

**New and updated instructions in this 2024 edition of  
North Carolina Pattern Jury Instructions for Motor Vehicle Negligence Cases**

This edition contains a new table of contents for the motor vehicle instructions, a number of replacement instructions for motor vehicle cases, and a new motor vehicle index. To update your printed edition, print and place the instructions listed below in the proper numerical sequence of your previous edition. Old instructions with the same number should be discarded.

**Interim Instructions.** As the Pattern Jury Instructions Committee considers new or updated instructions, it posts Interim Instructions that are too important to wait until June to distribute as part of the annual hard copy supplements to the School of Government Website at [sog.unc.edu/programs/ncpji](http://sog.unc.edu/programs/ncpji). You may check the site periodically for these instructions or join the Pattern Jury Interim Instructions Listserv to receive notification when instructions are posted to the website. Visit the following link to join the Listserv: [http://lists.unc.edu/read/all\\_forums/subscribe?name=ncpji](http://lists.unc.edu/read/all_forums/subscribe?name=ncpji).

This supplement contains the following replacements for existing instructions:

102.20 Proximate Cause—Peculiar Susceptibility.

\*102.22 Proximate Cause—Activation/Aggravation.

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GUIDE TO THE USE OF THIS BOOK

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- 221.30 Controlled-Access Highway—Stopping on Right-of-Way. (4/89)  
221.35 Controlled-Access Highway—Failure to Yield Right-of-Way. (4/89)

**Chapter 18. Miscellaneous Acts of Negligence.**

- 225.10 Location of Video Monitors and Screens in Motor Vehicles. (6/10)  
225.11 Driving While Texting. (6/13)  
225.13 Commercial Motor Vehicle—Driving While Using A Mobile Telephone Or  
Other Electronic Device. (6/13)  
225.20 Coasting Prohibited. (10/88)  
225.22 Driving Through Safety Zone. (4/89)  
225.23 Driving on Sidewalks. (4/89)  
225.35 Persons Riding Animals and Drivers of Animal-Drawn Vehicles. (6/89)  
225.37 Special Acts of Negligence—Moped Operator (Under Age). (6/10)

**APPENDICES.**

- A. DEFINITIONS FROM THE MOTOR VEHICLE CODE. (6/09)  
B. TABLE OF SECTIONS OF GENERAL STATUTES INVOLVED IN CIVIL INSTRUCTIONS  
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N.C.P.I.—Motor Vehicle 102.20  
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102.20 PROXIMATE CAUSE—PECULIAR SUSCEPTIBILITY.

In deciding whether the [injury<sup>1</sup> to the plaintiff] [death of the decedent] was a reasonably foreseeable consequence of the defendant's negligence, you must determine whether such negligent conduct, under the same or similar circumstances, could reasonably have been expected to [injure] [cause the death of] a person of ordinary [physical] [mental] condition.<sup>2</sup> If so, the harmful consequences resulting from the defendant's negligence would be reasonably foreseeable and, therefore, would be a proximate cause of the [plaintiff's injury] [decedent's death]. Otherwise, the harmful consequences resulting from the defendant's negligence would not be reasonably foreseeable and, therefore, would not be a proximate cause of the [plaintiff's injury] [decedent's death].

*NOTE WELL: Use the below parenthetical language when prior knowledge of susceptibility to injury is at issue.*

(Furthermore, even if a person of ordinary [physical] [mental] condition would not be reasonably expected to [be injured] [die], you must determine whether the defendant had knowledge or a reason to know of the plaintiff's peculiar or abnormal [physical] [mental] condition.<sup>3</sup> If so, the harmful consequences resulting from the defendant's negligence would be reasonably foreseeable and, therefore, would be a proximate cause of the [plaintiff's injury] [decedent's death]. Under such circumstance(s), the defendant would be liable for all the harmful consequences which occur, even though these harmful consequences may be unusually extensive because of the peculiar or abnormal [physical] [mental] condition which [happens] [happened] to be present in the [plaintiff] [decedent].<sup>4</sup>

On the other hand, if you determine that the defendant did not have knowledge or a reason to know of the plaintiff's peculiar or abnormal [physical] [mental] condition, the harmful consequences resulting from the

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defendant’s negligence would not be reasonably foreseeable and, therefore, would not be a proximate cause of the [plaintiff's injury] [decedent's death].)

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1. “Injury” includes all legally recognized forms of personal harm, including activation or reactivation of a disease or aggravation of an existing condition. See N.C.P.I.—Civil 102.22 (Proximate Cause—Activation/Aggravation).

2. *Hughes v. Webster*, 175 N.C. App. 726, 625 S.E.2d 177 (2006); *Potts v. Howser*, 274 N.C. 49, 53-54, 161 S.E.2d 737, 741 (1968); *Lockwood v. McCaskill*, 262 N.C. 663, 670, 138 S.E.2d 541, 546 (1964); *Wyatt v. Gilmore*, 57 N.C. App. 57, 59-60, 290 S.E.2d 790, 791-92 (1982); *Lee v. Regan*, 47 N.C. App. 544, 550, 267 S.E.2d 909, 912, cert. denied, 301 N.C. 92, 273 S.E.2d 299 (1980); *Hinson v. Sparrow*, 25 N.C. App. 571, 573-74, 214 S.E.2d 198, 199-200 (1975); *Redding v. F. W. Woolworth Co.*, 9 N.C. App. 406, 409-10, 176 S.E.2d 383, 385 (1970).

3. The Court of Appeals described the impact of prior knowledge of susceptibility on the foreseeability standard as follows:

Negligence is the failure to use due care under the circumstances. One of the circumstances in a particular case might be the known susceptibility to injury of a person to whom the duty of due care is owed. Obviously, in the exercise of due care one may not act toward a frail old lady in the same way one could act toward a robust young man. The duty owed, to exercise due care, is the same in each instance, but in fulfilling that duty the difference in circumstances requires a difference in conduct by the actor.

*Hinson v. Sparrow*, 25 N.C. App. 571, 574, 214 S.E.2d 198, 200 (1975). In such cases, the following supplement to the above charge may be used: “A negligent person is held responsible for knowing of the peculiar condition when, under the circumstances, [he] [she] should have known or anticipated it.”

4. *Potts v. Howser*, 274 N.C. 49, 54, 161 S.E.2d 737, 742 (1968).

102.22 PROXIMATE CAUSE—ACTIVATION/AGGRAVATION.

The defendant is not liable for damages attributable solely to the pre-existing [physical] [mental] condition of the plaintiff.<sup>1</sup> Instead, the defendant is liable only to the extent that the defendant's wrongful act proximately and naturally [aggravated] [activated] the plaintiff's pre-existing [physical] [mental] condition.<sup>2</sup>

[When the result of the defendant's negligence is to activate a [physical] [mental] condition of the plaintiff [that was dormant] [to which the plaintiff is predisposed], the defendant is liable for the entire damages which result from the [[physical] [mental]] [[dormant] [pre-disposed]] condition becoming active.]<sup>3</sup>

[When the defendant's negligence does not cause a [physical] [mental] condition of the plaintiff, but only aggravates and increases the severity of a condition existing at the time of the plaintiff's injury, the plaintiff's recovery in damages is limited to the additional injury caused by the aggravation over and above the consequences, which the pre-existing [physical] [mental] condition, running its normal course, would itself have caused if there had been no aggravation by the defendant.]<sup>4</sup>

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