

N.C.P.I.—CRIM 206.55
INVOLUNTARY MANSLAUGHTER-(INCLUDING MISDEMEANOR DEATH BY
VEHICLE.) FELONY, MISDEMEANOR
GENERAL CRIMINAL VOLUME
JUNE 2014
N.C. Gen. Stat. § 14-28, 20-141.4

206.55 INVOLUNTARY MANSLAUGHTER—(INCLUDING MISDEMEANOR
DEATH BY VEHICLE). FELONY, MISDEMEANOR.

*NOTE WELL: When impaired driving is involved, use N.C.P.I.–
Crim. 206.55A. Refer to Punishment Chart for Homicides,
N.C.P.I.–Crim. 206 Series.*

The defendant has been charged with involuntary manslaughter, which is the unintentional killing of a human being by culpable negligence.

For you to find the defendant guilty of involuntary manslaughter, the State must prove three things beyond a reasonable doubt:

First, that the defendant violated (any of) the following law(s) of this State governing the operation of motor vehicles. The laws of this State include (*define the pertinent traffic law(s) and enumerate its or their elements*).

Second, that the defendant's violation constituted culpable negligence. The violation of a motor vehicle law which results in injury or death will constitute culpable negligence if the violation is willful, wanton, or intentional. But, where there is an unintentional or inadvertent violation of the law, such violation standing alone does not constitute culpable negligence. The inadvertent or unintentional violation of the law must be accompanied by recklessness of probable consequences of a dangerous nature, when tested by the rule of reasonable foresight, amounting altogether to a thoughtless disregard of consequences or a heedless indifference to the safety of others.¹

And Third, the State must prove that the defendant's intentional, willful, wanton, or reckless violation of the law proximately caused the victim's death. A proximate cause is a real cause, a cause without which the

¹ See *S. v. Gainey*, 292 N.C. 627, 632-633 (1977).

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victim's death would not have occurred, and one that a reasonably careful and prudent person could foresee would probably produce such [injury] [damage] or some similar injurious result. (The defendant's violation need not have been the only cause or the last or nearest cause. It is sufficient if it occurred with some other cause acting at the same time, which, in combination with, proximately caused the death of the victim.) In order for you to find that the defendant's violation proximately caused the victim's death, you must find, first, that the violation proximately caused an accident; second, that the accident proximately caused the victim's death; and third, that both the accident and the death occurred in a manner which was reasonably foreseeable from the defendant's intentional or reckless violation of the law.²

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant violated the law of this State governing the operation of motor vehicles and that the defendant did so with culpable negligence, that is, willfully, wantonly, or intentionally or with recklessness of probable consequences of a dangerous nature, when tested by the rule of reasonable foresight, amounting to a thoughtless disregard of consequences or heedless indifference to the safety of others, and that the defendant's violation proximately caused the death of the victim, it would be your duty to return a verdict of guilty of involuntary manslaughter. However, if you do not so find or have reasonable doubt as to one or more of these things, you would not return a verdict of guilty of involuntary manslaughter.³

² If there is no real issue as to proximate cause, omit the two sentences within the parentheses.

³ If there is to be no instruction on lesser included offenses, the final sentence would be ". . . it would be your duty to return a verdict of not guilty."

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If you do not find the defendant guilty of involuntary manslaughter, you must consider whether the defendant is guilty of misdemeanor death by vehicle.⁴

Misdemeanor death by vehicle differs from involuntary manslaughter in that the State need not prove that the defendant was culpably negligent.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant violated the law of this State governing the operation of motor vehicles, and that the defendant's violation proximately caused the death of the victim, it would be your duty to return a verdict of guilty of misdemeanor death by vehicle.

However, if you do not so find, or if you have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.⁵

⁴ Misdemeanor death by vehicle (see N.C.P.I.—Crim. 206.58) may be a lesser included offense. Death by vehicle differs from manslaughter in that the latter requires culpable negligence while the former does not. See *S. v. Williams*, 90 N.C. App. 614, *disc. rev. den'd*, 323 N.C. 369 (1988).

⁵ When a case will be submitted to a jury on a charge for which the penalty involves the possibility of the loss of a motor vehicle driver's license, either party may indicate the consequences of a verdict of guilty of that charge. N.C. Gen. Stat. § 15-176.9.

