

Provisions of 2009 Wisconsin Act 100

(Signed by Governor Jim Doyle on 12/22/2009)

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

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*) 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 \$365 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

Effective **July 1, 2010** for all provisions, except effective first day after publication for:

- Provisions extending Winnebago County treatment/probation/shorter jail time model as county option statewide and as new option for 4th offenders
- Provision directing Dept of Administration to submit request to Joint Finance Committee within 60 days to fund additional positions needed by District Attorneys, Director of State Courts, Dept of Corrections, Dept of Justice, and Office of State Public Defender related to efforts to process OWI offenses