

1133A SCHOOL BUS: EQUIPPED WITH FLASHING RED AND AMBER WARNING LIGHTS [FOR A BUS EQUIPPED WITH FLASHING RED WARNING LIGHTS AND WITHOUT AMBER WARNING LIGHTS, SEE WIS JI-CIVIL 1133]

A Department of Transportation regulation provides that a school bus shall be equipped with a 360-degree flashing white strobe light having a flashrate of 60 to 120 per minute and either flashing red warning lights or flashing red and amber warning lights.

A safety statute provides that the operator of a school bus equipped with flashing red and amber warning lights shall do all of the following when stopping to load or unload pupils or other authorized passengers:

First, actuate the flashing amber warning lights at least 300 feet before stopping in a 45 miles per hour or greater speed zone or at least 100 feet before stopping in a less than 45 mile per hour speed zone.

Second, at the point of loading or unloading, bring the bus to a stop, extinguish the flashing amber warning lights, and actuate the flashing red warning lights.

Third, after loading or unloading is completed and persons who must cross the highway are safely across, extinguish the flashing red warning lights.

A failure to comply with the regulation and safety statute is negligence.

COMMENT

This instruction and comment were approved in September 2024.

This instruction is drafted for an operator of a school bus equipped with flashing red and amber warning lights as specified in s. 347.25 (2). For an instruction addressing operators of a school buses equipped with only flashing red warning lights as specified in s. 347.25(2), see Wis JI-Civil 1133.

For the statutory section authorizing municipalities to create an ordinance regulating the use of flashing red or amber warning lights by school bus operators, see Wis. Stat. § 349.21, “Authority to regulate school bus warning lights.”

Wis. Adm. Code Trans § 300.16(6); Wis. Stat. § 346.48(2)(a)(b); Alden v. Matz, 8 Wis.2d 485, 99 N.W.2d 757 (1959); Verbeten v. Huettl, 253 Wis. 510, 34 N.W.2d 803 (1948).

If the curb and sidewalk are laid on one side of the road only, the operator shall use the flashing red or flashing red and amber warning lights when loading or unloading passengers from either side. Wis. Stat. § 346.48(2)(a)(3).

If the bus was stopped in a special school bus loading area where the bus is entirely off of the traveled portion of the highway, or it is stopped in a residence or business district when passengers are to be loaded or unloaded where a sidewalk and curb are laid on both sides of the road, no flashing red warning lights are required to be activated as provided in Wis. Stat. § 346.48(2)(b)1, 2. If the bus stopped in an excepted place, some consideration should be given to instructing on the absence of the requirement of activating the flashing lights to negate any possibility that a juror could conclude that the driver was negligent because he or she was not displaying his or her flashing lights.