

COMMITTEE ON JUDICIARY

Subcommittee on Revision

December 11, 1973

Minutes

Members Present: Senator Elizabeth W. Browne, Chairman
Representative Stan Bunn
Senator Wallace P. Carson, Jr.
Representative Robert P. Marx

Staff Present: Mrs. Marion B. Embick, Research Counsel
Mr. Donald L. Paillette, Project Director

Also Present: Mr. Jim Dutoit, Automobile Club of Oregon (AAA)
Mr. Robert Ross, Amalgamated Transit Union 1055
Mr. E. W. Mattingly, Amalgamated Transit Union 1055
Mr. Fred Spivey, Amalgamated Transit Union 1537
Mr. W. H. Stack, Amalgamated Transit Union 1055
Mr. L. E. George, Engineer, Highway Division
Capt. John Williams, Oregon State Police, Traffic
Division
Ms. Vinita Howard, Motor Vehicles Division
Chief Judge Herbert M. Schwab, Court of Appeals

Agenda: Speed Restrictions, Preliminary Draft No. 1; November 1973

Senator Elizabeth W. Browne, Chairman, called the meeting to order at 9:45 a.m. in Room 14, State Capitol.

Mr. Paillette called attention to forms and studies before the subcommittee which will be used in a survey of traffic cases to begin in January. Eight district courts chosen throughout the state will report certain aspects of their caseloads for a three month period. The district court reporting form will be submitted monthly to the State Court Administrator's office where it will be compiled. Another study included in the packet is the study which will be submitted by the district attorneys relating to all DUIL and .15.

Judge Schwab commented that when considering DUIL cases on .15 it will be dealing with the major load of the courts in terms of time consumed. He wondered if there was any method to secure data as to what percentage DUIL cases on .15 are held in district court and justice of the peace courts, and what percentage are handled in municipal courts under city ordinances. Ms. Howard stated that a report is now being prepared for the committee by the Department of Motor Vehicles which will show, with respect to the convictions received, how many cases

came from the different courts. She was of the opinion that the number of convictions would be indicative of where the volume was. Mr. Paillette noted that the district attorney's report will show whether it was in district or justice court but will not consider the municipal court.

Judge Schwab explored the possibility of securing from the Eugene or Medford area, for instance, a report from the municipal court which could be matched against their district court reports. His concern, he said, is that there is no known total of the DUIL charges in the state as there is no knowledge of what occurs in municipal court.

Senator Carson was of the opinion that the deaths on the highway are more closely related to speed and that it is not only the drunk who has been causing the problem, it is the drunk speeder. He called attention to a report which indicated that the fatality rate has been reduced fifty percent since the speed was reduced 15 miles per hour. Capt. Williams responded that this fifty percent figure could be attributed to a statement made by a member of his Department although he noted that these facts must come from the investigating police and the drivers who are involved - the reports then are sent to the Motor Vehicle Division and from there to the Highway Division where they are subsequently fed into a computer and later arrive at the actual facts. This procedure takes approximately six weeks, he said, and although there was a substantial reduction he did not believe it was as dramatic as fifty percent.

Senator Carson believed that if there is an interrelationship between the drunk driver and the drunk speeder, the emphasis should be placed on speed as the number 1 killer, rather than the drunk. He wondered if the questionnaire could also inquire as to whether speed was involved. Ms. Howard suggested the form also contain an inquiry as to whether the offense occurred before or after the new speed limit went into effect.

In response to a question by Representative Marx, Ms. Howard reported that Oregon is already 14% below the total deaths which occurred last year. The mileage death rate was approximately four deaths per 100,000,000 miles and is the lowest rate in Oregon's history, she said. Ms. Howard next referred to Senator Carson's comment relating to the reduction of fatalities in November and stated that it would be difficult to attribute this to the lower speed and that until more data is secured, it could be that the motorists were not driving as much because of the energy crisis. She reported that accident reports submitted show that in the total accident, speed figures prominently in the citations issued and that citations in excess of 3,000 have been issued for violation of the basic rule at the scene of the accident.

Senator Carson expressed concern that there is a greater relationship to speed and death on the highway than has been taken into consideration and if this is the case, the committee should concern itself with

the issue of maximum speed. He observed that if the officer, at the scene of an accident, cites an intoxicated person for DUIL or negligent homicide, for example, he probably would not cite him for speed in addition to that.

Ms. Howard stated that there has been much emphasis placed on the drunk driver with the idea that if the drunk can be eliminated, so will the problem but although it has been stated that 50% of the deaths occur with drinking involved, this still leaves 50% who were not drinking and she believed that attention should be placed on this latter 50% as well.

Judge Schwab expressed the view that with the existing incomprehensible basic rule, an officer does not wish to become involved in a speeding charge and that if there could be a maximum speed limit set with an affirmative defense to justify going past this speed, there would be more citations issued than there are at present.

Approval of Minutes of meeting of November 26, 1973.

Senator Carson moved the adoption of the minutes of November 26, 1973 which motion carried unanimously.

