

## **CHAPTER 39-10 GENERAL RULES OF THE ROAD**

### **39-10-01. Provisions of title refer to vehicles upon the highways - Exceptions.**

1. The provisions of this title relating to the operation of vehicles apply to the operation of vehicles upon highways or other places open to the public for the operation of vehicles except when a different place is specifically referred to in a given section.
2. The provisions of this title, or equivalent ordinances, relating to reporting of accidents, careless driving, exhibition driving, drag racing, reckless or aggravated reckless driving, driving while under the influence of intoxicating liquor or controlled substances, or fleeing or attempting to elude a peace officer apply upon highways and elsewhere.

#### **39-10-01.1. Required obedience to traffic laws.**

It is unlawful and, unless otherwise declared in this chapter or in chapter 39-06.1 with respect to particular offenses, it is a class B misdemeanor for any person to do any act forbidden or fail to perform any act required in this chapter.

#### **39-10-02. Obedience to police officer or firefighter.**

No person may willfully refuse to comply with any lawful order or direction of any police officer or firefighter invested by law with authority to direct, control, or regulate traffic.

#### **39-10-02.1. Person riding animal or driving animal-drawn vehicle.**

In addition to any special regulations, any person riding an animal or driving any animal-drawn vehicle upon a roadway must be granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions which by their very nature can have no application.

#### **39-10-03. Class A authorized emergency vehicles.**

1. The driver of a class A authorized emergency vehicle may:
  - a. Park or stand, irrespective of the provisions of this chapter.
  - b. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
  - c. Exceed the speed limit so long as the driver does not endanger life or property.
  - d. Disregard regulations governing direction of movement or turning in specified directions.
2. The exceptions herein granted to a class A authorized emergency vehicle apply only:
  - a. When the authorized emergency vehicle is in pursuit of or apprehension of a violator or a suspected violator requiring the use of these exemptions.
  - b. When the class A authorized emergency vehicle is being operated in response to a reported emergency involving a possible personal injury, death, or damage to property, and when giving adequate warning by use of a flashing red or combination red and white lights that are visible under normal atmospheric conditions for at least five hundred feet [152.4 meters] and if appropriate, giving audible signal by siren or airhorn. A firetruck, ambulance, or law enforcement vehicle that is otherwise a class A authorized emergency vehicle may display a flashing blue light in addition to and under the same conditions as the other colors allowed in this subdivision.
  - c. In any instance when the head of a law enforcement agency deems advisable within the area of that person's jurisdiction for the protection of person and property and when giving audible signal by siren or when giving adequate warning by use of a flashing red or combination red and white lights which are visible under normal atmospheric conditions for at least five hundred feet [152.4 meters]. A firetruck, ambulance, or law enforcement vehicle that is otherwise a class A authorized emergency vehicle may display a flashing blue light in addition to and under the same conditions as the other colors allowed in this subdivision.

3. An emergency vehicle may not display or permit to be displayed any red lamp except when operated on official business.
4. Any law enforcement officer as provided in paragraph 2 of subdivision a of subsection 2 of section 39-01-01 having stopped another vehicle along a highway, and while still involved in that incident, or any other related activity, may use amber lights, visible under normal atmospheric conditions for at least five hundred feet [152.4 meters], for the purpose of maintaining traffic flow.

**39-10-03.1. Class B authorized emergency vehicles.**

1. The driver of a class B authorized emergency vehicle may:
  - a. Park or stand, irrespective of the provisions of this chapter.
  - b. Exceed the speed limit so long as the driver does not endanger life or property during the time of a local or national disaster.
  - c. Disregard regulations governing direction of movement or turning in specified directions.
2. The exceptions granted in this section to a class B authorized emergency vehicle apply only when the authorized emergency vehicle is displaying an amber and white light visible under normal atmospheric conditions for a distance of five hundred feet [152.4 meters] in any direction, and:
  - a. When it is necessary for the authorized emergency vehicle to use these exemptions for the immediate protection of life or property;
  - b. When an authorized emergency vehicle is stopped on a highway for the purpose of performing a duty as required of the driver; or
  - c. When traveling at a speed slower than the normal flow of traffic.

**39-10-03.2. Class C authorized emergency vehicles.**

All class B specifications apply to class C authorized emergency vehicles except that a blue flashing light must be displayed in place of an amber light as provided in section 39-10-03.1.

**39-10-04. Obedience to and required traffic-control devices.**

1. The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.
2. No provision of this chapter for which traffic-control devices are required may be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a state statute does not state that devices are required, such statute is effective even though no devices are erected or in place.
3. Whenever official traffic-control devices are placed in positions approximately conforming to the requirements of this title, such devices must be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary is established by competent evidence.
4. Any official traffic-control device placed pursuant to the provisions of this title and purporting to conform to the lawful requirements pertaining to such devices must be presumed to comply with the requirements of this title, unless the contrary is established by competent evidence.

