

5.32C DUTY OF DRIVERS AND PEDESTRIANS CROSSING AT MARKED OR UNMARKED CROSSWALK (Approved 06/2010; Revised 03/2021)

NOTE TO JUDGE

This charge is limited to cases involving pedestrians as defined by *N.J.S.A.* 39:1-1. Under this statute, “pedestrian” is defined as “a person afoot.” *Id.* Moreover, a “driver” includes a person riding or driving a horse, bicycle, motorcycle, or other motor vehicle. *Id.* Thus, the court should not substitute “bicyclist” or “driver” for “pedestrian” because bicyclists and drivers are not afoot.

In addition to considering the general duty I have just described (Model Civil Charge 5.30G-2), you are required to consider the following statutory provisions that involve pedestrians crossing at marked or unmarked crosswalks which are part of our *New Jersey Motor Vehicle Act*. They are referred to in *N.J.S.A.* 39:4-36 which provides, in part, that the driver of a vehicle shall yield the right of way to a pedestrian crossing the roadway within a marked crosswalk or within any unmarked crosswalk at an intersection.

The driver of a vehicle shall stop and remain stopped to allow a pedestrian to cross the road within a marked crosswalk when the pedestrian is upon, or within one lane of, “half of the roadway” upon which the vehicle is traveling or onto

which it is turning. Half of the roadway means all traffic lanes conveying traffic in one direction of travel and includes the entire width of a one-way roadway.

No pedestrian shall leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield or stop.

In the event of a collision between a vehicle and a pedestrian within a marked crosswalk, or at an unmarked crosswalk at an intersection, there shall be a permissive inference that the driver did not exercise due care for the safety of the pedestrian.