

Changes to the Drunken Driving Laws in Wisconsin

Drunken driving in Wisconsin is...

Prevalent:

- Wisconsin has the highest rate of drunken driving in the nation. More than 26 percent of Wisconsin adults who were surveyed admitted that they had driven under the influence of alcohol in the previous year, according to a [nationwide study by the U.S. Department of Health and Human Services](#) released in April 2009.
- There were more than 44,000 convictions for drunken driving offenses in Wisconsin last year.

Deadly:

- Alcohol-related crashes killed 238 people in Wisconsin and injured nearly 4,000 in 2009.
- Approximately, 45 percent of all fatal traffic crashes in Wisconsin in 2009 were alcohol-related.
- Last year, 40 percent of all fatal motorcycle crashes in Wisconsin were alcohol-related.

Expensive and embarrassing:

- Choosing to drive while impaired by alcohol or other drugs could be a decision you'll regret the rest of your life.
- If you're arrested, you can lose your license as well as a huge amount of money.
- Repeat drunken driving offenders face imprisonment.
- If you hurt or kill someone in a crash you could face extremely serious charges, like negligent homicide or operating while intoxicated (OWI) causing injury.
- Refuse a blood/breath alcohol concentration (BAC) test and you will lose your license on the spot for at least one year and you may have your car impounded.
- Wisconsin recently strengthened its impaired driving laws to include mandatory installation of ignition interlock devices on all vehicles owned by anyone convicted of first offense operating while intoxicated (OWI) with an alcohol content of 0.15 or higher as well as second or subsequent offense OWI.
- If you drive drunk with a child under age 16 in the vehicle, the penalties will double.
- If you have two prior drunken driving convictions and have a BAC over 0.17, the penalties are multiplied.

Entirely preventable:

- Choose a sober designated driver before you start drinking.
- If you're feeling buzzed, you likely are over the 0.08 limit and should not drive.
- Rather than risk an arrest, or even worse a crash, take mass transit, a taxicab or ask a sober friend to drive you home.
- Save a life - don't let your friends drive drunk.
- Some taverns and restaurants have programs to provide patrons with a safe ride home. Visit www.tlw.org/
- Report impaired drivers to law enforcement or call 911.

Provisions of 2009 Wisconsin Act 100

(Effective July 1 2010; Signed by Governor Jim Doyle on 12/22/2009)

Wisconsin Act 100 strengthens Wisconsin's drunk driving laws. Provisions of Act 100 apply to violations that occur on or after July 1, 2010.

There are four main changes to existing law, including:

- A fourth offense Operating While Intoxicated (OWI) will be a felony if it occurs within five years of an earlier offense.
- Ignition interlocks devices (IIDs) will be required for repeat offenders and first-time offenders at or above a 0.15 blood alcohol level.
- A greater emphasis will be placed on treatment for drunk drivers, helping reduce repeat offenses.
- Increases first offense OWI to a misdemeanor if a child under 16 is in the vehicle.

Ignition interlock devices (IIDs)

- Ignition Interlock Devices (IIDs) will be **mandatory** for the following convictions:
 - ALL repeat OWIs
 - ALL refusals
 - ALL 1st offense OWI with an alcohol concentration of 0.15 or higher
- IIDs are required for **every vehicle owned by or registered to the offender**, unless the vehicle is specifically exempted by the court.
- IIDs must be ordered for a minimum of one year:
 - For operating privilege, restriction begins when offender is issued an occupational license or reinstates operating privilege (cannot "wait out" IID anymore).
 - For vehicles, courts may order the IID restriction to begin immediately.
- Failure to install, removal, disconnection, tampering or circumvention violations result in a six-month extension of IID.
- Establishes a Prohibitive Alcohol Concentration (PAC) of 0.02 for persons subject to an IID order for the duration of the IID order.

Impact on driver license revocation, reinstatement and occupational license

- The driver license revocation period is extended by the number of days to which a person is sentenced to jail or imprisonment. For example, if a 12 month license revocation is imposed, and 5 days in jail, a revocation of 370 days will result.
- The minimum waiting period for occupational license eligibility is reduced to 45 days, for 2nd / subsequent OWIs.
- If no occupational license is issued, proof of IID installation is required for all vehicles owned and registered, before DMV can reinstate the offender's driver license (cannot "wait out" IID).
- The reinstatement fee for alcohol related offenses increases from \$60 to \$200.

