1191 DUTY OF OPERATOR ENTERING INTERSECTION WITH GREEN LIGHT IN OPERATOR'S FAVOR: LOOKOUT

An operator entering an intersection with the light in his or her favor does not have an absolute right of way. The operator, when entering the intersection, has the duty of maintaining an efficient lookout to determine the presence of other vehicles approaching his or her course of travel and must also exercise reasonable judgment in calculating the distance and speed of any approaching vehicles so as to determine whether such approaching vehicle will run the light. If, after such lookout and calculation, it is apparent that the approaching vehicle is going to run the light, then the operator having the light in his or her favor must exercise ordinary care in an attempt to avoid a collision.

If the operator entering the intersection with the light in his or her favor properly determined that any automobile approaching the intersection was traveling at such speed and was at such distance from the intersection that the approaching operator could, as a matter of physical fact, yield the right of way if the operator responded to the red light, then the operator with lights in his or her favor, after entering the intersection, need not make continuing observations to either side for approaching traffic.

COMMENT

The instruction and comment were originally published in 1972, and editorial changes were made in 1992 to address gender references in the instruction. The comment was updated in 2008. This revision was approved by the Committee in January 2023; it added to the comment.

See Wis JI-Civil 1190, Right of Way: Green Signal; Wis JI-Civil 1030, Right to Assume Due Care; and Wis JI-Civil 1090, Driver at Arterial Approaching Intersection: Lookout; Right of Way; Flashing Yellow Signal.

Hardware Dealers Mut. Fire Ins. Co. v. Home Mut. Ins. Co., 24 Wis.2d 381, 129 N.W.2d 214 (1964); Oelke v. Earle, 271 Wis. 479, 74 N.W.2d 336 (1956); Wilson v. Koch, 241 Wis. 594, 6 N.W.2d 659 (1942); Gleason v. Gillihan, 32 Wis.2d 50, 55, 145 N.W.2d 90 (1966).

When approaching a green light, if an operator's view of traffic approaching on the intersection road is obstructed, the operator has a duty to make further observation at a point which will enable the operator to take effective steps to avoid a collision. Oelke v. Earle, supra, at 483. See also Battice v. Michaelis, 255 Wis. 571, 576, 39 N.W.2d 702 (1949).

Casual negligence in a proper lookout. "While negligence in failing to keep a proper lookout is usually causal, it is not always so." Powers v. Joint School Dist. No. 3 of Price County, 2 Wis.2d 556, 561, 87 N.W.2d 275 (1958). See also, Pfeifer v. Standard Gateway Theater, Inc., 262 Wis. 229, 55 N.W.2d 29 (1952); Oelke v. Earle, 271 Wis. 479, 74 N.W.2d 336 (1956); and Crye v. Mueller, 7 Wis. 2d 182, 96 N.W.2d 520 (1959).

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

Rights and duties of bicyclists. Different right-of-way standards apply depending on whether a bicyclist was using the roadway as any other vehicle or as a pedestrian upon a sidewalk or within a crosswalk. See Chernetski v. American Family Mutual Insurance Co., 183 Wis.2d 68, 515 N.W.2d 283 (1994) and Estate of Zhu v. Hodgson, 2021 WI App 10, 395 Wis.2d 768, 954 N.W.2d 748.