

1047.1 NEGLIGENCE OF GUEST: ACTIVE: MANAGEMENT AND CONTROL

The management and control of a motor vehicle is the duty and responsibility of the driver alone. If a guest passenger, by physical action, interferes with the management and control of the driver, or if a guest passenger by any other action distracts the driver from the driver's duties of management and control, then the guest passenger is negligent as that word previously has been defined for you.

COMMENT

This instruction and comment were approved in 1974. The comment was updated in 1985 and was reviewed without change in 1989. Editorial changes were made in 1992 to address gender references in the instruction. No substantive changes were made to the instruction.

Delmore v. American Family Mut. Ins. Co., 118 Wis.2d 510, 348 N.W.2d 151 (1984); Theisen v. Milwaukee Auto Mut. Ins. Co., 18 Wis.2d 91, 119 N.W.2d 393 (1962); Dutcher v. Phoenix Ins. Co., 37 Wis.2d 591, 155 N.W.2d 609 (1968).

Active negligence, such as grabbing the steering wheel, Dutcher v. Phoenix Ins. Co., *supra*, must be distinguished from passive negligence, such as accompanying an intoxicated or incompetent driver, McConville v. State Farm Mut. Ins. Co., 15 Wis.2d 374, 113 N.W.2d 14 (1962); negligence of a guest with respect to lookout, Romberg v. Nelson, 8 Wis.2d 174, 98 N.W.2d 379 (1959); and negligence with respect to a guest's duty to warn, Teas v. Eisenlord, 215 Wis. 455, 253 N.W. 795 (1934).

See also Wis JI-Civil 1075, Lookout: Guest.