

1285 SPEED: REASONABLE AND PRUDENT; REDUCED SPEED

A safety statute provides that no person shall drive a vehicle at a speed greater than is reasonable and prudent under existing conditions and having regard for actual and potential hazards. This statute requires that a driver in hazardous circumstances use ordinary care to regulate the vehicle's rate of speed to avoid colliding with any object, person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and using due care.

The statute also provides that a driver must drive at an appropriate reduced speed (when approaching and crossing [an intersection] [a railway grade crossing]) (when approaching and going around a curve) (when approaching a hillcrest) (when traveling upon any narrow or winding roadway) (when passing [school children] [highway construction or maintenance workers] [other pedestrians]) (when special hazards exist with regard to other traffic or by reason of weather or highway conditions).

Appropriate reduced speed means less than the otherwise lawful speed. An appropriate reduced speed is that speed at which a person of ordinary intelligence and prudence would drive under the same or similar circumstances.

[Here insert, if appropriate, Wis JI-Civil 1310 Speed: Obstructed Vision; Wis JI-Civil 1315 Speed: Obstructed Vision Nighttime; Wis JI-Civil 1320 Speed: Camouflage.]

COMMENT

The instruction and comment were approved in 1977 and revised in 1984. The instruction was revised in 1992 and 2008. Editorial changes were made in 1992 to address gender references in the instruction.

The first and second paragraphs refer, respectively, to Wis. Stat. § 346.57(2) and (3). These subsections do not impose an absolute liability upon drivers to avoid accidents. They merely restate the common-law standard of prudent conduct. Millonig v. Bakken, 112 Wis.2d 445, 452, 455, 334 N.W.2d 80 (1983).

The source of the general instruction is Bailey v. Bach, 257 Wis. 604, 608, 44 N.W.2d 631 (1950). This instruction was approved in Kraft v. Charles, 268 Wis. 44, 50-51, 66 N.W.2d 618 (1954).

Note that the literal language of the statute imposes an absolute duty and, hence, the insertion of the phrase "exercise ordinary care" is necessary to conform the instruction to Culver v. Webb, 244 Wis. 478, 492-93, 12 N.W.2d 731 (1944), and Lembke v. Farmers Mut. Auto Ins. Co., 243 Wis. 531, 535, 11 N.W.2d 169 (1943).

Where a motorist struck a pedestrian who was crossing the highway, it was held not error to give paragraph 1 of this instruction and to refuse to give paragraph 2 of this instruction as it related to passing pedestrians. Greene v. Farmers Mut. Auto Ins. Co., 5 Wis.2d 551, 554-55, 93 N.W.2d 431 (1958).

Appropriate reduced speed is a relative standard. McGee v. Kuchenbaker, 32 Wis.2d 668, 671, 46 N.W.2d 387 (1966). See also Millonig v. Bakken, *supra* at 455.