

**10<sup>th</sup> District OAR/OWS Guidelines and Penalties**

as required by Wis. Stat 343.44(2)(d) & SCR 70.34  
for violations on or after March 1, 2012<sup>1</sup>

Nature of the Offense & Statutory Range	Statutes	Aggravated Nature of Offense	Monetary Penalty (+ Costs)	Jail	Drivers License Action <sup>2</sup>
<b>OAR first or repeated</b> <ul style="list-style-type: none"> <li>▪ \$0 - \$2,500</li> <li>▪ Non-criminal forfeiture</li> <li>▪ 0-6 months suspension</li> <li>▪ Court may revoke for 4<sup>th</sup> or +<sup>3</sup></li> </ul>	343.44(1)(b) & 343.44(2)(ar)1. 343.30(1g)(a)	Low	\$0 - \$300	N/A	0 – 6 months suspension
		Moderate	\$250 - \$1,000	N/A	0 – 6 months suspension
		High	\$500 - \$2,500	N/A	6 months revocation
<b>OAR &amp; prior revocation due to intoxicated driving offense</b> <ul style="list-style-type: none"> <li>▪ \$0 - \$2,500</li> <li>▪ Misdemeanor</li> <li>▪ 0-6 months suspension</li> <li>▪ Court may revoke for 4<sup>th</sup> or +<sup>3</sup></li> </ul>	343.44(1)(b) & 343.44(2)(ar)2. 343.30(1g)(a) 343.307(2)	Low	\$0 - \$500	0 – 60 Days	6 months suspension
		Moderate	\$350 - \$1,000	5 – 180 Days	6 months suspension
		High	\$500 - \$2,500	30 – 360 Days	6 months revocation
<b>OAR causing great bodily harm</b> <ul style="list-style-type: none"> <li>▪ \$5,000-\$7,500</li> <li>▪ Misdemeanor or Class I felony</li> </ul>	343.44(1)(b) & 343.44(2)(ar)3. 343.30(1g)(c)&(d)	Low	\$5,000-\$6,000	60 – 180 Days	6 months revocation
		Moderate	\$5,500 - \$6,500	180 – 270 Days	6 months revocation
		High	\$6,500-\$7,500	270 – 360 Days	6 months revocation
		Knowingly <sup>4</sup>	\$6,500-\$7,500	Class I felony	6 months revocation
<b>OAR causing death</b> <ul style="list-style-type: none"> <li>▪ \$7,500 - \$10,000</li> <li>▪ Misdemeanor or Class H felony</li> </ul>	343.44(1)(b) & 343.44(2)(ar)4. 343.30(1g)(c)&(d)	Low	\$7,500-\$8,500	90 – 210 Days	6 months revocation
		Moderate	\$8,000-\$9,000	210 – 300 Days	6 months revocation
		High	\$9,000-\$10,000	300 – 360 Days	6 months revocation
		Knowingly <sup>4</sup>	\$9,000-\$10,000	Class H felony	6 months revocation
<b>Aggravating &amp; mitigating factors applicable to OAR</b>					
<b>Statutory aggravating factors for OAR in 343.44(2)(b):</b> <ul style="list-style-type: none"> <li>▪ Class of vehicle operated</li> <li>▪ Number of prior convictions under this section within 5 years</li> <li>▪ Reason for revocation, including for offense that may be counted under 343.307(2)</li> <li>▪ Conviction for moving violations from this incident</li> </ul>	<b>Other aggravating factors that may be adopted under 343.44(2)(d):<sup>5</sup></b> <ul style="list-style-type: none"> <li>▪ Prior OAR/OWS convictions</li> <li>▪ Accident, aggravated driving</li> <li>▪ Injury to person/property</li> <li>▪ Alcohol, controlled substances present</li> <li>▪ Attempt to elude officer</li> <li>▪ Prior OWI/PAC convictions</li> <li>▪ Record of unsafe driving</li> </ul>	<b>Mitigating factors that may be adopted under 343.44(2)(d):</b> <ul style="list-style-type: none"> <li>▪ No prior OAR/OWS convictions</li> <li>▪ Not OWI related</li> <li>▪ No unsafe driving/ good prior record</li> <li>▪ Cooperation with arresting officer</li> <li>▪ Reinstated license before hearing</li> <li>▪ History of payment of fines</li> <li>▪ Remedial action since incident</li> </ul>			

