

OPERATOR'S DUTY OF CARE AT RAILROAD CROSSINGS.

When approaching and going over a railroad crossing, a traveler has a duty to exercise that degree of care for *his* own safety which a reasonably careful and prudent person would exercise under the same or similar circumstances.¹ Thus, a traveler must

[keep a proper lookout. *He* must, from a point where *his* lookout will be effective, look in both directions and listen for approaching trains before going upon or crossing the track.² *He* must look, listen, and take every reasonable precaution to avoid a collision³]

[keep *his* vehicle under proper control⁴]

[yield the right-of-way to a train approaching or already in the crossing when *he* knows or, in the exercise of ordinary care, should know of the existence of the crossing⁵]

In the event the railroad is alleged to have failed to give reasonable warning, use one or more of the following as appropriate:

¹Price v. Railroad, 274 N.C. 32, 40 (1968); Irby v. R.R., 246 N.C. 384, 390 (1957); Godwin v. R.R., 220 N.C. 281 (1941).

²Neal v. Booth, 287 N.C. 237, 242 (1975); Jernigan v. R.R. Co., 275 N.C. 277, 281 (1969); Johnson v. R.R., 255 N.C. 386, 388 (1961); Arvin v. McClintock, 253 N.C. 679, 684 (1961); Irby v. R.R., 246 N.C. 384, 390 (1957).

³Id.

⁴Cox v. Gallamore, 267 N.C. 537, 543 (1966).

⁵Price v. Railroad, 274 N.C. 32, 40 (1968); Southern Railway Co. v. O'Boyle Tank Lines, 70 N.C. App. 1, 7 (1984).

OPERATOR'S DUTY OF CARE AT RAILROAD CROSSINGS. (Continued.)

(Even though the railroad has a duty to give a traveler timely warning of the approach of its train to a crossing and the traveler may reasonably expect such warning, the railroad's failure to give such a warning does not relieve the traveler of *his* duty.⁶⁾

(A traveler may reasonably place some reliance upon an automatic signalling device (especially if *his* view is obstructed).⁷ Thus, when the crossing is protected by an automatic signalling device, the traveler may reliably proceed if the warning signal is not being given.⁸ However, the fact that an automatic signalling device is not working does not relieve the traveler of *his* duty to look and listen for approaching trains when, from a safe position, looking, and listening would warn *him* of the danger.⁹⁾

A violation of [this duty] [any one of these duties] is negligence.

⁶Neal v. Booth, 287 N.C. 237, 242 (1975); Brown v. R.R. Co., 276 N.C. 398, 403 (1970); Price v. Railroad, 274 N.C. 32, 40 (1968); Cox v. Gallamore, 267 N.C. 537, 543 (1966); Johnson v. R.R., 255 N.C. 386, 388 (1961); Irby v. R.R., 246 N.C. 384, 390 (1957); and Goodwin v. R.R., 220 N.C. 281, 286 (1941).

⁷Neal v. Booth, 287 N.C. 237, 242 (1975); Johnson v. R.R., 255 N.C. 386, 388 (1961).

⁸Johnson v. R.R., 255 N.C. 386, 388 (1961).

⁹Neal v. Booth, 287 N.C. 237, 242 (1975).