

**1225 RIGHT OF WAY: PEDESTRIAN'S DUTY: CROSSING AT CONTROLLED INTERSECTION OR CROSSWALK**

The Wisconsin statutes define “right of way” as the privilege of the immediate use of the roadway<sup>1</sup> and, further provide, that at an intersection or crosswalk where traffic is controlled by traffic control signals or by a traffic officer, the operator of a vehicle shall yield the right of way to a pedestrian who has started to cross the highway on a green or “Walk” signal and in all other cases pedestrians shall yield the right of way to vehicles lawfully proceeding directly ahead on a green signal.<sup>2</sup>

If you find that at (intersection), where traffic was controlled by (traffic control signals) (a traffic officer), (pedestrian) was in the act of crossing the highway on the (green) (Walk) signal, then (pedestrian) was entitled to the right of way over an approaching vehicle. However, if you find that (pedestrian) was not crossing or had not started to cross the highway on a (green) (Walk) signal, then it became (pedestrian)’s duty to yield the right of way to an approaching vehicle on the highway proceeding directly ahead on the (green) signal.

**NOTES**

1. Wis. Stat. § 340.01(51).
2. Wis. Stat. § 346.23(1).

See also, See City of Hartford v. Godfrey, 92 Wis.2d 815, 286 N.W.2d 10 (Ct. App. 1979); Schoenauer v. Wendinger, 49 Wis.2d 415, 182 N.W.2d 441 (1971).

**COMMENT**

The instruction and comment were originally published in their present form in 1972. This comment was updated in 1989 and 2008. The instruction was revised in 1992 and 2008. Editorial changes were made in 1992 to address gender references in the instruction. This revision was approved by the Committee in September 2021.

For the definition of “intersection,” see Wis. Stat. § 340.01(25); for “traffic control signal,” see § 340.01(39); for “pedestrian,” see 340.01(43); and for “crosswalk,” see § 340.01(10)(a) and (b). For the right of way at intersections or crosswalks on divided highways or highway provided with safety zones, see Wis. Stat. § 346.23(2).

An instruction defining “crosswalk” was approved in Van Galder v. Snyder, 254 Wis. 120, 123, 35 N.W.2d 187, 188 89 (1948). The changing of a light does not justify an operator of a vehicle to move forward until a reasonable opportunity is given to the pedestrian to reach the sidewalk. Raaber v. Brzoskowski, 204 Wis. 319, 321, 236 N.W. 133, 134 (1931).

**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.