

5.32A DUTY OF PEDESTRIANS AND BICYCLISTS TO MAKE OBSERVATIONS (Approved 2/92)

Both motorists and pedestrians (or bicyclists¹) have mutual and reciprocal rights to the use of streets and highways and each has the right to expect that the others will exercise their rights with reasonable care and subject to the rights of others. Thus a pedestrian (or bicyclist) is under a duty to exercise for his/her own safety the care that a reasonably prudent person would exercise under all the circumstances confronting him/her. Although his/her observation need not extend beyond a distance within which vehicles moving at lawful speed will threaten him/her, a pedestrian (or bicyclist) is required to use such powers of observation, and to exercise such judgment as to how and when to cross a street or highway, as a reasonably prudent person would use in the particular circumstances.

NOTE TO JUDGE

The Motor Vehicle Act, *N.J.S.A.* 39:4-32 through 39:4-37.1, establishes statutory rights, duties and obligations of pedestrians and motorists and where applicable should be applied to the facts of a given situation.

¹*Gibson v. Arrowhead Conditioning Co.*, 253 *N.J. Super.* 648 (Law Div. 1991).

Cases:

As to right of pedestrian to cross street at a point not a crosswalk, *see Fox v. Great Atlantic and Pacific Tea Co.*, 84 N.J.L. 726 (E. & A. 1913); *Gentile v. Public Service*, 12 N.J. Super. 45 (App. Div. 1941); N.J.S.A. 39:4-34; as to right of way at crosswalk, *see N.J.S.A. 39:4-35* and N.J.S.A. 39:4-36.