

5.30H Duty of Care: Driver of Motor Vehicle Proceeding Through an Intersection Controlled by a Stop Sign/Flashing Red Traffic Control Device (Approved before 2007; Revised 03/2021)

NOTE TO JUDGE

Pursuant to *N.J.S.A.* 39:1-1, a driver includes drivers of motor vehicles, motorcycles, and bicycles. When a bicyclist drives on a roadway, the bicyclist has all of the rights and duties applicable to a driver of a vehicle. *N.J.S.A.* 39:4-14.1(a). Accordingly, where appropriate, a trial court should substitute “bicyclist” for “driver of a motor vehicle” to reflect that the driver was a bicyclist.

See generally, *Cresse v. Parsekian*, 81 *N.J. Super.* 536, 545-46 (App. Div. 1964), *aff'd* 43 *N. J.* 326 (1964); *State v. Jamerson*, 153 *N.J.* 318 (1998).

Our motor vehicle laws set forth a standard of conduct to be exercised by the driver of a motor vehicle while approaching and proceeding through an intersection controlled by a [stop sign] [flashing red traffic control device].

NOTE TO JUDGE

Use whichever of the following is appropriate based upon the configuration of the intersection:

N.J.S.A. 39:4-144 provides in pertinent part:

No driver of a vehicle . . . shall enter upon or cross an intersecting street marked with a “stop” sign unless he has first brought his vehicle . . . to a complete stop at a point within 5 feet of the nearest crosswalk or stop line marked upon the pavement at the near side of the intersecting street and shall proceed only after yielding the right of way to all traffic on

the intersecting street which is so close as to constitute an immediate hazard.

N.J.S.A. 39: 4-110(a) provides:

Flashing red: The red lens when illuminated with rapid intermittent flashes shall require drivers to come to a complete stop before entering or crossing the intersection. The driver shall proceed only after yielding the right of way to all traffic on the intersecting street, which traffic is so close as to constitute an immediate hazard.

The above provision requires that the motorist stop and make observations while stopped before proceeding. It also requires the motorist to continue to make observations as the motorist enters and crosses the intersecting street as the circumstances at the particular intersection reasonably require. The presence of permanent or temporary obstructions to the view of the motorist, such as buildings, billboards, parked cars, crowded sidewalks, etc., does not obviate the duty of the motorist to make continual reasonable observations as the motorist proceeds through the intersection, and is a factor for you to consider in determining whether the driver's conduct was negligent under the circumstances.