05.14 RIGHT-OF-WAY – INTERSECTIONS WITH “STOP” OR “YIELD” SIGNS

Withdrawn 1986. See 1986 Introductory Use Note of Article 05.

# Comment

The instruction was based on 13 Alaska Admin. Code § 02.130 and, with respect to a “stop” intersection; supported by Hundley v. United States, 131 F. Supp 655, 658 (D. Alaska 1955).

The Alaska Supreme Court had held that a violation of 13 Alaska Admin. Code § 02.130 (formerly 13 Alaska Admin. Code § 104.53) is negligence per se. Lopen v. Bowen, 495 P.2d 64, 56-66 (Alaska 1972). In such cases Instruction 03.04A should be used. See Comment to Instruction 03.04A.

Section 02.130 provides an exception for the driver directed to proceed by a law enforcement officer. See Comment to Instruction 03.04A on burden of proof for statutory exceptions.

Generally, when statutes or traffic regulations establishing a through street or an arterial highway require the erection of “stop” or “yield” signs, a street does not become a through street until such signs are set out. Where, however, the appropriate signs have been erected, it is generally held that the status as a through street is not lost because a sign is temporarily misplaced, improperly removed or destroyed. See 3 Blashfield, Automobile Law and Practice § 114.74, 114.95 (3d ed. 1965). This rule was applied in Alaska by the Federal District Court in Haagenson v. Matanuska Valley Lines, Inc., 103 F. Supp. 579, 580 (D. Alaska 1952).

Generally, the primary duty of caution rests on the driver against whom the right-or-way operates, because the driver must exercise a degree of care commensurate with the circumstance that the right-or-way is given to another driver. See 3 Blashfield, Automobile Law and Practice, § 114.89 (3d ed. 1965). With respect to a "stop" and "yield" intersection, one case has held that the driver on the unfavored roadway bears any added burden of care necessitated by weather conditions or obstructed view. Hundley v. United States, 131 F. Supp. 655, 657 (D. Alaska 1955).

See Annot., 2 A.L.R. 3d 275, for discussion of liability of driver for automobile accident at intersection as affected by reliance upon or disregard of “yield” sign or signal.

See Annot., 3 A.L.R. 3d 180, for discussion of liability of driver for automobile accident at intersection as affected by reliance upon or disregard of unchanging stop sign or signal.