

CHILDREN (INCLUDING THOSE ON BICYCLES) ON HIGHWAYS AND STREETS.¹

The operator of a motor vehicle who sees or in the exercise of reasonable care should see [a child] [children] on or near the [highway] [street] must exercise that degree of care which a reasonably careful and prudent person would exercise under the same or similar circumstances. Due care requires the operator to maintain a reasonable lookout and, when necessary, to give a timely warning of his vehicle by sounding the horn.

In determining whether the operator of a motor vehicle acted as a reasonably careful and prudent person would act you may consider the age of the child, whether the child was attended, whether the child [darted] [rode a bicycle] out from a place of concealment, and all of the other relevant circumstances existing at the time. In addition, you may consider that the operator of a motor vehicle should recognize that children have less discretion than adults and may act in obedience to childish impulses.²

A failure to exercise that degree of care which a reasonably careful and prudent person would exercise under the same or similar circumstances is negligence.

¹See also N.C.P.I.--Civil 211.40 and 211.45, regarding the duty of a motorist upon observing a child on the highway. N.C.P.I.--Civil 102.40 (Doctrine of Sudden Emergency) may be used in connection with this instruction.

²See Weeks v. Barnard, 265 N.C. 339, 143 S.E.2d 809 (1965).

