

213.10 RACING AND SPEED COMPETITION.

The motor vehicle law provides that it is unlawful to operate¹ a motor vehicle on a [street] [highway] willfully in speed competition with another vehicle. Racing is speed competition between motor vehicles.

Engaging in such speed competition, whether prearranged or not, is negligence within itself.²

(All persons who willfully participate in such speed competition are jointly and concurrently negligent. If injury to one not involved in the competition proximately results from it, all participants are liable, regardless of which of their vehicles actually inflicts the injury.)

(If a participant abandons the competition, to the knowledge of the other participants, before the accident and injury, the mere fact that *he* earlier participated in the competition does not make *him* liable for injuries thereafter caused by the other participants.)³

1. N.C. Gen. Stat. § 20-141.3(c) makes it unlawful for the owner or person in control of a motor vehicle to authorize or knowingly permit it to be operated in a prearranged speed competition.

2. If the injured person was a passenger and had knowledge of the race and acquiesced in it, he cannot recover, and the jury should be so instructed on the issue of contributory negligence. Otherwise, as to the duties of a gratuitous passenger, see N.C.P.I.-Civil 104.20.

3. Part of the above charge is based upon *Boykin v. Bennett*, 253 N.C. 725, 118 S.E.2d 12 (1961). See also *Mason v. Gillikin*, 256 N.C. 527, 124 S.E.2d 537 (1962).

A violation of either N.C. Gen. Stat. § 20-141(a) or N.C. Gen. Stat. § 20-141(b) constitutes willful or wanton conduct. *Lewis v. Brunston*, 78 N.C. App. 678, 338 S.E.2d 595 (1986).