

1315 SPEED: OBSTRUCTED VISION: NIGHTTIME

A driver of a motor vehicle on a highway in the nighttime has a duty to drive at a rate of speed that will permit the driver to stop within [the range of the vehicle's headlights under the weather conditions then prevailing] [the distance the driver can see ahead]. [This means that if by reason of (a grade) (rain) (fog) (snow) (dust) (dazzling lights of an oncoming car) (or otherwise), the distance that the driver can plainly see objects or obstructions ahead is reduced, 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 approved by the Committee in 1960. 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 Schroeder v. Kuntz, 263 Wis. 590, 593, 58 N.W.2d 445, 447 (1953), and Quady v. Sickl, 260 Wis. 348, 353, 51 N.W.2d 3, 5 (1952), in each of which a driver ran into a parked car, blinded by the lights of an oncoming car; Reuhl v. Uszler, 255 Wis. 516, 522, 39 N.W.2d 444, 448 (1949), in which a hillcrest obstructed a driver's view; Kleist v. Cohodas, 195 Wis. 637, 640-41, 219 N.W. 366, 367 (1928), in which it was snowing; Lauson v. Fond du Lac, 141 Wis. 57, 60-61, 123 N.W. 629, 630-31 (1909), in which a driver ran into a barrier on a dark, rainy night.

A car operator is not necessarily negligent in proceeding ahead over pavement he or she had observed by preview is clear of obstructions, even though thereafter blinded by approaching lights of an oncoming car. Cary v. Klabunde, 12 Wis.2d 267, 107 N.W.2d 142 (1961).

The last sentence is based on the Schroeder case, supra, and cited cases. See Comment to Wis JI-Civil 1310 as to inclusion of the last sentence.