

1354 TURN OR MOVEMENT: ASCERTAINMENT THAT TURN OR MOVEMENT CAN BE MADE WITH REASONABLE SAFETY: LOOKOUT

A safety statute provides that no person shall (turn his or her vehicle at an intersection) (turn into a private road or driveway) (turn from a direct course or move right or left upon a roadway) unless and until the movement can be made with reasonable safety.

This statute requires the driver of the turning vehicle to use ordinary care to make an efficient lookout. This calls for the driver to use ordinary care to determine the presence, location, distance, and speed of any vehicle that might be affected by the driver's turn or movement. After having made these observations, the driver must also use reasonable judgment in calculating the time required to safely turn or move without interfering with other vehicles within or approaching the vehicle's course of travel.

COMMENT

The instruction and comment were originally published in 1966 and revised in 1980, 1992, and 2009.

Wis. Stat. § 346.34(1).

See also Wis JI-Civil 1350, Turn or Movement: Signal Required, and Wis JI-Civil 1352, Turn: Position and Method.

A jury question based on § 346.34(1) and another question based on lookout would result in duplicity. "When an inquiry is made in the form of the verdict of a statutory duty [ascertaining that turn can be made with reasonable safety] which includes several elements of conduct, one of those elements should not also be made the subject of a separate inquiry." Grana v. Summerford, 12 Wis.2d 517, 107 N.W.2d 463 (1961).

"There is no duty to keep a lookout ahead independently of making the observation required under § 85.175(1) [now § 346.34(1)]. It is one and the same duty." Grana, supra at 524. However, questions on lookout and on position on the highway when turning would not be duplicitous.

If the evidence shows that the left-turning motorist failed to see approaching traffic, there was a failure as to lookout, and there is no need to instruct on calculation. Zartner v. Scopp, 28 Wis.2d 205, 214, 137 N.W.2d 107 (1965).

Cases involving vehicles approaching from rear are Schweidler v. Caruso, 269 Wis. 438, 69 N.W.2d 611 (1955); J.W. Cartage Co. v. Laufenberg, 251 Wis. 301, 28 N.W.2d 925 (1947).

Cases involving vehicles approaching from opposite directions are Schwarz v. Winter, 272 Wis. 303, 74 N.W.2d 447 (1956); Mezera v. Pahmeier, 258 Wis. 229, 45 N.W.2d 620 (1951).

Cases involving reasonable judgment are Plog v. Zolper, 1 Wis.2d 517, 85 N.W.2d 492 (1957); DeBaker v. Austin, 233 Wis. 39, 287 N.W.2d 720 (1939).