

215.40A TIRES - SAFETY REQUIREMENTS. N.C. Gen. Stat. § 20-122.1(a1).¹

The motor vehicle law provides that a motor vehicle that has a Gross Vehicle Weight Rating² (GVWR) of at least 10,001 pounds or more and is operated on the streets or highways of this state shall be equipped with tires that are safe for the operation of the vehicle and do not expose the public to needless hazard.³

The law further provides that if certain standards are not met, the tire is considered unsafe. A tire shall be considered unsafe if (*use one or more of the following bracketed statements, as the evidence justifies*)

[the tire is cut, cracked or worn so as to expose the tire cord. "Cord" means the strands forming a ply in a tire.⁴]

[the tire has visible tread separation or chunking. "Tread" means the portion of a tire which comes in contact with the road.⁵ "Chunking" means the separation of the tread from the carcass in particles which may range from a very small size to several square inches in area.⁶]

[the steering axle tire does not have at least four thirty-seconds (4/32nds) of an inch of tread depth at any location around the circumference of the tire on any major tread groove. "Tread depth" means the distance from the base of the tread design to the top of the tread.⁷]

[any nonsteering axle tire does not have at least two thirty-seconds (2/32nds) of an inch of tread depth at any location around the circumference of the tire in any major tread groove. "Tread depth" means the distance from the base of the tread design to the top of the tread.⁸]

[the tread wear indicators are in contact with the roadway at any

location around the circumference of the tire on any major tread groove.]

A failure to meet [this standard] [any of these standards] is not negligence within itself.⁹ However, the evidence with regard to it is to be considered with all other facts in evidence in determining whether the defendant was negligent.

1. N.C. Gen. Stat. § 20-122.1 was amended by 2009 N.C. Sess. Laws 376, applicable to acts committed on or after October 1, 2009, to include a new section, (a1), specifically covering vehicles having "a GVWR of at least 10,001 pounds or more."

2. N.C. Gen. Stat. § 20-4.01(12b) (2009) defines GVWR as:

The value specified by the manufacturer as the maximum loaded weight a vehicle is capable of safely hauling. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units.

3. *NOTE WELL: If the defect in a tire is not covered by one of the statutory standards subsequently set out in the instruction, the remainder of the instruction should not be given. It should be replaced by an instruction that states:*

An operator is not an insurer of the safety of the tires on the vehicle *he* is operating. *He* is, however, required to use the same care that a reasonable person under the same or similar circumstances would use to see that each tire is in a safe and proper condition.

See *Scott v. Clark*, 261 N.C. 102, 106, 134 S.E.2d 181, 184 (1964) (antedating enactment of N.C. Gen. Stat. § 20-122.1); N.C.P.I.-Civil 215.80 ("Brakes-Most Motor Vehicles").

4. N.C. Gen. Stat. § 20-122.1(a)(2) (2009).

5. N.C. Gen. Stat. § 20-122.1(a)(3).

6. N.C. Gen. Stat. § 20-122.1(a)(1).

7. N.C. Gen. Stat. § 20-122.1(a)(4).

8. *Id.*

9. N.C. Gen. Stat. § 20-122.1(b).