

CONTRIBUTORY NEGLIGENCE PER SE¹--PEDESTRIAN'S VIOLATION OF CERTAIN MOTOR VEHICLE LAWS. G.S. 20-172(b), -174.1, -175(a) and (b).

I instruct you that the motor vehicle law provides that

["No person shall willfully stand, sit or be upon the highway or street² in such a manner as to impede the regular flow of traffic."]³

[and]

["No person shall stand in any portion of the State highways,⁴ except upon the shoulders thereof, for the purpose of soliciting a ride from the driver of any motor vehicle."]⁵ [and]

["No person shall stand or loiter in the main traveled portion, including the shoulders and median, of any State highway or street,⁶ excluding sidewalks, or stop any motor vehicle for the purposes of soliciting employment, business or contributions from the driver or occupant of any motor vehicle that impedes the normal movement of

¹The traditional "per se" has been retained in the indexing caption for the convenience of the judge in locating the instruction. However, the text of the instruction substitutes the term "within itself" for "per se" on the theory that juries will more readily understand "within itself" than "per se."

²"Highway" is defined at G.S. 20-4.01(13) to mean the "entire width between property or 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." The definition of "street" is synonymous, G.S. 20-4.01(46), while a "highway" is broader than a "roadway." See G.S. 20-4.01(38) and N.C.P.I.--Civil 211.10, note 3.

³G.S. § 20-174.1.

⁴See note 2, supra.

⁵G.S. § 20-175(a).

⁶See note 2, supra.

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traffic on the public highways or streets."]⁷ [and]

["No pedestrian shall start to cross the highway in the direction of" a special pedestrian control signal which indicates "DON'T WALK."]⁸

I instruct you further that the violation of [this] [these] motor vehicle [law] [laws] by a pedestrian is negligence within itself.

⁷G.S. § 20-175(b). Note, however, that "licensees, employees or contractors of the Department of Transportation or of any municipality engaged in construction or maintenance or in making traffic or engineering surveys" are exempted from this statute.

⁸G.S. § 20-172(b) provides "DON'T WALK."--No pedestrian shall start to cross the highway in the direction of such signal" As to whether violation of this statute constitutes negligence per se, see N.C.P.I.--Civil 211.30, note 5.