

**1125 PARKING: STOPPING: LEAVING VEHICLE ON OR OFF THE ROADWAY:
EXCEPTION TO PROHIBITION**

A statute further provides that the prohibition against (parking) (stopping) (leaving) a vehicle (on the roadway) (off the roadway) does not apply when the vehicle becomes disabled while (on the roadway) (off the roadway) in such a manner (to such an extent) that it is impossible to avoid stopping or temporarily leaving the vehicle in the prohibited place. A vehicle is disabled when the (parking) (stopping) (leaving) of the vehicle (on the roadway) (off the roadway) cannot reasonably be avoided, and it is impossible to move the vehicle under the existing conditions and circumstances. A vehicle is left temporarily when it is stopped for such period of time only as is necessary to permit the driver to take reasonable steps to remove the vehicle.

COMMENT

The instruction and comment were originally published in 1960 and revised in 2008. The comment was updated in 1980.

Wis. Stat. § 346.50(1). This instruction deals with one of the three exceptions in Wis. Stat. § 346.50.

Henthorn v. M.G.C. Corp., 1 Wis.2d 180, 187, 83 N.W.2d 759, 764 (1957); Western Casualty & Sur. Co. v. Dairyland Mut. Ins. Co., 273 Wis. 349, 355-56, 77 N.W.2d 599, 602 (1956); Woodcock v. Home Mut. Casualty Co., 253 Wis. 178, 185, 33 N.W.2d 202, 204-05 (1948). See also Andraski v. Gormley, 3 Wis.2d 149, 87 N.W.2d 818 (1958), and "Law of Negligence Relating to Parking Regulations," 1955 Wis. L. Rev. 1955.

Where disability cannot be found as a matter of law, and where there is a conflict for the jury as to disability, this instruction is to be given along with Wis JI-Civil 1115, Parking: Stopping: Leaving Vehicle off the Roadway, or 1120, Parking: Stopping: Leaving Vehicle on the Roadway.