

**1065 LOOKOUT: ENTERING OR CROSSING A THROUGH HIGHWAY**

Because the law gives a preference to traffic on a through highway, a driver (entering upon) (crossing) a through highway as (name) was, with respect to lookout, has the duty to look sufficient distances to determine that a vehicle approaching on the through highway cannot reasonably be expected to interfere with the driver's (entering upon and taking a proper position on the through highway) (entering upon and turning left onto the through highway) (crossing the through highway) before the driver proceeds to do so.

In addition, the driver must use reasonable judgment in calculating the time required for (him) (her) to (enter and reach a proper position on the through highway) (cross the through highway) as well as the distance away and speed of any vehicle seen by (him) (her) to be approaching on the through highway. If the driver fails to use such reasonable judgment, the driver is negligent as to lookout.

**COMMENT**

This instruction was approved by the Committee in 1960 and revised in 2002.

This instruction, if used, should follow the first two paragraphs of Wis JI-Civil 1055, Lookout. The last clause relating to reasonable judgment in calculating the comparative distances and speeds of the two cars is based on Plog v. Zolper, 1 Wis.2d 517, 527, 85 N.W.2d 492, 498-99 (1957), where the court said, in reference to a driver entering a through highway from a private driveway, that "failure to properly evaluate what is seen is as much an element of lookout as not seeing the approaching vehicle at all." The Plog case was followed in Slattery v. Lofy, 45 Wis.2d 155, 159, 172 N.W.2d 341 (1969); Lundquist v. Western Casualty & Sur. Co., 30 Wis.2d 159, 163, 140 N.W.2d 241 (1965); Henschel v. Rural Mut. Casualty Ins. Co., 3 Wis.2d 34, 38, 87 N.W.2d 800, 802 (1958), and in Bowers v. Treuthardt, 5 Wis.2d 271, 275, 92 N.W.2d 878, 881 (1958).

The law does give the driver on a through highway a preference; however, it is not absolute. Leckwee v. Gibson, 90 Wis.2d 275, 286, 280 N.W.2d 186 (1979). The operator of the vehicle having the right of way on the arterial must still maintain a proper lookout. Leckwee, *supra*; Schmiedeck v. Gerard, 42 Wis.2d 135, 139, 166 N.W.2d 136 (1969).

A driver, who stops at an intersection and finds his vision obstructed, must move into a position where he can efficiently observe traffic crossing his path, stop again, and make an effective observation in either direction. Failure to exercise this caution constitutes negligent lookout. Bey v. Transport Indem. Co., 23 Wis.2d 182, 127 N.W.2d 251 (1964).