

**1205 RIGHT OF WAY: MOVING FROM PARKED POSITION**

The Wisconsin statutes define “right of way” as the privilege of the immediate use of the roadway<sup>1</sup> and, further provide, that the operator of any vehicle that has been parked or standing shall, while moving the vehicle from its position, yield the right of way to all vehicles approaching on the highway.<sup>2</sup>

A vehicle is said to be “approaching” when it is not so far distant that, considering the rate of speed at which it is traveling, it would be reasonable to assume that a collision would occur if the vehicle parked or standing is put in motion and moved onto the roadway and into the path of the oncoming vehicle.

If you find that the oncoming vehicle on the highway was approaching, then it became the duty of the operator of the parked or standing vehicle, while moving it from its position, to yield the right of way to a vehicle approaching on the highway.

**NOTES**

1. Wis. Stat. § 340.01(51).
2. Wis. Stat. § 346.18(5).

**COMMENT**

The instruction and comment were originally published in their present form in 1960 and revised in 2008. This revision was approved by the Committee in September 2021.

**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.