

1175 RIGHT OF WAY: ENTERING HIGHWAY FROM AN ALLEY OR NONHIGHWAY ACCESS POINT

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

The statutes further provide that the driver of a vehicle entering a highway from an alley or from a point of access other than another highway shall yield the right of way to all vehicles approaching on the highway which the driver is entering.

The word "entering" means going or moving into.

The phrase "point of access" means a place where an entry can be made onto a highway.

An automobile is said to be approaching the point where the entry on a highway is to be made when it is not so far distant the entry point that, considering the rate of speed at which it is traveling, it would be reasonable to assume that a collision would occur if the driver of the automobile intending to enter the highway undertakes to do so and drives an automobile across or into the path of the oncoming automobile.

If you find that the automobile on the highway was approaching the place where the entry onto the highway was to be made, then it became the duty of the driver entering the highway to yield the right of way to the automobile on the highway.

COMMENT

The instruction and comment were originally published in 1960. The instruction was revised in 1992 and 2008. Editorial changes were made in 1992 to address gender references in the instruction.

Wis. Stat. §§ 340.01(51) and 346.18(4).

Driver or Operator. This instruction applies to either an operator or a driver of a motor vehicle. If "operator" is more appropriate to the evidence, then substitute "operator" for "driver."

If there is need for a definition of "alley," see Wis. Stat. § 340.01(2).

Plog v. Zolper, 1 Wis.2d 517, 525-29, 85 N.W.2d 492, 498-99 (1957).

The negligence of one using excessive speed on an arterial does not excuse one approaching the arterial for not yielding the right of way. Ogle v. Avina, 33 Wis.2d 125, 132, 146 N.W.2d 422 (1966). One entering an arterial must be reasonably sure he or she can enter into the flow of traffic thereon without disrupting it. Ogle v. Avina, supra at 133. However, having the right of way does not relieve a driver of the duty of watching the road for vehicles entering onto the highway. Leckwee v. Gibson, 90 Wis.2d 275, 287, 280 N.W.2d 186 (1979).