

RAILROAD CROSSING--RAILROAD'S DUTY OF CARE--DUTY OF RAILROAD TO OPERATE AND MAINTAIN EXISTING CROSSING SIGNALS.<sup>1</sup>

Where a railroad has installed automatic electrical (or mechanical) signalling devices to warn travelers that they are approaching a crossing, the railroad has a duty to exercise ordinary care in the operation and maintenance of those devices.

A violation of this duty is negligence.

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<sup>1</sup>Neal v. Booth, 287 N.C. 237 (1975); Johnson v. R.R. Rwy., 255 N.C. 386 (1961). Note that mere failure of automatic signalling devices to function at a given moment is not evidence of negligence. As the Supreme Court wrote in Johnson, "The mere momentary failure of an automatic signaling device to operate upon the occasion of an accident is not evidence of negligence on the part of the railroad company. Res ipsa loquitur has no application in such circumstances." Johnson, 255 N.C. at 388. Furthermore, the fact that an automatic signalling device is "not working does not relieve the traveler of the duty to look and listen for approaching trains when, from a safe position, such looking and listening will suffice to warn him of danger." Neal, 287 N.C. at 242.

