

1105 MANAGEMENT AND CONTROL

A driver must use ordinary care to keep his or her vehicle under proper management and control so that when danger appears, the driver may stop the vehicle, reduce speed, change course, or take other proper means to avoid injury or damage.

[If a driver does not see or become aware of danger in time to take proper means to avoid the accident, the driver is not negligent as to management and control.]

COMMENT

This instruction and comment were approved in 1975 and revised in 1992 and 2008. Editorial changes were made in 1992 to address gender references in the instruction. In 1995, the cross-reference to JI-Civil 1105A was added.

Simon v. Van de Hey, 269 Wis. 50, 54-55, 68 N.W.2d 529 (1955). See also Totsky v. Riteway Bus Service, Inc., 233 Wis.2d 371, 607 N.W.2d 637 (2000).

The duty is not to have the vehicle under control as to avoid accident but to use ordinary care to that end. Beer v. Strauf, 236 Wis. 597, 600-01, 296 N.W. 68 (1941); Schulz v. General Casualty Co., 233 Wis. 118, 126, 288 N.W. 803 (1939).

The second paragraph should be given when the court feels that the evidence raises the issue as to whether the party did or did not see the other car in time to take some effective action to avoid the collision.

For emergency situations, see JI-Civil 1105A.

Stopping is a method by which a driver can manage and control a vehicle. Totsky, supra.