**39-10-05. Traffic-control signal legend.**

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow may be used, except for special pedestrian signals carrying a word or legend, and said lights must indicate and apply to drivers of vehicles and pedestrians as follows:

1. Green indications:

- a. Vehicular traffic facing a circular green indication may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
  - b. Vehicular traffic facing a green arrow indication, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
  - c. Unless otherwise directed by a pedestrian-control signal as provided for in section 39-10-06, pedestrians facing any green indication, except when the sole green indication is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.
2. Steady yellow indication:
- a. Vehicular traffic facing a steady circular yellow or yellow arrow indication is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic may not enter the intersection.
  - b. Pedestrians facing a steady circular yellow or yellow arrow indication, unless otherwise directed by a pedestrian-control signal as provided for in section 39-10-06, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian may then start to cross the roadway.
3. Steady red indication:
- a. Vehicular traffic facing a steady circular red indication alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain standing until an indication to proceed is shown, except as provided for in subdivision c.
  - b. Vehicular traffic facing a steady red arrow indication may not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make a movement permitted by another indication, must stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and must remain standing until an indication permitting the movement indicated by the red arrow is shown except as provided for in subdivision c.
  - c. Except when a sign is in place prohibiting a turn, vehicular traffic facing any steady red indication may cautiously enter the intersection to turn right, or to turn left from a one-way street into a one-way street, after stopping as required by subdivisions a and b. Such vehicular traffic shall yield the right of way to pedestrians lawfully within adjacent crosswalk and to other traffic lawfully using the intersection.
  - d. Unless otherwise directed by a pedestrian-control signal as provided for in section 39-10-06, pedestrians facing a steady circular red or red arrow indication alone may not enter the roadway.
4. In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section are applicable, except as to those provisions which by their nature can have no application. Any stop required must be made at a sign or marking on the pavement indicating where the stop must be made, but in the absence of any such sign or marking the stop must be made at the signal.

### **39-10-06. Pedestrian control signals.**

Whenever special pedestrian-control signals exhibiting the words "Walk" or "Don't Walk" or the symbols of a walking person, symbolizing "Walk", or an upraised hand, symbolizing "Don't Walk" are in place, such signals must indicate as follows:

1. "Walk": Pedestrians facing such indication may proceed across the roadway in the direction of the indication and must be given the right of way by the drivers of all vehicles.
2. "Don't Walk" (steadily illuminated): A pedestrian may not start to cross the roadway in the direction of such indication.
3. "Don't Walk" (flashing): A pedestrian may not start to cross the roadway in the direction of the indication, but any pedestrian who has partially completed a crossing during the "Walk" signal must proceed in the direction of the indication to a sidewalk or safety island.

### **39-10-07. Flashing signals.**

1. Whenever an illuminated flashing red or yellow light is used in a traffic signal or with a traffic sign, it requires obedience by vehicular traffic as follows:
  - a. Flashing red (stop indication). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line, or, if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it, and the right to proceed is subject to the rules applicable after making a stop at a stop sign.
  - b. Flashing yellow (caution indication). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such indication only with caution.
  - c. Flashing red arrow and flashing yellow arrow indications have the same meaning as the corresponding flashing circular indications, except that they apply only to drivers of vehicles intending to make the movement indicated by the arrow.
2. This section does not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings is governed by the requirements set forth in section 39-10-41.

#### **39-10-07.1. Lane-direction-control signals.**

When lane-direction-control signals are placed over the individual lanes of a street or highway, vehicular traffic may travel in any lane over which a green signal is shown, but may not enter or travel in any lane over which a red signal is shown.

#### **39-10-07.2. Display of unauthorized signs, signals, or markings.**

1. No person may place, maintain, or display upon or in view of any highway, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic-control device or any railroad sign or signal.
2. No person may place or maintain nor may any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.
3. This section may not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.
4. Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice when located on highway right of way.

5. No person may place, maintain, or display upon or within the right of way of any highway any sign, post, pole, mailbox, or signal which has a red lamp or red reflector visible to traffic. The provisions of this subsection do not apply to official traffic devices, lamps, or reflectors on motor vehicles or bicycles, or railroad signals or signs.
6. This section does not prohibit the use of portable battery-powered warning devices emitting a flashing red light placed upon a highway to alert oncoming traffic to a disabled or stopped motor vehicle.

**39-10-07.3. Interference with official traffic-control device or railroad sign or signal.**

A person may not, without lawful authority, attempt to or in fact alter, deface, injure, knock down, remove, or interfere with the operation of any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

**39-10-08. Drive on right side of roadway - Exceptions.**

1. Upon all roadways of sufficient width a vehicle must be driven upon the right half of the roadway, except as follows:
  - a. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
  - b. When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
  - c. Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or
  - d. Upon a roadway restricted to one-way traffic.
2. Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing must be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn in an intersection or into a private road or driveway.
3. Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle may be driven to the left of the centerline of the roadway, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subdivision b of subsection 1. However, this subsection may not be construed as prohibiting the crossing of the centerline in making a left turn into or from an alley, private road, or driveway.

**39-10-09. Passing vehicles proceeding in opposite directions.**

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.

**39-10-10. Use of multiple-beam road-lighting equipment.**

Repealed by S.L. 1963, ch. 283, § 20.

**39-10-11. Overtaking a vehicle on the left.**

The following rules govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules hereinafter stated:

1. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and may not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

2. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and may not increase the speed of that driver's vehicle until completely passed by the overtaking vehicle.

**39-10-12. When overtaking on the right is permitted.**

1. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
  - a. When the vehicle overtaken is making or about to make a left turn; or
  - b. Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.
2. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement may not be made by driving off the roadway.

**39-10-13. Limitations on overtaking on the left.**

No vehicle may be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable, and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred feet [60.96 meters] of any approaching vehicle.

**39-10-14. Further limitations on driving on left of center of roadway.**

1. No vehicle may be driven to the left side of the roadway under any of the following conditions:
  - a. When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.
  - b. When approaching within one hundred feet [30.48 meters] of or traversing any intersection or railroad grade crossing.
  - c. When the view is obstructed upon approaching within one hundred feet [30.48 meters] of any bridge, viaduct, or tunnel.
2. The foregoing limitations do not apply upon a one-way roadway, nor under the conditions described in section 39-10-08, nor to the driver of a vehicle turning left into or from an alley, private road, or driveway.

