

1115 PARKING: STOPPING: LEAVING VEHICLE OFF THE ROADWAY

A safety statute provides that the (parking,) (stopping,) (or) (standing) of a vehicle off the roadway is unlawful unless there is left an unobstructed width of at least 15 feet upon the roadway opposite the (parked) (stopped) (standing) vehicle for the free passage of other vehicles. A vehicle is off the roadway when it is upon the shoulder adjacent to the concrete or traveled portion of the highway.

The statute also provides that a standing vehicle must be left in a position that can be seen by drivers of other vehicles from a distance of 500 feet in each direction along the highway.

[If there is evidence that the vehicle was disabled, add Wis JI-Civil 1125 Parking; Stopping: Leaving Vehicles on the Roadway; Exceptions.]

COMMENT

This instruction and comment were approved in 1975 and revised in 2008.

Wis. Stat. § 346.51(1)(a) and 346.51(1)(b).

This instruction and the question covered by it are not to be given if the jury's answer to the question relating to negligence in stopping on the roadway is in the affirmative. The question should be given in the alternative to avoid duplication. Robinson v. Briggs Transp. Co., 272 Wis. 448, 453-58, 76 N.W.2d 294 (1956). It is prejudicial error to consider findings of negligence under § 346.51(1)(a) and (b) as cumulative to negligence under § 346.51(1). Guderyon v. Wisconsin Tel. Co., 240 Wis. 215, 229, 2 N.W.2d 242 (1942).

If there is an issue as to lighting equipment or display of warning devices, add an instruction based on Wis. Stat. § 347.27 or § 347.29. Robinson v. Briggs Transp. Co., *supra* at 456-61; Swanson v. Maryland Casualty Co., 266 Wis. 357, 364-65, 63 N.W.2d 743 (1954).