**05.08 SPEED OF VEHICLE – MINIMUM SPEED REGULATION**

Withdrawn 1986.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

# Comment

This instruction was based on 13 Alaska Admin. Code § 02.275(a).

The Alaska Supreme Court has not ruled on whether a violation of 13 Alaska Admin. Code § 02.295 is negligence per se. The violation of 13 Alaska Admin. Code § 02.295 most likely will be mere evidence of negligence as a jury will have to evaluate multiple facts and apply the standard of reasonable care to determine whether the regulation has been violated. See Breitkreutz v. Baker, 514 P.2d 17, 23 (Alaska 1973). The violation of the basic speed law (13 Alaska Admin. Code § 02.275(a)), the converse of 13 Alaska Admin. Code § 02.295(a) is not negligence per se. See Comment to Instruction 05.05.

The regulation is drafted to create what appears to be a prohibition with an exception – motorists are prohibited from interfering with traffic by driving slow “except when reduced speed is necessary for safe operation or in compliance with statutes, regulations, or ordinances.” If this regulation were held to create a negligence per se violation, it could be argued that the defendant would bear the burden of proving the exception. See Comment to Instruction 03.04A.

13 Alaska Admin. Code § 02.295(b) provides that the State Department of Highways or local authorities may declare a minimum speed limit when they determine that a slow speed on a part of a highway or city street unreasonably impedes the normal movement of traffic. A posted minimum speed limit must be obeyed except when a slower speed is necessary for safe travel or to comply with traffic regulations or other law.