**39-10-15. No-passing zones.**

1. The director and local authorities are hereby authorized to determine those portions of any highway under their respective jurisdiction where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.
2. Where signs or markings are in place to define a no-passing zone as set forth in subsection 1, no driver may at any time drive on the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.
3. This section does not apply under the conditions described in section 39-10-08 nor to the driver of a vehicle turning left into or from an alley, private road, or driveway.

**39-10-16. One-way roadways and rotary traffic islands.**

1. The director and local authorities with respect to highways under their respective jurisdictions may designate any highway, roadway, part of a roadway, or specific lanes upon which vehicular traffic shall proceed in one direction at all or such times as shall be indicated by official traffic-control devices.
2. Upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or at such times as shall be indicated by official traffic-control devices.
3. A vehicle passing around a rotary traffic island must be driven only to the right of such island.

**39-10-17. Driving on roadways laned for traffic.**

Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith apply:

1. A vehicle must be driven as nearly as practicable entirely within a single lane and may not be moved from such lane until the driver has first ascertained that such movement can be made with safety.
2. Upon a roadway which is divided into three lanes and provides for two-way traffic, a vehicle may not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.
3. Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device.
4. Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

**39-10-18. Following too closely.**

1. The driver of a motor vehicle may not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.
2. The driver of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this does not prevent a truck or motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.
3. Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles must be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision does not apply to funeral processions.

**39-10-19. Driving on divided highway.**

Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle must be driven only upon the right-hand roadway, unless directed or permitted to use another roadway by official traffic-control devices or police officers. No vehicle may be driven over, across, or within any such dividing space, barrier, or section, except through an opening in such physical barrier or dividing section or space or at a

crossover or intersection as established by public authority, unless such crossing is specifically prohibited and such prohibition is indicated by appropriate traffic-control devices.

**39-10-20. Restricted access.**

No person may drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

**39-10-21. Restrictions on use of controlled-access roadway.**

The director may by order, and local authorities may by ordinance, with respect to any controlled-access roadway under their respective jurisdictions, prohibit the use of any such roadway by any class or kind of traffic which is found incompatible with the normal and safe movement of traffic.

The director or the local authority adopting any such prohibition shall erect and maintain official traffic-control devices on the controlled-access roadway on which such prohibitions are applicable and when in place no person may disobey the restrictions stated on such devices.

**39-10-21.1. Closing road because of hazardous conditions - Posting of official traffic-control devices - Entering closed road prohibited.**

1. The highway patrol or local law enforcement authorities having jurisdiction over a road may close a road temporarily due to hazardous conditions for the protection and safety of the public. If such a closing is made, the authority ordering the closing shall make every reasonable attempt to notify the public and, when practical, may post appropriate official traffic-control devices to advise motorists of the closing.
2. An individual, while operating a motor vehicle, may not knowingly enter a road closed which is posted with an appropriate traffic-control device at the point of entry.

**39-10-22. Vehicle approaching or entering intersection.**

1. If a vehicle approaches or enters an intersection that does not have an official traffic-control device and another vehicle approaches or enters from a different highway at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right. If the intersection is T-shaped and does not have an official traffic-control device, the driver of the vehicle on the terminating street or highway shall yield to the vehicle on the continuing street or highway.
2. If a vehicle approaches an intersection that has traffic-control signals that usually exhibit different colored lights and the signals are not lit, the driver of the vehicle shall stop and yield as required under subsection 2 of section 39-10-24.
3. The right-of-way rule declared in this section is modified at through highways and otherwise as stated in this chapter.

**39-10-22.1. Entering freeways - Right of way.**

A vehicle entering a freeway, as defined in section 24-01-01.1, from an acceleration lane, ramp, or any other approach road shall yield the right of way to a vehicle on the main roadway entering the merging area at the same time, regardless of whether the approach road is to the left or the right of the main roadway, unless posted signs indicate otherwise.

**39-10-23. Vehicle turning left.**

The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

**39-10-24. Stop signs and yield signs.**

1. Preferential right of way may be indicated by stop signs or yield signs as authorized in section 39-07-03.



2. Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.
3. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, or, if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Provided, however, that if a driver is involved in a collision with a vehicle in the intersection or junction of roadways after driving past a yield sign without stopping, such collision is deemed prima facie evidence of the driver's failure to yield the right of way.

**39-10-25. Vehicle entering roadway.**

The driver of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right of way to all vehicles approaching on the roadway to be entered or crossed.

**39-10-26. Vehicle to stop or yield the right of way for authorized emergency vehicle or vehicle used for maintaining the state highway system - Penalty.**

1. Upon the immediate approach of an authorized emergency vehicle displaying a visible flashing, revolving, or rotating blue, white, or red light, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in that position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.
2. If an authorized emergency vehicle is parked or stopped at the scene of an emergency and is displaying a flashing, revolving, or rotating blue, white, or red light, approaching traffic shall move to the right-hand edge or curb of the roadway and shall stop, but once having stopped, traffic may proceed past the scene at its own risk when the roadway is clear, except when otherwise directed by a police officer. If an authorized emergency vehicle is otherwise parked or stopped on the interstate system or on a multilane highway outside the limits of a city, and the authorized emergency vehicle is displaying a flashing, revolving, or rotating amber, blue, white, or red light, the driver of an approaching vehicle shall proceed with caution and yield the right of way by moving to a lane that is not adjacent to the authorized emergency vehicle if the move may be made with due regard to safety and traffic conditions or if not, the driver shall proceed with due caution, reduce the speed of the vehicle, and maintain a safe speed for the road conditions.
3. If a vehicle operated by or under the control of the director used for maintaining the state highway system is parked or stopped on the interstate system or on a multilane highway outside the limits of a city, and the vehicle is displaying a flashing, revolving, or rotating amber or white light, the driver of an approaching vehicle shall proceed with caution and yield the right of way by moving to a lane that is not adjacent to the vehicle if the move may be made with due regard to safety and traffic conditions or if not, the driver shall proceed with due caution, reduce the speed of the vehicle, and maintain a safe speed for the road conditions.
4. This section does not operate to relieve the driver of an authorized emergency vehicle or a vehicle operated by or under the control of the director used for maintaining the

state highway system from the duty to drive with due regard for the safety of all persons using the highway.

