

103.61 AGENCY—USE OF MOTOR VEHICLE BY TRANSFEREE OF AGENT.¹¹

The law of North Carolina provides that a person authorized by the owner to drive a vehicle does not have authority to permit another to drive the vehicle in the absence of express or implied authority by the owner, and unless this authority is present, the owner is not liable for the negligent acts of the other driver.

NOTE WELL: The recitation of North Carolina law set forth above is applicable under general agency principles, but may not necessarily be accurate for claims implicating the Motor Vehicle Safety and Financial Responsibility Act, N.C.G.S. § 20-279.1, et seq. See N.C.P.I.—Motor Vehicle 103.80—Financial Responsibility—Express or Implied Permission/Use of Motor Vehicle.

[Express authority is authority definitively and clearly given either orally or in writing and not left to inference or implication.]

[Implied authority is authority inferred from the circumstances, conduct, or language of the parties.]

[However, if the [agent] [employee] is confronted with an emergency which makes it necessary for the [agent] [employee] to get aid, and for this reason the [agent] [employee] authorizes another driver to operate the [principal's] [employer's] vehicle, the [principal] [employer] would be liable for [injuries] [damages] proximately caused by the other driver's negligence while rendering the aid requested by the [agent] [employee].]

I charge you that the [defendant] [plaintiff] is not responsible for the negligent operation of the vehicle by a driver other than the [[defendant's] [plaintiff's]] [[agent] [employee]] unless you find from the greater weight of the evidence that (1) the [[defendant's] [plaintiff's]] [[agent] [employee]] had the authority, either express or implied, to allow the other driver to

operate the vehicle, or (2) the [[defendant's] [plaintiff's]] [[agent] [employee]] was confronted with an emergency which made it necessary for the [defendant] [plaintiff] to authorize the other driver to operate the vehicle.

1. See *Torres v. Smith*, 269 N.C. 546 (1967); *Barrier v. Thomas & Howard Co.*, 205 N.C. 425 (1933).