

N.C.P.I.—Civil 102.12
NEGLIGENCE ISSUE—DEFINITION OF NEGLIGENCE IN AND OF ITSELF
(NEGLIGENCE *PER SE*)
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Every person is (also) under a duty to follow standards of conduct enacted as laws for the safety of the public. A standard of conduct established by a safety statute must be followed.¹ A person's failure to do so is negligence in and of itself.²

¹ *Aldridge v. Hasty*, 240 N.C. 353, 360, 82 S.E.2d 331, 338 (1954). "A public safety statute is one impos[ing] upon [the defendant] a specific duty for the protection of others." *Pope v. Bridge Broom, Inc.*, ___ N.C. App. ___, ___, 770 S.E.2d 702, 715 (2015) (citing *Stein v. Asheville City Bd. of Educ.*, 360 N.C. 321, 326, 626 S.E.2d 263, 266 (2006) (internal citations omitted)). Recommendations, guidance and options that do not impose a specific duty are insufficient to establish negligence *per se*. *Id.* at 717.

² *Hinnant v. Holland*, 92 N.C. App. 142, 147, 374 S.E.2d 152, 155 (1988), appeal denied, 324 N.C. 335, 378 S.E.2d 792 (1989). If a safety statute provides to the contrary, the jury should be instructed that a violation of this statute does not constitute negligence in and of itself. See *Mintz v. Foster*, 35 N.C. App. 638, 641-42, 242 S.E.2d 181, 183-84 (1978).