5. a. Any individual who violates subsection 2 and causes an accident with an authorized emergency vehicle while the authorized emergency vehicle is displaying a visible flashing, revolving, or rotating amber, blue, white, or red light is guilty of an infraction.
- b. An individual who violates subsection 3 and causes an accident with a vehicle operated by or under the control of the director used for maintaining the state highway system while the vehicle is displaying a visible flashing, revolving, or rotating amber or white light is guilty of an infraction.

**39-10-26.1. Highway construction and maintenance.**

1. The driver of a vehicle shall yield the right of way to any authorized vehicle or pedestrian actually engaged in work upon a highway within any highway construction or maintenance area indicated by official traffic-control devices.
2. The driver of a vehicle shall yield the right of way to any authorized vehicle obviously and actually engaged in work upon a highway wherever such vehicle displays flashing lights meeting the requirements of section 39-21-28.

**39-10-26.2. Permitting use of vehicle to violate section 39-10-26 prohibited - Presumption of permission - Defense - Dual prosecution prohibited.**

The registered owner of a motor vehicle may not permit that motor vehicle to be operated in violation of section 39-10-26. If a motor vehicle is seen violating section 39-10-26, it is a disputable presumption that the registered owner of the motor vehicle permitted that violation. It is a defense to a charge of violating this section that the registered owner of the vehicle was not operating the vehicle, if that registered owner identifies the person authorized by that owner to operate the motor vehicle at the time of the violation of section 39-10-26, or if that motor vehicle had been taken without the registered owner's permission. A person may not be charged both with violating this section and with violating section 39-10-26. Violation of this section is not a lesser included offense of violation of section 39-10-26.

**39-10-27. Pedestrian obedience to traffic-control devices and traffic regulations.**

1. A pedestrian shall obey the instructions of any official traffic-control device specially applicable to the pedestrian, unless otherwise directed by a police officer.
2. Pedestrians are subject to traffic-control and pedestrian-control signals as provided for in sections 39-10-05 and 39-10-06.

**39-10-28. Pedestrian's right of way in crosswalk.**

1. When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
2. No pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.
3. Subsection 1 does not apply under the conditions stated in subsection 2 of section 39-10-29.
4. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the highway, the driver of any other vehicle approaching from the rear may not overtake and pass such stopped vehicle.

**39-10-29. Crossing at other than crosswalk.**

1. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.
2. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.
3. Between adjacent intersections at which traffic-control devices are in operation, pedestrians may not cross at any place except in a marked crosswalk.
4. No pedestrian may cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

**39-10-30. Driver to exercise due care.**

Notwithstanding other provisions of this chapter or the provisions of any local ordinance, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused, incapacitated, or intoxicated person.

**39-10-31. Protection of blind or incapacitated pedestrians.**

Repealed by S.L. 1975, ch. 347, § 25.

**39-10-32. Pedestrians to use right half of crosswalks.**

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

**39-10-33. Pedestrian on roadway.**

1. Where a sidewalk is provided and its use is practicable, it is unlawful for any pedestrian to walk along and upon an adjacent roadway.
2. Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.
3. Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk only on the left side of the roadway.
4. Except as otherwise provided for in this chapter, any pedestrian upon a roadway shall yield the right of way to all vehicles upon the roadway.

**39-10-33.1. Pedestrian's right of way on sidewalk.**

The driver of a vehicle shall yield the right of way to any pedestrian on a sidewalk.

**39-10-33.2. Pedestrian to yield to authorized emergency vehicles.**

1. Upon the immediate approach of an authorized emergency vehicle making use of an audible signal by bell, siren, or exhaust whistle and displaying a visible flashing, revolving, or rotating blue, white, or red light, every pedestrian shall yield the right of way to the authorized emergency vehicle.
2. This section does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian.

**39-10-33.3. Blind pedestrian right of way.**

The driver of a vehicle shall yield the right of way to an individual who is blind or visually impaired and carrying a clearly visible white cane or to an individual with a disability who is accompanied by an assistance dog.

**39-10-33.4. Pedestrian under influence of alcohol or drugs.**

A pedestrian who is under the influence of alcohol or any drug to a degree which renders the pedestrian a hazard may not walk or be upon a roadway.

**39-10-33.5. Bridge and railroad signals.**

No pedestrian may pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

**39-10-34. Pedestrian soliciting ride or business.**

1. No person may stand in a roadway for the purpose of soliciting a ride.
2. No person may stand in a roadway for the purpose of soliciting employment, business, or contributions from the occupant of any vehicle.
3. No person may stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

**39-10-35. Required position and method of turning.**

The driver of a vehicle intending to turn shall do so as follows:

1. Right turns. Both the approach for a right turn and a right turn must be made as close as practicable to the right-hand curb or edge of the roadway.
2. Left turns. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable, the left turn must be made to the left of the center of the intersection and so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.
3. The director and local authorities in their respective jurisdictions may cause official traffic-control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles, and when such devices are so placed, no driver of a vehicle may turn it other than as directed and required by such devices.

