

1160 RIGHT OF WAY: TO PEDESTRIAN AT INTERSECTIONS OR CROSSWALKS ON DIVIDED HIGHWAYS OR HIGHWAYS PROVIDED WITH SAFETY ZONES

The Wisconsin statutes define "right of way" as the privilege of the immediate use of the roadway.

In a divided highway, the term "roadway" refers to each roadway separately but not to all the roadways collectively.

The statutes further provide that at intersections or crosswalks on divided highways or highways provided with safety zones where traffic is controlled by traffic control signals or by a traffic officer, the driver of a vehicle shall yield the right of way to a pedestrian who (is crossing or) has started to cross the roadway either from the near curb or shoulder or from the center dividing strip or safety zone with the green or "WALK" signal in his or her favor.

Divided highway is defined as a highway with two or more roadways separated by spaces not intended for the use of vehicular traffic.

The term "safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians, including those about to board or alighting from public conveyances, and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

If you find that (pedestrian) (was crossing or) had started to cross the roadway either from the near curb or shoulder or from the center dividing strip or safety zone (at the direction of a traffic officer) (with the green or "WALK" signal in (his) (her) favor), then it became the duty of (the driver of the automobile) to yield the right of way to (pedestrian).

COMMENT

This instruction and comment were approved in 1977. The instruction was revised in 1992 and 2008. Editorial changes were made in 1992 to address gender references in the instruction.

The first paragraph is from Wis. Stat. § 340.01(51).

The second and third paragraphs refer, respectively, to Wis. Stat. §§ 340.01(54) and 346.23(2).

The fourth and fifth paragraphs refer, respectively, to Wis. Stat. § 340.01(15) and 340.01(55).

If the facts warrant it, the court should instruct that the pedestrian no longer enjoys the right of way over an automobile if the signal turns against the pedestrian before the pedestrian leaves the center dividing space or safety zone. If that occurs, the right of way belongs to the vehicle lawfully proceeding directly ahead on a green or "GO" signal. Wis. Stat. § 346.23(2).