

PEDESTRIANS--DUTY OF LOOKOUT--PEDESTRIANS WITH THE RIGHT-OF-WAY.<sup>1</sup>

The law provides that a pedestrian with the right-of-way has a duty to exercise ordinary care for *his* own safety, which includes the keeping of a reasonable lookout. However, *he* is not required to anticipate that the operator of a motor vehicle will fail to obey the law by not yielding *him* the right-of-way. *He* may assume, even up to the last moment, that an operator will obey the law and yield the right-of-way. If, however, the circumstances put or should put the pedestrian on notice that an operator might fail to yield the right-of-way, the pedestrian must heed that notice and exercise ordinary care for *his* own safety.<sup>2</sup>

A pedestrian's failure to notice that the operator might fail to yield the right-of-way is not negligence within itself. However, the failure to notice that the operator might fail to yield the right-of-way and failure to exercise ordinary care for *his* own safety when, under the same or similar circumstances, a reasonably careful and prudent person would have taken notice and exercised ordinary care for *his* own safety, would be negligence.

---

<sup>1</sup>For a summary of places where operators must yield the right-of-way to pedestrians, see G.S. § 20-172 and § 20-173; Wagoner v. Butcher, 6 N.C. App. 221, 170 S.E.2d 151 (1969). See also, N.C.P.I.--Civil 211.01, 211.10, 211.35, 211.36, and 211.70.

<sup>2</sup>Bowen v. Gardner, 275 N.C. 363, 168 S.E.2d 47 (1969).

