

211.10 MOTORIST'S DUTY TOWARD PEDESTRIAN—CROSSWALK OR INTERSECTION.¹ N.C.G.S. §§ 20-155(c) AND 20-173(a).²

The motor vehicle law provides that when a pedestrian³ is crossing a roadway⁴ within [a marked crosswalk] [an unmarked crosswalk at an intersection—that is, within the area which would be included if the lines of an existing sidewalk⁵ were projected across the intersection],⁶ the operator of any vehicle on the roadway must yield the right-of-way to the pedestrian.⁷

This means that the operator must slow down or, if necessary, stop, in order to avoid injury to the pedestrian.⁸

A violation of this law is negligence within itself.

1. This charge may be combined with one or more of the other instructions involving pedestrians.

2. These two sections, in general, cover the same subject matter. The differences between them seem to be more apparent than real, as will be pointed out in the following footnotes.

3. Bicyclists are not pedestrians. *Barrow v. Sargent*, 278 N.C. App. 164, 168, 862 S.E.2d 688, 691 (2021) ("The ordinary meaning of pedestrian has long been understood to be a person traveling on foot, not a person bicycling.")

4. This is the term used in N.C.G.S. § 20-173(a). "Highway" is used in N.C.G.S. § 20-155(c) but the more limited term seems to be what is really intended. The only difference might be as to a shoulder, if one exists.

5. "A grassy area where a sidewalk would have been had there been one" may be a crosswalk. *Bowen v. Gardner*, 275 N.C. 363, 168 S.E.2d 47 (1969). *But see Anderson v. Carter*, 272 N.C. 426, 158 S.E.2d 607 (1968) (stating that if there is no sidewalk, there is no "unmarked crosswalk.").

6. N.C.G.S. § 20-155(c) refers to "any regular pedestrian crossing included in the prolongation of the lateral boundary lines of the adjacent sidewalk at the end of a block." N.C.G.S. § 20-173(a) refers to "any unmarked crosswalk at an intersection." In *Anderson v. Carter*, *supra* note 5, the Court, citing 155(c), but apparently not relying on it for the definition, defined the 173(a) provision as meaning "that area within an intersection which also lies within the lateral boundaries of a sidewalk projected across the intersection." Thus, in this respect, identical meaning is accorded.

7. N.C.G.S. § 20-155(c) applies only "within a business or residence district," but no such restriction is included in 173(a). In this respect, since 173(a) applies in any event, the restriction in 155(c) seems inconsequential. Further, any question as to geographical coverage would seldom arise, since there are few sidewalks outside such districts.

N.C.G.S. § 20-173(a) expressly excepts locations where traffic control signals are in operation. N.C.G.S. § 20-155(c) excepts "intersections where the movement of traffic is being regulated by traffic officers or traffic direction devices." Thus, both except traffic light situations, and it seems probable that 173(a) would not apply when an officer is directing traffic. Where there are traffic lights, see N.C.G.S. § 20-172.

8. This sentence is based upon the explicit language of N.C.G.S. § 20-173(a). While that language is not duplicated in 155(c), the requirement to slow or stop seems clearly implicit in the express requirement that the operator yield the right-of-way.