Penalty Increases

Criminalizes 1st offense OWI (*5-days to 6-months in jail, plus \$350-\$1,100 fine – same as current penalties for 2nd offense OWI*) if there is a child under age 16 in the vehicle

Increases mandatory minimum jail time for 3rd offense OWI (*from 30-days to 45-days*)

Makes 4th offense OWI a Class H felony (*\$600-\$10,000 fine, plus 6-months to 6-years imprisonment with no option for house arrest*) if committed within 5 years of a prior offense

Requires 7th—8th—9th OWI offenders to serve mandatory minimum prison term of 3 years (*instead of current mandatory minimum 48 consecutive hours*)

Requires 10th OWI offenders to serve mandatory minimum prison term of 4 years (*instead of current mandatory minimum 48 consecutive hours*)

Makes OWI-Causing Injury (basic OWI, or CMV operation with 0.04-0.08 AC) a Class H felony if offender has a prior OWI conviction (*\$600-\$10,000 fine, plus 6-months to 6-years imprisonment*)

Vehicle Sanctions

Requires court to order Ignition Interlock Device (IID) be installed on every vehicle owned by offender for 1st offense OWI with AC of 0.15 or higher, for all 2nd or subsequent OWI offense, and for chemical test refusal, unless doing so would cause an undue financial hardship

Eliminates vehicle seizure/forfeiture and immobilization as sentencing options for OWI offenders

Criminalizes non-compliance with IID court order (*\$150-\$600 fine and/or up to 6 months in jail at court's discretion, plus mandatory 6-month extension of IID order period*)

Criminalizes IID removal/disconnection/tampering/circumvention (*\$150-\$600 fine and/or up to 6 months in jail at court's discretion, plus mandatory 6-month extension of IID order period*)

Creates \$50 IID Surcharge (*paid to the clerk of court, with all revenue retained by the county*)

Requires low income OWI offenders (*defined as income at/below 150% of federal poverty level*) to only pay half of IID installation cost and daily IID monitoring cost; Dept of Transportation may not approve IID providers who do not agree to allow qualifying offenders to follow this reduced payment structure

Prohibits OWI offenders who fail to pay IID Surcharge or who fail to comply with IID order from obtaining an Occupational License

OWI offenders subject to IID orders who obtain an Occupational License will have Class D operating privileges restricted to vehicles equipped with an IID

Requires OWI-offenders granted Huber law work-release privileges to show proof of IID installation within 2 weeks of sentencing

IID restriction period (*minimum 1-year*) begins on date DOT issues the offender any operator's license (*instead of on the date of the license revocation or any other date the court so orders*)

Establishes PAC limit of 0.02 for persons subject to an IID order for the duration of the order (*instead of 0.08 after 1st or 2nd OWI conviction*)

Other Provisions

Criminalizes Underage Absolute Sobriety violations (*no jail time, but current \$400 forfeiture becomes a "fine"*) if there is a child under age 16 in the vehicle

Treats 1st offense Prohibited Alcohol Concentration (PAC) in 0.08-0.099 range same as all other PAC offenses

- Must pay \$355 Driver Improvement Surcharge and all court costs, penalty assessments and surcharges routinely imposed for traffic violations
- Mandatory AODA assessment and must comply with Driver Safety Plan for driver license restoration
- Record of conviction not purged by DOT after 10 years

Extends current Winnebago County sentencing model for 2nd and 3rd offense OWI (*probation with AODA treatment, in exchange for shorter mandatory minimum/maximum jail times*)

- Becomes a sentencing option for any county with similar probation/treatment program
- Increases minimum sentence for 3rd offenders in the program (*from 10-days to 14-days*)
- Extends sentencing option to 4th offenders, with lower mandatory minimum jail time (*29-days instead of 6-months*)

Allows probation as sentencing option, conditioned on offender serving mandatory minimum jail term, for:

- 2nd and 3rd offense OWI
- 3 or fewer alcohol offenses related to operating a commercial vehicle
- OWI-Causing Injury

Increases maximum probation period for 4th offense OWI (*from 2 years to 3 years*)

Requires Dept of Corrections to provide probation, supervision, assessment, treatment and other community treatment options for 2nd and 3rd OWI offenders

Period of license revocation for OWI begins on conviction date and is extended by number of days offender is sentenced to jail/prison

Prohibits pre-sentence release and stay of execution of jail/prison time for 3rd or subsequent OWI offenders until after mandatory minimum time of confinement is served, with exceptions for probation or legal cause

Lowers minimum wait period for Occupational License eligibility to 45-days following conviction of 2nd or subsequent OWI offense (*from current 60-days for 2nd and 90-days for 3rd or subsequent and from 1-year for 2nd or subsequent within 5-years*)

Increases driver license reinstatement fee from \$60 to \$200 for drivers revoked for OWI-related offenses (*with the additional \$140 in revenue deposited in the General Fund*)

Increases the court processing fee paid by OWI offenders from \$20 to \$163 (*with \$10 retained by the county and the remainder deposited in the General Fund*)

Creates \$8.8 million supplemental appropriation for affected state agencies (District Attorneys, Director of State Courts, Dept of Corrections, Dept of Justice, Office of State Public Defender)

Creates \$6.6 million appropriation for Dept of Corrections to provide community probation supervision, to staff a monitoring center, and to fund enhanced community treatment for 2nd and 3rd OWI offenders; protects these funds from recent State budget act lapse requirements

Sources:

<http://www.legis.state.wi.us/2009/data/acts/09Act100.pdf>

www.zeroinwisconsin.gov

<http://www.dot.wisconsin.gov/safety/motorist/drunkdiriving/index.htm>

<http://www.dot.wisconsin.gov/drivers/drivers/enforce/owi.htm>

<http://www.dot.wisconsin.gov/safety/motorist/drunkdiriving/index.htm>

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