

**1585 COMPARATIVE NEGLIGENCE: PLAINTIFF-GUEST AND
HOST-DEFENDANT NEGLIGENT**

You are to answer this question only if you have found both parties causally negligent. If, by your previous answers, you are required to answer this question, you will answer the subdivisions thereof, assigning to each party such percentage, or part of 100%, which you find to a reasonable certainty is attributable to that party. You will determine how much and to what extent each party is to blame for the injuries to (plaintiff) and whether the conduct of one made a larger, equal, or smaller contribution than the other. You will fix the percentage attributable to each party in proportion to the fault that the party contributed to cause (plaintiff)'s injuries.

The burden of proof on these subdivisions is on the one who asserts the percentage of causal negligence attributable to the other, and that party must satisfy you to a reasonable certainty by the greater weight of the credible evidence what your answer should be.

COMMENT

This instruction was approved by the Committee in 1979. The comment was also approved in 1979 and was reviewed without change in 1990. Editorial changes were made in 1992 to address gender references in the instruction. No substantive changes were made to the instruction.

Lovesee v. Allied Dev. Corp., 45 Wis.2d 340, 344-45, 173 N.W.2d 196 (1969); see also Taylor v. Western Casualty & Sur. Co., 270 Wis. 408, 71 N.W.2d 363 (1955); Grana v. Summerford, 12 Wis.2d 517, 107 N.W.2d 589 (1961).

Only causal negligence may be compared with causal negligence, Walker v. Kroger Grocery & Baking Co., 214 Wis. 519, 532-33, 252 N.W. 721 (1934); instruction cited as to cause statement, Olson v. Siordia, 25 Wis.2d 274, 279, 130 N.W.2d 827 (1964).

On burden of proof, see McGuiggan v. Hiller Bros., 214 Wis. 388, 393, 253 N.W. 403 (1934); Gauthier v. Carbonneau, 226 Wis. 527, 537, 277 N.W. 135 (1938); Biersach v. Wolf River Paper & Fiber Co., 247 Wis. 536, 549, 20 N.W.2d 658 (1945); Vogel v. Vetting, 165 Wis. 19, 28, 60 N.W.2d 399 (1953).