

NEGLIGENCE ISSUE--SUDDEN EMERGENCY EXCEPTION TO NEGLIGENCE PER SE.¹

If, in a moment of such sudden emergency, a person uses that degree of care which a reasonable and prudent person would use under the same or similar circumstances, he would not be negligent even though he may have violated a standard of conduct established by a safety statute.² In other words, a person's conduct which might otherwise be negligent in and of itself would not be negligent if it results from a sudden emergency that is not of that person's own making.

¹Use this instruction only after N.C.P.I.--Civil 102.15 (sudden emergency) and 102.12 (negligence per se) have been read to the jury. This instruction should be used whenever necessary to explain an apparent conflict between the doctrines of sudden emergency and negligence per se.

²Ingram v. Smoky Mountain Stages, Inc., 225 N.C. 444, 450, 35 S.E.2d 337, 341 (1945).