Nature of the Offense & Statutory Range	Statute	Aggravated Nature of Offense	Monetary Penalty (+ Costs)	Jail	Drivers License Action <sup>2</sup>
<b>OWS first or repeated</b> <ul style="list-style-type: none"> <li>▪ \$50 - \$200</li> <li>▪ Noncriminal forfeiture</li> <li>▪ 0-6 month suspension</li> <li>▪ Court may revoke for 4<sup>th</sup> or +<sup>3</sup></li> <li>▪ Knowledge not an element<sup>6</sup></li> </ul>	343.44(1)(a) & 343.44(2)(ag)1. 343.30(1g)(a)	Low	\$50 - \$100	N/A	0 – 6 months suspension
		Moderate	\$100-\$200	N/A	0 – 6 months suspension
		High	\$200	N/A	6 months revocation
<b>OWS causing great bodily harm</b> <ul style="list-style-type: none"> <li>▪ \$5,000-\$7,500</li> <li>▪ Misdemeanor or Class I felony</li> </ul>	343.44(1)(a) & 343.44(2)(ag)2. 343.30(1g)(c)&(d)	Not knowingly	\$5,000-\$6,500	N/A	6 months revocation
		Knowingly <sup>4</sup>	\$6,000-\$7,500	Class I felony	6 months revocation
<b>OWS causing death</b> <ul style="list-style-type: none"> <li>▪ \$7,500 - \$10,000</li> <li>▪ Misdemeanor or Class H felony</li> </ul>	343.44(1)(b) & 343.44(2)(ag)3. 343.30(1g)(c)&(d)	Not knowingly	\$7,500-\$9,000	N/A	6 months revocation
		Knowingly <sup>4</sup>	\$8,500-\$10,000	Class H felony	6 months revocation
<b>Aggravating &amp; mitigating factors applicable to OWS</b>					
<b>Aggravating factors:</b> <ul style="list-style-type: none"> <li>▪ Prior OAR/OWS convictions</li> <li>▪ Accident, aggravated driving</li> <li>▪ Injury to person/property</li> <li>▪ Alcohol, controlled substances present</li> <li>▪ Attempt to elude officer</li> <li>▪ Prior OWI/PAC convictions</li> <li>▪ Record of unsafe driving</li> </ul>			<b>Mitigating factors:</b> <ul style="list-style-type: none"> <li>▪ No prior OAR/OWS convictions</li> <li>▪ Not OWI related</li> <li>▪ No unsafe driving/prior record good</li> <li>▪ Cooperation with arresting officer</li> <li>▪ Reinstated license before hearing</li> <li>▪ History of payment of fines</li> <li>▪ Remedial action since incident</li> </ul>		

<sup>1</sup> From July 27, 2005 to July 1, 2009, there were two kinds of OAR: OAR 1<sup>st</sup> was noncriminal and subsequent offenses were criminal. From July 1, 2009 to February 29, 2012, there were primarily two kinds of OAR based on the reason for the underlying revocation: OAR was noncriminal if the revocation was not alcohol or drug related and criminal otherwise. See prior tables for violations occurring during these periods.

<sup>2</sup> Any revocation shall be for 6 months unless court states reasons for less on the record. 343.30(1g)(d).

<sup>3</sup> If person has 3 or more prior OAR/OWS convictions within 5 years, court may revoke license for 6 months. 343.30(1g)(b).

<sup>4</sup> “If the person knows at the time of the violation that his or her operating privilege has been suspended” or revoked. 343.44(2)(ag)2. & 3.; 343.44(2)(ar)3. & 4. “No person whose operating privilege has been duly revoked ... may knowingly operate a motor vehicle upon any highway...” 343.33(1)(b).

<sup>5</sup> Guidelines must treat commercial drivers at least as stringently as other drivers. 343.44(2)(d).

<sup>6</sup> For OWS without great bodily harm or death, “a person’s knowledge that his or her operating privilege is suspended is not an element of the offense ...” 343.44(1)(a).