

N.C.P.I.-Motor Vehicle 211.45
PEDESTRIAN-DUTY TO WALK TO LEFT OF HIGHWAY AND YIELD RIGHT-
OF-WAY.
MOTOR VEHICLE VOLUME
JUNE 1989
N.C. Gen. Stat. § 20-174(d)

211.45 PEDESTRIAN - DUTY TO WALK TO LEFT OF HIGHWAY AND YIELD
RIGHT-OF-WAY.¹

The motor vehicle law provides

[that where sidewalks are provided it is unlawful for a pedestrian to
walk along and upon an adjacent roadway.]

[that when practicable a pedestrian walking along and upon a
highway² shall walk only on the extreme left-hand side of the roadway or
its shoulder facing traffic which may approach from the opposite direction,
and the pedestrian, even when walking on the left side, shall yield the
right-of-way to approaching traffic.]

A violation of this law is not negligence within itself.³ However, a
violation of this law would be negligence if under the same or similar
circumstances, a reasonably careful and prudent person would not have
violated this law.

1. The evidence in this type of pedestrian case may be such as to present an issue
of Last Clear Chance. In such a case this instruction might be given in conjunction with
the instruction (N.C.P.I.-Civil 105.15) on Last Clear Chance.

2. Other subsections of N.C. Gen. Stat. § 20-174 dealing with crossing (see
N.C.P.I.-Civil 211.40) use "roadway," whereas subsection (d), as indicated in the
instruction, uses "highway." N.C. Gen. Stat. § 20-4.01(38) defines "roadway" as "That
portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of
the shoulder." By N.C. Gen. Stat. § 20-4.01(13) "highway" is defined as "The entire width
between property lines of every way or place of whatever nature, when any part thereof is
open to the use of the public as a matter of right for the purposes of vehicular traffic."
Without citing these definitions, but consistently therewith, the Court held, in *Simpson v.*
Wood, 260 N.C. 157, 132 S.E.2d 369 (1963), that under N.C. Gen. Stat. § 20-174(d) "it is
unlawful to walk on the right-hand shoulder of a highway along the traveled portion
thereof." The place "does not have to be on the hard surface or the traveled portion
thereof."

3. It was expressly so held in *Lewis v. Watson*, 229 N.C. 20, 47 S.E.2d 484 (1948)

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and *Pope v. Deal*, 39 N.C. App. 196, 249 S.E.2d 866 (1978). See, however, note 3 to
N.C.P.I.-Civil 211.40.