

**1120 PARKING: STOPPING: LEAVING VEHICLE ON THE ROADWAY**

A safety statute provides that no person shall (park) (stop) (or) (leave standing) any vehicle, whether attended or unattended, upon the roadway of any highway outside a business or residential district when it is practical to park, stop or leave standing the vehicle off the roadway. Roadway means that portion of a highway [between the regularly established curb lines or that portion] which is improved, designed, or ordinarily used for vehicular travel, excluding the berm or shoulder. [On a divided highway, the term refers to each roadway separately but not to all roadways collectively.]

In determining whether it was practical to move the vehicle to, and leave it standing at, a place off the roadway, you may consider the physical conditions adjacent to the place where the vehicle was parked, stopped, or left standing, any other possible parking spaces, in any direction, to which the vehicle might reasonably have been taken, as well as the reason for stopping.

[If there is evidence of disability, add Wis JI-Civil 1125.]

**COMMENT**

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

Wis. Stat. § 346.51(1); roadway, § 340.01(54). Exceptions to this statute are provided in Wis. Stat. § 346.51(a) and (b).

La Fave v. Lemke, 3 Wis.2d 502, 506, 89 N.W.2d 312 (1958); Puccio v. Mathewson, 260 Wis. 258, 267, 50 N.W.2d 390 (1951); Kline v. Johanneson, 249 Wis. 316, 319, 24 N.W.2d 595 (1946).

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., 272 Wis. 448, 456-61, 76 N.W.2d 294, 298-300 (1956); Swanson v. Maryland Casualty Co., 266 Wis. 357, 364-65, 63 N.W.2d 743, 746-47 (1954).

The graded, but unfinished bed of a highway lane under construction is not a "roadway" under Wis. Stat. § 340.01(54). Burg v. Cincinnati Cas. Ins. Co., 2002 WI 76, 254 Wis.2d 36, 645 N.W.2d 880.

**Legislative Council Note, 1977:** The definitions of "park and parking" in sub. (42m) and "stand or standing" in (59m) are derived from ss. 1-141 and 1-168, respectively, of the Uniform Vehicle Code (1968 revised edition; suppl. I, 1972). The principal difference between "parking" and "standing," as defined, is that "standing" infers a temporary cessation of movement other than for purposes of and while actually engaged in receiving or discharging passengers while "parking" infers a protracted cessation of movement for purposes other than temporarily halting to load or unload property or passengers. See the note to s. 349.13 (1) for further explanation. [Bill 465-A]

"Roadway" means that portion of a highway between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel, excluding the berm or shoulder. In a divided highway the term "roadway" refers to each roadway separately but not to all such roadways collectively. Wis. Stat. § 340.01(54).