

**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 and, further provide, that the driver 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.

An automobile 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 automobile parked or standing is put in motion and moved onto the roadway and into the path of the oncoming automobile.

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

**COMMENT**

The instruction and comment were originally published in their present form in 1960 and revised in 2008.

The first paragraph refers to Wis. Stat. §§ 340.01(51) and 346.18(5).

**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."