

N.C.P.I.-Motor Vehicle 210.10
RIGHT-OF-WAY OF EMERGENCY VEHICLES-DUTY OF DRIVER OF
EMERGENCY VEHICLE.
MOTOR VEHICLE VOLUME
APRIL 1989
N.C. Gen. Stat. § 20-156(b)

210.10 RIGHT-OF-WAY OF EMERGENCY VEHICLES - DUTY OF DRIVER OF
EMERGENCY VEHICLE. N.C. Gen. Stat. § 20-156(b).¹

The motor vehicle law provides that the operator of an emergency vehicle such as (*name emergency vehicle*)² has the right-of-way when the operator of such a vehicle has given the warning signals required by law.

These required warning signals are, first, an appropriate light and, second, a [siren] [bell] [exhaust whistle] which can be heard under normal conditions for a distance of at least 1,000 feet.³ The operator of an emergency vehicle is required to exercise that degree of care which a reasonably careful and prudent operator of an emergency vehicle would exercise under all the circumstances then existing.⁴ This means that the operator of an emergency vehicle must operate such vehicle with due regard, under the circumstances, for the safety of others on the highway,⁵ and is not protected from the consequences of the arbitrary exercise of this right-of-way.⁶

A violation of this duty is negligence within itself.

1. In *Williams v. Funeral Home*, 248 N.C. 524, 103 S.E.2d 714 (1958), the Court said: "These laws do accord a privilege, but to exercise the privilege one must establish that he belongs to the privileged class With the burden of proof on the defendants to establish they belonged to the privileged class," etc. It thus appears that if there is a dispute as to whether the vehicle was one of those described, or a dispute as to whether an emergency existed, there should be a separate issue, with the burden of proof as indicated by the Court. The jury should be instructed that its answer to this issue determines the standard of care to be applied to the driver.

2. Emergency vehicles which qualify under the statute include police and fire department vehicles, public and private ambulances, vehicles designated, equipped, and used exclusively for the transportation of human tissues and organs for transplantation; rescue squad emergency service vehicles and vehicles operated by county fire marshals and civil preparedness coordinators.

3. See *Funeral Service v. Coach Lines*, 248 N.C. 146, 102 S.E.2d 816 (1958).

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4. For an instruction dealing specifically with the speed of emergency vehicles, see N.C.P.I.-Civil 202.80.

5. This may- and often should- be expanded in the light of the evidence by adding, for example: "He may [exceed the normal speed limit] [proceed through a red light or stop sign]." Note that a 1985 amendment to the statute specifically provides that when the appropriate warning signals are being given, "an emergency vehicle may proceed through an intersection or other place when the emergency vehicle is facing a stop sign, yield sign, or traffic light which is emitting a flashing strobe signal or beam of steady or flashing red light."

6. If the operator of the emergency vehicle does not give the required audible and visible signals, he is held to the same standard of care as the operator of an ordinary vehicle and must obey the ordinary rules of the road.