

1310 SPEED: OBSTRUCTED VISION

A driver of a motor vehicle on a highway has a duty to drive at a rate of speed that will permit the driver to stop within the distance the driver can see ahead. [This means that if, by reason of (a grade) (fog) (rain) (snow) (dust) (smoke) (or otherwise), the distance that the driver can plainly see objects or obstructions ahead of is reduced, then the driver must drive at a rate of speed that will enable the driver to bring the car to a standstill within the reduced distance.] [When a driver's vision is completely obscured, it is the driver's duty to slow down, or even stop, until the cause of the obscured vision is at least in part removed.]

COMMENT

This instruction was initially approved in 1960. The instruction and comment were revised by the Committee in 1982. The instruction was revised in 1992 and 2008. Editorial changes were made in 1992 to address gender references in the instruction.

This instruction is based on Guderyon v. Wisconsin Tel. Co., 240 Wis. 215, 227, 2 N.W.2d 242, 247 (1942), and Lauson v. Fond du Lac, 141 Wis. 57, 60-61, 123 N.W. 629, 630-31 (1909). See also Barker Barrel Co. v. Fisher, 10 Wis.2d 197, 200, 102 N.W.2d 107 (1960); Bailey v. Hagen, 25 Wis.2d 386, 130 N.W.2d 773 (1964); Kinsman v. Panek, 40 Wis.2d 408, 162 N.W.2d 27 (1968). The Guderyon case involved a motorist who, in the daytime, blinded by a cloud of smoke, collided with a parked truck.

See also Wis. Stat. § 346.57(2) and (3).

It is recommended that the last sentence of this instruction be read with the other portions of the paragraph when the facts warrant. In prior versions of this instruction, the last sentence was enclosed in brackets to indicate that its inclusion in the instruction was optional. In Nelson v. Travelers Ins. Co., 80 Wis.2d 272, 284, 259 N.W.2d 48 (1977), the trial court omitted the last sentence. On appeal, the court stated:

While it might not have been prejudicial to omit the last sentence of the pattern instruction because it is only a logical extension of what precedes it, we believe the instruction should have been given in its entirety. It is an accurate statement of the law and could have had application to one version of the facts.

Where the obstruction is in or on the vehicle itself, see Wis. Stat. § 346.88.

Wis JI-Civil 1315 and 1320, which follow, deal, respectively, with obstructed vision in the nighttime and with camouflage.