

5.31B DUTY OF CARE BY EMERGENCY VEHICLE
(Approved 1977)

On the other hand, drivers of emergency vehicles must also exercise reasonable care under the circumstances in the operation of an emergency vehicle. The degree of care required of the driver of such vehicle is that he/she must exercise reasonable care to prevent injury or damage to himself/herself or others in light of the emergency circumstances.

The statute in question, *N.J.S.A. 39:4-91*, which I have previously referred to, further states that:

This section shall not relieve the driver of any authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall it protect the driver from the consequences of his/her reckless disregard for the safety of others.

In considering the standard of care required under this statute of the driver of an emergency vehicle, keep in mind that by necessity, the driver of an emergency vehicle, responding to an emergency situation, may be required to take risks which would constitute negligent conduct if performed by a motorist under ordinary conditions. The driver may be required to go through a red light or stop sign or other traffic control device; proceed at a speed above the fixed limits, or drive on the wrong side of the road. As such, the driver of an emergency vehicle, on an

emergency call, cannot be expected to exercise the same care that the law requires of the ordinary motorist, who has no emergency duty to perform.

Accordingly, the driver of an emergency vehicle, taking such risks, is bound to take reasonable precaution to protect others from the extraordinary dangers of the situation that proper performance of his/her duties compels him/her to create. Furthermore, the statute I have read to you requires that the driver of an emergency vehicle must not drive with reckless disregard for the safety of others. That is, he/she must anticipate the dangers his/her operation of the vehicle involves and exercise reasonable care for the safety of others under the circumstances.

Violation of the standard of care as set forth by the statute is evidence to be considered by you in determining whether the emergency vehicle driver's conduct was negligent.

NOTE TO JUDGE

N.J.S.A. 39:4-81; N.J.S.A. 39:4-91; and N.J.S.A. 39:4-105; Rekiec v. Zuzio, 132 N.J. Super. 71 (App. Div. 1975); Varlaro v. Schultz, 82 N.J. Super. 142 (App. Div. 1964); Finderne Engine Co. v. Moran Trucking Co., 98 N.J. Super. 421 (App. Div. 1968); April v. Collings Lake Ambulance Ass'n., 109 N.J. Super. 392 (App. Div. 1970).