

1260 POSITION ON HIGHWAY: PEDESTRIAN'S DUTY; WALKING ON HIGHWAY

A safety statute provides that a pedestrian walking along and upon a highway other than a sidewalk shall walk on and along the left side of the highway and upon meeting a vehicle shall, if practicable, step to the extreme outer edge of the traveled portion of the highway. The traveled portion of the highway includes the shoulder.¹

If you find that (pedestrian) was on the left side of the highway as (he) (she) walked on and along it, then it became (pedestrian)'s duty upon meeting a vehicle, if it could be practicably done by (him) (her), to step to the extreme outer limits of the traveled portion of the highway.

NOTES

1. Wis. Stat. § 346.28(1).

COMMENT

This instruction and comment were approved in 1977. The comment was updated in 1989. 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.

Pedestrian walking on right side of highway is negligent as a matter of law. Panzer v. Hesse, 249 Wis. 340, 24 N.W.2d 613 (1946); Staples v. Glienke, 142 Wis.2d 19, 416 N.W.2d 920 (Ct. App. 1987).

The traveled portion of the highway includes the shoulder. Wojciechowski v. Baron, 274 Wis. 364, 80 N.W.2d 424 (1957).

The jury may find a pedestrian walking on the edge of the blacktop roadway not negligent. Dahl v. Ellis, 35 Wis.2d 441, 151 N.W.2d 61 (1967).

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.