation can be increased by 1 year for each additional felony conviction. 973.09(2)(b) 2. Mandatory jail as condition of probation could be decreased if county adopts Sec. 346.65(2)(bm), (cm) and (dm): 5-7 days for OWI 2nd ; not < 14 days for OWI 3rd ; and not < 29 days for OWI 4th. 346.65(2j)(bm), (cm), and (dm).
- 6. Revocation of License Calculation.** For OWIs, credit for administrative suspension or refusal revocation served prior to sentencing date [343.30(1q)(h)] but revocation extended by length of any imprisonment ordered at sentencing. 343.30(1r).
- 7. Occupational License.** For OWI 2nd or subsequent no occupational license will be issued after the 45 day waiting period unless the assessment is completed and there is compliance with the driver safety plan. 343.30(1q)(b) 3, (b) 4. An occupational license will be denied if the person's license or operating privileges was revoked or suspended within the one-year period immediately preceding the present revocation or suspension under Ch. 343, Ch. 344, Sec. 943.21(3m) or 961.50, except a revocation or suspension under 344.40 for failure to file proof of financial responsibility is not an impediment. 343.10(2)(a)1. Except for OWI 1st with BAC under .15, no occupational license will be issued without proof of an Ignition Interlock Device installed in each motor vehicle to which the order applies and payment of \$50 surcharge to clerk of courts. Sec. 343.10(2)(f), 343.10(5)(a)3 and 343.301(5). If two or more OWI convictions, absolute sobriety, 343.10(5)(a)2. Proof of SR 22 filing required. 343.10(2)(a)2.
- 8. Fines, Forfeitures, and Costs.** In addition to the forfeiture (non-criminal first offense case) or fine (criminal case), there is a mandatory \$365 driver improvement surcharge [346.655(1)], 26 percent penalty assessment [757(05)], jail assessment of 1 percent or \$10 whichever is greater [302.46(1)(a)], victim witness surcharge (except for 1st offense) [973.045(1)], court costs of \$163 (\$25 for 1st offense) [814.60(1)], \$13 crime lab and drug assessment [165.755], \$21.50 justice information service fee (except for 1st offense) [814.86(1)], and \$50 Ignition Interlock device fee (except for 1st offense with BAC <.15). 343.301(5). The minimum and maximum fines for OWI 3rd and subsequent double if BAC .17 to .19; triple if .20 to .249; and quadruple if .25 or above [346.65(2)(g)]. Not applicable to OWI 2nd [346.65(2)(am)2].
- 9. .02 PAC.** Applies to any person subject to an Ignition Interlock Device order or any person with 3 or more prior convictions. 340.01(46m).



GREGORY ROTHSTEIN



MICHAEL BANASZAK



MICHAEL HAYES

Defending Your Past,
Protecting Your Future

Serving Clients
Throughout Wisconsin

ATTORNEYS AND COUNSELORS AT LAW

HAYES & ROTHSTEIN

414-291-9911

www.hayesrothstein.com



Washington



Ozaukee



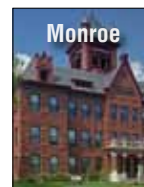
Dodge



Sauk



Marquette



Monroe



Grant



St. Croix