**39-10-36. Limitations on turning around.**

1. The driver of any vehicle may not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.
2. No vehicle may be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet [152.4 meters].

**39-10-37. Starting parked vehicle.**

No person may start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.

**39-10-38. Turning movements and required signals.**

1. No person may turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety without giving an appropriate signal in the manner hereinafter provided.
2. A signal of intention to turn or move right or left when required must be given continuously during not less than the last one hundred feet [30.48 meters] traveled by the vehicle before turning.

3. No person may stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.
4. The signals required on vehicles by subsection 2 of section 39-10-39 may not be flashed on one side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.

**39-10-39. Signals by hand and arm or signal lamps.**

1. Any stop or turn signal when required herein must be given either by means of the hand and arm or by signal lamps, except as otherwise provided in subsection 2.
2. Any motor vehicle in use on a highway must be equipped with, and required signals must be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab, or load of such motor vehicle exceeds twenty-four inches [60.96 centimeters], or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen feet [4.27 meters]. The latter measurement applies to any single vehicle and to any combination of vehicles.

**39-10-40. Method of giving hand-and-arm signals.**

All signals herein required given by hand and arm must be given from the left side of the vehicle in the following manner and such signals must indicate as follows:

1. Left turn: hand and arm extended horizontally.
2. Right turn: hand and arm extended upward.
3. Stop or decrease speed: hand and arm extended downward.

**39-10-41. Obedience to signal indicating approach of train.**

1. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet [15.24 meters] but not less than fifteen feet [4.57 meters] from the nearest rail of such railroad, and may not proceed until the driver can do so safely. The foregoing requirements apply when:
  - a. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
  - b. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
  - c. A railroad train approaching within approximately one thousand three hundred twenty feet [402.34 meters] of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or
  - d. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
2. No person may drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. No person may drive any vehicle past any human flagman at a railroad crossing until the flagman signals that the way is clear to proceed.

**39-10-42. All vehicles must stop at certain railroad grade crossings.**

The department of transportation and local authorities, with respect to highways under their respective jurisdiction, are hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet [15.24 meters] but not less than fifteen feet [4.57 meters] from the nearest rail of such railroad and shall proceed only upon exercising due care.

### **39-10-43. Certain vehicles must stop at all railroad grade crossings.**

1. The driver of a bus carrying passengers, or of any schoolbus, or of any vehicle carrying any chlorine, empty or loaded cargo tank vehicles used to transport dangerous articles or any liquid having a flashpoint below two hundred degrees Fahrenheit [93.33 degrees Celsius], cargo tank vehicles transporting a commodity having a temperature above its flashpoint at the time of loading, certain cargo tank vehicles transporting commodities under special permits issued by the hazardous materials regulations board, and every motor vehicle which must have the following placards: "explosives", "poison", "flammable oxidizers", "compressed gas", "corrosives", "flammable gas", "radioactive", or "dangerous", before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet [15.24 meters] but not less than fifteen feet [4.57 meters] from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train and may not proceed until the driver can do so safely. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing such crossing and the driver may not manually shift gears while crossing the track or tracks.
2. No stop need be made at any such crossing at which traffic is controlled by a police officer. For the purposes of this section, a United States marshal must be considered a police officer.
3. No stop need be made at a crossing that the director has designated as an out-of-service crossing and which is clearly marked by signs bearing the words "Tracks out of service" or "Exempt" in conspicuous places on each side of the crossing.
4. The designation must be limited to use at crossings where track has been abandoned or its use discontinued.
5. The director shall notify the road authority and any railway company of a crossing under the jurisdiction of that railway company which the director has designated as an out-of-service crossing under this section and the road authority shall erect signs bearing the words "Tracks out of service" or "Exempt" in conspicuous places on each side of the crossing.
6. All signs must conform to the manual on uniform traffic-control devices as provided under section 39-13-06.

### **39-10-44. Stop signs and yield signs.**

1. Preferential right of way at an intersection may be indicated by stop signs or yield signs as authorized in section 39-07-03.
2. Every stop sign and every yield sign must be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk, then as near as practicable to the nearest line of the intersecting roadway.
3. Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.
4. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

### **39-10-45. Emerging from alley, driveway, private road, or building.**

The driver of a vehicle emerging from an alley, driveway, private road, or building within a business or residence district shall stop such vehicle immediately prior to driving onto a

sidewalk or onto the sidewalk area extending across such alley, building entrance, road, or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon.

**39-10-46. Overtaking and passing schoolbus.**

1. The driver of a vehicle meeting or overtaking from either direction any schoolbus stopped on the highway shall stop the vehicle before reaching the schoolbus when there is in operation on the schoolbus the flashing red lights or the stop sign on the control arm specified in section 39-21-18, and the driver may not proceed until the schoolbus resumes motion, the driver is signaled by the schoolbus driver to proceed, or the flashing red lights and the stop sign on the control arm are no longer actuated.
2. Every schoolbus must bear upon the front and rear thereof plainly visible signs containing the word "SCHOOLBUS" in letters not less than eight inches [20.32 centimeters] in height. When a schoolbus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or for a school-sanctioned activity, all markings thereon indicating "SCHOOLBUS" must be covered or concealed.
3. The operator of a schoolbus equipped with amber caution lights may activate those lights at a distance of not less than three hundred feet [91.44 meters] nor more than five hundred feet [152.4 meters] from the point where schoolchildren are to be received or discharged from the bus.
4. Every schoolbus must be equipped with a stop sign on a control arm and red visual signals meeting the requirements of section 39-21-18, which may only be actuated by the driver of the schoolbus whenever the vehicle is stopped on the highway to receive or discharge schoolchildren.
5. The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a schoolbus which is on a different roadway or when upon a controlled-access highway and the schoolbus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.
6. Every schoolbus must bear on the rear of the bus a plainly visible sign containing the words "THIS SCHOOLBUS STOPS AT ALL RAILROAD CROSSINGS".

