**03.04B VIOLATION OF STATUTE – EVIDENCE OF NEGLIGENCE**

A [state law][municipal ordinance] provides:

(Quote applicable statute, regulation, or ordinance)

This law, by itself, does not define reasonable care. If you find that the defendant violated this law, you may consider that fact, along with all the other evidence, in deciding whether the defendant used reasonable care.

If you find that the defendant complied with this law, you maystill find that [he][she] was negligent if you decide that a reasonable person would have taken precautions in addition to those required by this law.

Directions for Use

This instruction may be used when the court has determined that the violation of a statute, regulation, or ordinance provides some evidence of negligence. Instruction 03.04A (Violation of Statute-Negligence Per Se) should be given instead of this instruction if the court has adopted the statute, regulation or ordinance as the standard of care.

This instruction should be given with Instructions 03.01 (Negligence-When Plaintiff Entitled to Recover), 03.03A (Negligence Defined-Adult), and 3.07 (Substantial Factor).

Comment

The court may decide that although a statute, regulation or ordinance does not establish the standard of care, its violation nevertheless provides some evidence of negligence. *Ferrell v. Baxter*, 484 P.2d 250, 261, 265 (Alaska 1971). *See, e.g.,* *Keogh v. W.R. Grasle, Inc.*, 816 P.2d 1343, 1350 (Alaska 1991) (violations of National Electrical Safety Code relevant to question of whether conduct was reasonable); *Meyst v. East Fifth Avenue Service, Inc.*, 401 P.2d 430, 435-36 (Alaska 1965) (trial court gave instruction permitting the jury to use the violation of an ordinance as evidence of negligence.) In that event, the court may give this instruction. *See Pagenkopf v. Chatham Electric, Inc.*, 165 P.3d 634 (Alaska 2007); *Bachner v. Rich*, 554 P.2d 430, 442 (Alaska 1976).