

5.30B U-TURN (Approved 8/99)

NOTE TO JUDGE

In *Ewing v. Burke*, 316 N.J. Super. 287 (App. Div. 1998), the Appellate Division held that a trial court committed plain error in failing to *sua sponte* incorporate a reference to the relevant motor vehicle statute applicable to a U-turn negligence case. In light of *Ewing*, trial judges should refer to N.J.S.A. 39:4-125, which relates to U-turns, when warranted by the facts of the case. Model Civil Charge 5.30D, “Violation of Traffic Act”, provides recommended language for charging that motor vehicle statute, if appropriate, in a specific case.

The law imposes upon the driver of a motor vehicle the duty to exercise the care that a reasonably prudent person would use under all the circumstances confronting him/her at the particular time in question. Failure to exercise such care constitutes negligence.

Obviously the risk of harm will vary with the circumstances. In some settings that risk is greater than in others, and, when this is so, a reasonably prudent person will exercise a greater amount of care in proportion to the increased risk.

With respect to a U-turn, involving as it does a movement across the path of other traffic, the risk of harm is ordinarily increased beyond that which exists

when a motor vehicle is proceeding along a direct course. Hence, with respect to a U-turn, a reasonably prudent person would seek an opportune moment for the turn and would exercise an increased amount of care in proportion to the increased danger.

Accordingly, the law provides that a person seeking to make a U-turn has the duty to seek an opportune moment and to exercise a degree of care in proportion to the increased danger involved in the turn. Therefore, it is for you to determine whether a reasonably prudent person charged with that duty would, under the circumstances of this case, have made the turn when and in the manner in which the defendant [plaintiff] here proceeded.

Case:

Ambrose v. Cyphers, 29 N.J. 138, 149-150 (1959).