**39-10-46.1. Permitting use of vehicle to violate section 39-10-46 prohibited - Presumption of permission - Defense - Dual prosecution prohibited.**

The registered owner of a motor vehicle may not permit that motor vehicle to be operated in violation of section 39-10-46. If a motor vehicle is seen violating section 39-10-46, it is a disputable presumption that the registered owner of the motor vehicle permitted that violation. It is a defense to a charge of violating this section that the registered owner of the vehicle was not operating the vehicle, if that registered owner identifies the person authorized by that owner to operate the motor vehicle at the time of the violation of section 39-10-46, or if that motor vehicle had been taken without the registered owner's permission. A person may not be charged both with violating this section and with violating section 39-10-46. Violation of this section is not a lesser included offense of violation of section 39-10-46.

**39-10-47. Stopping, standing, or parking outside of business or residence districts.**

1. An individual may not stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of any highway if it is practicable to stop, park, or so leave the vehicle off the paved or main-traveled part of the highway. There must be an unobstructed width of the highway of not less than twelve feet [3.66 meters] opposite a standing vehicle left for the free passage of other vehicles and a clear view of any stopped vehicle must be available from a distance of not less than two hundred feet [60.96 meters] in each direction upon the highway.
2. Unless the vehicle is blocking the highway or is otherwise endangering public safety, this section and sections 39-10-49 and 39-10-50 do not apply to the driver of a vehicle

- which is disabled while on the paved or main-traveled portion of a highway, if stopping and temporarily leaving the disabled vehicle is unavoidable.
3. Without the consent of the owner or driver of a vehicle and if a vehicle or any personal property or cargo spilled from the vehicle is blocking the highway or is otherwise endangering public safety, a police officer may:
    - a. Remove the vehicle or cause the vehicle to be removed from the highway; and
    - b. Remove or cause to be removed any personal property or cargo that may have been spilled from the vehicle onto the highway.
  4. If reasonable care is used in the removal process, a police officer and the police officer's employing agency, the department of transportation or an employee of the department of transportation, or a political subdivision or employee of a political subdivision authorized by a police officer is not liable in civil damages for loss or damage to any vehicle or to any personal property or cargo that may have spilled from a vehicle that is removed from a highway under this section.
  5. The decision and method used to remove a vehicle or any personal property, or cause a vehicle or any personal property to be removed, is a discretionary decision under this section. In the event of a public necessity, a police officer, an employee of the department of transportation, or an employee of a political subdivision authorized by a police officer may take an action that may damage a vehicle or property removed under this section.

**39-10-48. Officer authorized to remove illegally stopped vehicle.**

1. If a police officer finds a vehicle standing upon a highway in violation of section 39-10-47, the officer may remove the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the paved or main-traveled part of the highway to a place where the vehicle does not block the highway or otherwise endanger public safety.
2. If a police officer finds a vehicle unattended upon any highway and the vehicle may obstruct traffic or otherwise endanger public safety, the officer may have the vehicle moved to a location where it may be securely held.
3. A police officer may remove or cause to be removed any vehicle found upon a highway and move the vehicle to any location where the vehicle may be securely held if:
  - a. A report has been made the vehicle has been stolen or taken without the consent of its owner;
  - b. The owner or driver of the vehicle is unable to provide for its custody or removal; or
  - c. The individual driving or in control of the vehicle is arrested for an offense and taken into custody and another individual is not available to lawfully operate the vehicle.
4. If a police officer finds a vehicle standing, stopped, or parked in a dangerous location or in violation of any official traffic-control device prohibiting or restricting the stopping, standing, or parking of any vehicle on state property, the officer shall place a written warning on the vehicle for the first offense and issue a traffic citation for a subsequent violation. However, a traffic citation may not be issued for a violation of this subsection occurring on the state capitol grounds during a legislative session.
5. A police officer and the police officer's employing agency, the department of transportation or an employee of the department of transportation, or a political subdivision or employee of a political subdivision authorized by a police officer is not liable in civil damages for loss or damage to any vehicle removed from a highway or state property under this section, so long as reasonable care is used in the removal process.
6. The decision and method used to remove a vehicle or any personal property, or cause a vehicle or any personal property to be removed, is a discretionary decision under this section. In the event of a public necessity, a police officer, an employee of the department of transportation, or an employee of a political subdivision authorized by a



police officer may take an action that may damage a vehicle or property removed under this section.

**39-10-49. Stopping, standing, or parking prohibited in specified places.**

No person may stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

1. On a sidewalk.
2. In front of a public or private driveway.
3. Within an intersection.
4. Within ten feet [3.05 meters] of a fire hydrant.
5. On a crosswalk.
6. Within ten feet [3.05 meters] of a crosswalk at an intersection.
7. Within fifteen feet [4.57 meters] upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway.
8. Between a safety zone and the adjacent curb or within fifteen feet [4.57 meters] of points on the curb immediately opposite the ends of a safety zone, unless the department or local authority indicates a different length by signs or markings.
9. Within fifteen feet [4.57 meters] of the nearest rail of a railroad crossing.
10. Within twenty feet [6.10 meters] of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet [22.86 meters] of said entrance when properly signposted.
11. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic.
12. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
13. Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
14. At any place where official signs prohibit stopping.

No person shall move a vehicle not lawfully under the person's control into any such prohibited area or away from a curb such distance as is unlawful.

