

N.C.P.I.-Motor Vehicle 202.81
SPEED LIMIT NOT APPLICABLE-EMERGENCY VEHICLES-WILLFUL OR
WANTON CONDUCT-("GROSS NEGLIGENCE").
MOTOR VEHICLE VOLUME
DECEMBER 2003
N.C. Gen. Stat. § 20-145

202.81 SPEED LIMIT NOT APPLICABLE-EMERGENCY VEHICLES¹ - WILLFUL
OR WANTON CONDUCT - ("GROSS NEGLIGENCE").

The motor vehicle law provides that the speed limits which must
ordinarily be followed by all operators do not apply

[to a vehicle when operated under the direction of the police in the
chase or apprehension of violators of the law or of persons charged with
or suspected of any such violation]

[to a fire department or fire patrol vehicle when traveling in
response to a fire alarm]

[to a public or private ambulance or a rescue squad emergency
service vehicle when traveling in emergencies]

[to a vehicle operated by a county fire marshal or a civil
preparedness coordinator when traveling in the performance of official
duties].²

Although such a vehicle is ordinarily exempt from the speed limit,³
such a vehicle cannot be operated with willful or wanton disregard for the
rights and safety of others.

(An act is willful if the defendant intentionally fails to carry out
some duty imposed by law or contract which is necessary to protect the
safety of the person or property to which it is owed.⁴)

(An act is wanton if the defendant acts in conscious and intentional
disregard of and indifference to the rights and safety of others.⁵)

Thus, the operator of such an emergency vehicle is not exempt from all obligation to exercise care to avoid injury to others who may be on the public streets or highways. However, the operator of an emergency vehicle does not act willfully or wantonly merely because the operator exceeds the speed limit. Speed alone, unless done in disregard of the rights and safety of others, is not willful or wanton conduct.

1. If there is a dispute as to whether the vehicle was an emergency vehicle, or a dispute as to whether an emergency existed, a separate issue should be submitted. See note 1 to N.C.P.I.-Civil 210.10.

2. North Carolina no longer distinguishes between the standard of care applicable to an emergency vehicle involved in a collision ("due care") and the standard of care applicable to an emergency vehicle that causes a collision between two other vehicles ("gross negligence"). *Young v. Woodall*, 343 N.C. 459, 471 S.E.2d 357 (1996) establishes that the standard is the same for both circumstances ("gross negligence"), overruling any prior cases holding to the contrary.

3. For an instruction on the duty of the driver of an emergency vehicle with respect to the right-of-way, see N.C.P.I.-Civil 210.10. For instructions with regard to the duties of other drivers in the vicinity of emergency vehicles, see N.C.P.I.-Civil 210.15, 210.30, 210.31, 210.35, and 210.40.

4. *Abernathy v. Consolidated Freightways Corp.*, 321 N.C. 236, 362 S.E.2d 559 (1987).

5. *Yancey v. Lea*, 354 N.C. 48, 54, 550 S.E.2d 155, 158 (2001) (quoting *Hinson v. Dawson*, 244 N.C. 23, 28, 92 S.E.2d 393, 397 (1956)); cf. *Bullins v. Schmidt*, 322 N.C. 580, 369 S.E.2d 601 (1988) (defining gross negligence as wanton conduct done with conscious or reckless disregard for the rights and safety of others).