

N.C.P.I.-Motor Vehicle 211.30
PEDESTRIAN-CROSSING AT INTERSECTION OR OTHER APPROPRIATE
PLACE WITH SPECIAL PEDESTRIAN CONTROL SIGNALS.
MOTOR VEHICLE VOLUME
JUNE 1989
N.C. Gen. Stat. § 20-172(b)(2)

211.30 PEDESTRIAN - CROSSING AT INTERSECTION OR OTHER
APPROPRIATE PLACE WITH SPECIAL PEDESTRIAN CONTROL SIGNALS.

The motor vehicle law provides that special pedestrian control signals¹ may be installed at highway² intersections³ or other appropriate places.⁴ Where the special pedestrian control signal indicates "DON'T WALK," the pedestrian shall not start to cross the highway in the direction of such signal.

A violation of this law is negligence within itself.⁵

The motor vehicle law also provides that where the pedestrian has begun *his* crossing on the "WALK" signal but not completed it before the signal changes to "DON'T WALK," the pedestrian shall proceed to a sidewalk or safety island and remain there until the signal changes again to "WALK."

A violation of this law is negligence within itself.

1. "Special pedestrian control signals" is not a statutorily defined term. N.C. Gen. Stat. § 20-172(a) provides, however, that such signals shall exhibit the words, or symbols for, "WALK" and "DON'T WALK" as "part of a system of traffic-control signals or devices."

2. "Highway" is defined at N.C. Gen. Stat. § 20-4.01(13) to mean the "entire width between the property right-of-way 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. A "highway" is broader than a "roadway." See N.C. Gen. Stat. § 20-4.01(38) and N.C.P.I.-Civil 211.10, note 3.

3. See N.C. Gen. Stat. § 20-4.01(16) on the definition of "intersection."

4. "Other appropriate places" is not specifically defined. Presumably it includes all crosswalks, whether marked or unmarked (see N.C.P.I.-Civil 211.10, notes 4 and 5), and any other place suitable for pedestrian crossing.

5. In most instances, a pedestrian's violation of a safety statute is not negligence within itself. This result comes about through the operation of N.C. Gen. Stat. § 20-174

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which prescribes four rules of pedestrian conduct in subsections (a),(b), (c), and (d) and concludes with the provision in (e) that "[n]otwithstanding the provisions of this section, every driver of a vehicle shall exercise due care to avoid colliding with a pedestrian upon any roadway and shall give warning by sounding the horn when necessary. . . ." North Carolina's courts have interpreted subsection (e) to preclude a finding of negligence within itself on behalf of a pedestrian who violates (a), (b), (c), or (d). *Clark v. Bodycombe*, 289 N.C. 246, 221 S.E.2d 506 (1976). North Carolina's courts have also stated that the rule of subsection (e) is the common law rule and is "independent" of the statute. *Gamble v. Sears*, 252 N.C. 706, 114 S.E.2d 677 (1960); *Citizen's National Bank v. Phillips*, 236 N.C. 470, 73 S.E.2d 323 (1952). If this be the case, no violation of a safety statute by a pedestrian is negligence within itself. However, there are no cases which have applied the common law rule embodied in subsection (e) to any fact situations that fall outside of N.C. Gen. Stat. § 20-174(a), (b), (c), and (d). Furthermore, N.C. Gen. Stat. § 20-175 was enacted at the same time as N.C. Gen. Stat. § 20-174 but contains no disclaimer as to negligence *per se* or a rule similar to subsection (e). A reasonable inference is that the General Assembly intended § 20-175 to operate in derogation of the common law as codified in subsection (e) of § 20-174. This conclusion is supported further by the repealer provision in Session Law 1937, c. 407, s. 145: ". . .all laws. . .providing otherwise for the *subject matter* of this Act are hereby repealed." (emphasis supplied). Thus, despite *dicta* in some cases which could be construed as recognizing the continued existence of the common law rule, the common law rule was probably repealed in 1937. Finally, N.C. Gen. Stat. § 20-172(b), the subject of this instruction, was enacted in 1973. It contains no disclaimer as to negligence *per se* or a rule similar to subsection (e) of § 20-174. As a result, a pedestrian's violation of N.C. Gen. Stat. § 20-172(b)(2) is negligence within itself. See also N.C. Gen. Stat. §§ 20-174.1 and 20-175 and N.C.P.I.-Civil 211.50, 211.55 and 211.56.