**39-10-50. Additional parking regulations.**

1. Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway must be so stopped or parked with the right-hand wheels of such vehicle parallel to and within twelve inches [30.48 centimeters] of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.
2. Except where otherwise provided by local ordinance, every vehicle stopped or parked upon a one-way roadway must be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve inches [30.48 centimeters] of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within twelve inches [30.48 centimeters] of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.
3. Local authorities may by ordinance permit angle parking on any roadway, except that angle parking is not permitted on any federal-aid or state highway without first obtaining the written authorization of the director.
4. The department with respect to highways under its jurisdiction may place official traffic-control devices prohibiting or restricting the stopping, standing, or parking of vehicles on any highway where in its opinion such stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic thereon. No person may stop, stand, or park any vehicle in violation of the restrictions indicated by such devices.
5. The department, with respect to streets, roadways, and parking areas of any state charitable or penal institution and on the state capitol grounds, may authorize the purchase and placement by the supervisory agency of official traffic-control devices

prohibiting or restricting the stopping, standing, or parking of vehicles. The placement of signs pursuant to this section must be done when, in the department's opinion, the stopping, standing, or parking is dangerous or would unduly interfere with the free movement of traffic, especially the free flow of traffic required for proper fire protection. No person may stop, stand, or park any vehicle in violation of the restriction indicated by any official traffic-control device. Any registered owner must be presumed to have been the operator of a vehicle that is parked in violation of any official traffic-control device prohibiting or restricting the stopping, standing, or parking of vehicles on any highway, state charitable or penal institution property, or on the state capitol grounds. This presumption may be rebutted by a showing of clear and convincing evidence to the contrary. However, no traffic citation may be issued for a violation of this subsection occurring on the state capitol grounds during a legislative session, except that a written warning must be placed on any vehicle for such a violation.

**39-10-51. Unattended motor vehicle.**

No person driving or in charge of a motor vehicle may permit it to stand unattended without first stopping the engine, effectively setting the brake thereon, and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

**39-10-51.1. Parking violations - Lessor responsibility.**

The registered owner of a motor vehicle stopped, stood, or parked in violation of this chapter or section 39-01-15 or an equivalent ordinance is not responsible for the violation if the owner furnishes an affidavit indicating that the vehicle was at the time of the violation in the care, custody, or control of another person pursuant to a lease or rental agreement. The affidavit must contain the name, address, and operator's license number of the person to whom the vehicle was leased or rented at the time of the violation and must be submitted to the appropriate clerk of court within thirty days of notification to the owner of the violation. The owner is responsible for the violation and the payment of any fees or fines if the affidavit is not submitted within the thirty-day period.

**39-10-52. Limitations on backing.**

1. The driver of a vehicle may not back the same unless such movement can be made with safety and without interfering with other traffic.
2. The driver of a vehicle may not back the same upon any shoulder or roadway of any controlled-access highway.

**39-10-52.1. Driving upon sidewalk.**

No person may drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.

**39-10-52.2. Riding in housetrailer.**

No person may be on or inside a housetrailer while it is being moved upon a public highway. Such prohibition does not apply to fifth-wheel vehicles, which are defined as mobile homes, mounted on single or tandem axles, coupled by a fifth-wheel hitch to and pivoting on a mount located immediately above or in front of the rear axle of a motor vehicle other than a passenger car.

**39-10-53. Riding on motorcycles.**

Repealed by S.L. 1975, ch. 348, § 17.

**39-10-54. Obstruction to driver's view or driving mechanism.**

1. No person may drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

2. No passenger in a vehicle may ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle.

**39-10-54.1. Opening and closing vehicle door.**

No person may open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so and can be done without interfering with the movement of other traffic, nor may any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

**39-10-55. Driving on mountain highways.**

The driver of a motor vehicle traveling through defiles or canyons or on mountain highways shall hold such motor vehicle under control and as near the right-hand edge of the highway as reasonably possible and, except when driving entirely to the right of the center of the roadway, shall give audible warning with the horn of such motor vehicle upon approaching any curve where the view is obstructed within a distance of two hundred feet [60.96 meters] along the highway.

**39-10-56. Coasting prohibited.**

1. The driver of any motor vehicle when traveling upon a downgrade may not coast with the gears or transmission of such vehicle in neutral.
2. The driver of a truck or bus when traveling upon a downgrade may not coast with the clutch disengaged.

**39-10-57. Following emergency vehicle too closely prohibited - Stopping by emergency vehicle.**

The driver of a vehicle other than one on official business may not follow closer than five hundred feet [152.4 meters] behind an emergency vehicle displaying the appropriate light for that vehicle in an emergency. A driver of a vehicle other than one on official business may not stop the vehicle within two hundred feet [60.96 meters] of any emergency vehicle stopped in answer to a 911 emergency.

**39-10-58. Crossing firehose.**

No vehicle may be driven over any unprotected hose of a fire department when laid down on any street, private road, or driveway to be used at any fire or alarm of fire without the consent of the fire department official in command.

**39-10-59. Garbage, glass, rubbish, and injurious materials on highway prohibited.**

1. An individual may not deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, rubbish, or any other litter. In addition, an individual may not deposit upon a highway any other substance likely to injure a person, animal, or vehicle.
2. An individual who deposits, or permits to be deposited, upon a highway a destructive or injurious material shall immediately remove or cause to be removed the material.
3. An individual removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from the vehicle.

**39-10-60. Riding on bicycles.**

Repealed by S.L. 1975, ch. 348, § 17.

**39-10-61. Clinging to vehicles.**

Repealed by S.L. 1975, ch. 348, § 17.

**39-10-62. Riding on roadways and bicycle paths.**

Repealed by S.L. 1975, ch. 348, § 17.

