

205.60 PASSING ON RIGHT PROHIBITED; EXCEPTIONS.

The motor vehicle law provides that when vehicles are traveling in the same direction overtaking and passing on the right is prohibited.

A violation of this law is negligence within itself.

(Do not use any part of the remainder of this instruction except as the evidence justifies.)

(However, by way of exception, the motor vehicle law permits overtaking and passing on the right:

[if the vehicle being overtaken is in a lane designated for left turns, such operation would not violate the law and would not be negligence]

[if the overtaking vehicle is on a [street] [highway] with unobstructed pavement of sufficient width which has been marked for two or more lanes of moving vehicles in each direction and are not occupied by parked vehicles, such operation would not violate the law and would not be negligence]

[if the overtaking vehicle is on a one-way street when such street is free from obstructions and is of sufficient width and is marked for two or more lanes of moving vehicles which lanes are not occupied by parked vehicles, such operation would not violate the law and would not be negligence]

[if the overtaking vehicle is on a highway on which traffic is restricted to one direction of movement when such highway is free from obstructions and is of sufficient width and is marked for two or more lanes of moving vehicles which lanes are not occupied by parked vehicles, such operation would not violate the law and would not be negligence]

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[if the overtaking vehicle is in a lane designating a right turn on a red traffic signal light, such operation would not violate the law and would not be negligence]).

The burden of proof is on the operator of the vehicle passing on the right to prove, by the greater weight of the evidence, that the operation of the vehicle is within [this exception] [one of these exceptions].¹

1. As to the shifting burden of proof, see *Insurance Co. v. Chantos*, 298 N.C. 246, 258 S.E.2d 334 (1979).