**39-10-63. Carrying articles.**

Repealed by S.L. 1975, ch. 348, § 17.

**39-10-63.1. Lamps and other equipment on bicycles.**

Repealed by S.L. 1975, ch. 348, § 17.

**39-10-64. Driving through safety zone prohibited.**

No vehicle shall at any time be driven through or within a safety zone.

**39-10-65. Operation of motor vehicle, tractor, or other vehicle prohibited on flood protective works - Exception - Penalty.**

1. Unless authorized by the authority in charge thereof, no person shall operate a motor vehicle, tractor, or other vehicle upon or across any flood protective works, including any dike or flood protective works constructed by a state or federal agency, or by any municipality or local subdivision of the state.
2. Any person violating the provisions of this section shall be liable to any person suffering injury as a result of the violation; and in addition, shall be guilty of a class B misdemeanor.

**39-10-66. Vehicle approaching a yield right of way sign.**

Repealed by S.L. 1963, ch. 283, § 20.

**39-10-67. Moving heavy equipment at railroad grade crossing.**

1. No person may operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten or less miles [16.09 or less kilometers] per hour or a vertical body or load clearance of less than one-half inch per foot [12.7 millimeters] of the distance between any two adjacent axles or in any event of less than nine inches [22.86 centimeters], measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.
2. Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet [4.57 meters] nor more than fifty feet [15.24 meters] from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and may not proceed until the crossing can be made safely.
3. No such crossing may be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing must be under the flagman's direction.

**39-10-68. Stop when traffic obstructed.**

No driver may enter any intersection or a marked crosswalk or drive onto a railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains notwithstanding any traffic-control signal indication to proceed.

**39-10-69. Charging violation and proving negligence in civil action.**

1. In every charge of violation of any speed regulation, the complaint and the summons or notice to appear must specify the speed at which the defendant is alleged to have driven and also the maximum speed applicable within the district or at the location.
2. The provision in this title declaring maximum speed limitations may not be construed to relieve the plaintiff in any action from the burden of proving negligence on the part of the defendant as the proximate cause of the accident.

### **39-10-70. Racing on highways.**

Repealed by S.L. 1981, ch. 392, § 6.

### **39-10-71. Fleeing or attempting to elude a peace officer - Penalty.**

1. Any driver of a motor vehicle who willfully fails or refuses to bring the vehicle to a stop, or who otherwise flees or attempts to elude, in any manner, a pursuing police vehicle or peace officer, when given a visual or audible signal to bring the vehicle to a stop, is guilty of a class A misdemeanor for a first offense and a class C felony for a subsequent offense within three years. An individual who violates this section while fleeing after or in the commission of a felony is guilty of a class C felony.
2. A signal complies with this section if the signal is perceptible to the driver and:
  - a. If given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the stopping vehicle is appropriately marked showing it to be an official police vehicle; or
  - b. If not given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the officer is in uniform or prominently displays the officer's badge of office.

### **39-10-72. Funeral processions - Traffic regulations.**

1. Notwithstanding any traffic-control device, a law enforcement officer leading a funeral procession may proceed through any intersection or make any turns or other movements necessary while leading the procession. The officer, without regard to any traffic-control device, may direct other drivers not in the funeral procession to stop, turn, proceed, or make other movements. When leading the funeral procession, the officer must be in a marked patrol vehicle and the vehicle's lighted headlamps, taillamps, and top-mounted and grill-mounted signal lamps must be displayed at all times during the procession.
2. Notwithstanding any traffic-control device or provision governing the right of way, whenever a law enforcement officer leading a funeral procession enters an intersection, the remainder of the vehicles in the funeral procession may follow through the intersection. Each vehicle in the procession, however, must exercise reasonable care toward any other vehicle or pedestrian on the roadway.
3. Notwithstanding any traffic-control device or provision governing rights of way and subject to the following conditions, vehicles in a funeral procession have the right of way.
  - a. All vehicles in a funeral procession must display lighted headlamps, taillamps, and flashing emergency lamps.
  - b. All vehicles in a funeral procession must follow the preceding vehicle in the procession as closely as is safe and practicable.
  - c. The driver of a vehicle in a funeral procession shall yield the right of way to an approaching emergency vehicle when directed to do so by a law enforcement officer or when the vehicle is giving an audible or visual signal.
  - d. A vehicle that becomes separated from the funeral procession and the law enforcement escort, so that the procession is no longer continuous, must proceed to its destination in a safe and prudent manner obeying all traffic signals and general rules of the road.
4. Other vehicles shall conform to the following rules:
  - a. The driver of a vehicle may not drive between the vehicles comprising a funeral procession while those vehicles are in motion, except when authorized to do so by a law enforcement officer or when such vehicle is an emergency vehicle giving an audible or visible signal.
  - b. The driver of a vehicle not part of a funeral procession may not join a funeral procession for the purpose of securing the right of way granted under subsection 3.
  - c. The driver of a vehicle not in a funeral procession may not pass vehicles in such a procession on a two-lane highway or roadway.

- d. The driver of a vehicle may pass a funeral procession on its left side on any multiple-lane highway whenever such passing can be done safely, unless the procession is in the farthest left lane, in which case passing is permissible on the right.
- e. When a funeral procession is proceeding through a red signal as permitted by subsection 3, a vehicle that is not in the procession may not enter the intersection unless it can do so without crossing the path of the funeral procession. If the red signal changes to green while the funeral procession is still within the intersection, a vehicle facing a green signal may proceed, but the funeral procession has the right of way.

**39-10-73. Flashing green lights.**

An authorized emergency vehicle may not display a flashing green light unless the vehicle is used as a command center in an emergency.