Speed Restrictions, Preliminary Draft No. 1; November 1973

Mr. Paillette called attention to the discussion at the meeting of November 26 relating to prima facie evidence and disputable presumptions and referred to the reference paper subsequently prepared discussing the legal effect of the use of either prima facie evidence or disputable presumptions in the statutes. He noted that the possibility of an alternative approach with respect to the speed question has also been discussed and referred to the proposed amendments which he had drafted following the meeting of November 26 and which are attached to these minutes, marked Appendix A. Amendment No. 1, Mr. Paillette explained, would establish a maximum lawful speed, create the offense of speeding and provide a classification of the offense. Amendment No. 2 sets out the affirmative defense which is similar to the approach used in drafting certain affirmative offenses in the Criminal Code. The same elements appear in the statutory statement of the basic rule, he said, except that rather than stating that certain speed is prima facie evidence of violation of the basic rule, it creates a maximum lawful speed and would place the burden on the defendant to establish that he was, in fact, driving at a reasonable and prudent speed. Mr. Paillette advised that this is a half-way approach between an absolute maximum and the basic rule. The alternate section uses the term "disputable presumption," and would leave the statute in approximately its existing form which is cast in terms of prima facie evidence. Mr. Paillette was of the opinion that the affirmative defense approach is the only one which would have any effect as far as the practical aspects of the basic rule is concerned.

Judge Schwab noted that it is impossible to place in the statutes speed limits which cover all categories of roads and wondered if realistic speed limits could be fixed and then provide the agency in charge with the power to adjust these limits, based on certain road and weather conditions. Senator Carson recalled an earlier discussion on this matter and stated that by allowing this flexibility it would be impossible to determine when to set these limits - it could be the nine months of winter or three months of summer and Judge Schwab replied that this could be determined by the agency in charge.

In response to Chairman Browne's question regarding his reaction to the draft, Senator Carson expressed his favor of it. He pointed out that the problem lies in the ability of anyone to set a posted speed and make it stand and although he was in partial agreement with Judge Schwab's proposal, he thought it would create the situation where these speeds would be changing at any time. Senator Carson was of the opinion that maximum speeds should be set and the Transportation Commission or Motor Vehicle Division be allowed to post these particular speeds, taking into consideration the normal prevailing weather conditions, curves, width of pavement, etc., and which, if exceeded, the defendant would be allowed the affirmative defense to show that his speed was reasonable under certain road and weather conditions. Judge Schwab expressed agreement that the speed limit with an affirmative defense is far better than existing law.

Representative Marx noted that there was flexibility in Judge Schwab's proposal but it also would contain much inflexibility by having an agency take into consideration all the conditions a particular driver might have on a particular day.

Chairman Browne asked if the committee wished to adopt the proposed amendment relating to the affirmative defense on a speeding charge. Representative Marx believed this would place a further burden on the defendant who must then bring forth evidence in order to avoid the speeding charge. He spoke to the truck driver situation where a second or third conviction could be very critical. If the driver disputes his ticket, he would prefer having the burden placed on the officer, which, Senator Carson observed, is the way the existing law performs. Representative Marx asked that if this does not shift the burden on the driver, what in essence does it do. Mr. Paillette explained that the draft section would retain section 1 of the Article, the basic rule provision, but only for those cases where a speed lower than designated is required. It would make a considerable change from existing law where the basic rule applies at either end and would create a maximum speed. Section 1 of the Article, plus the first section of the proposed amendments are actually the Uniform Vehicle Code's approach although it has been cast in terms of the offense of speeding. By writing in the affirmative defense, he advised, the draft softens the blow of the maximum speed limit and would place the burden on the defendant.

could be obtained which shows a comparison between the freeway accidents and those accidents on access roads in the city area where he said the driver, when coming off the freeway, often maintains the same rate of speed. Senator Carson expressed the view that Highways 22 and 26 were the real death highways, where drivers are traveling at 60 to 70 mph on a highway not designed for that speed.

Mr. Jim Dutoit recalled that at its last meeting the committee had requested that The Oregon Motorist, a newspaper circulated by the Automobile Club of Oregon, be used as the vehicle by which questions could be asked relating to the driver's preference for maximum speed and the basic rule. He told the committee that the Editor, Sid King, has offered to place in its January issue any questions which the committee desires to have answered. He noted that the opinions from its last survey indicated that 55% of those responding favored a maximum designated speed as opposed to the present basic rule. The circulation of the newspaper is approximately 60,000. Senator Carson remarked that placing the questionnaire in the paper could prove beneficial to the committee.

Section 8. Maximum speeds for motor busses, highway post-office busses, school and worker transport busses. As several representatives from the Transit Union had appeared at the meeting to speak to section 8, the subcommittee turned its attention to this section.

Mr. Robert Ross, representing the Greyhound bus drivers in Oregon, spoke to the proposed amendments to section 8, attached to these minutes as Appendix B, and in particular to subsection (3) which, he said, has the effect of making any posted speed an absolute maximum for busses. Of the volume of traffic on the highway, busses, which would include anything registered to carry passengers, amount to less than one-half percent and Mr. Ross believed the subsection creates an unfair discrimination against experienced professional drivers who should be allowed the same privileges as the drivers of automobiles. He reported that many cases are on record where the driver has been cited for driving over a posted speed limit while in the act of passing another vehicle and he contended that the safest pass is the quick pass and it is essential that the driver proceed as quickly as possible when attempting to pass. Mr. Ross stated that statistics show there are twice as many busses cited for speeding as there are busses involved in accidents and twice as many automobiles involved in accidents as there are automobiles cited for speeding, therefore he does not believe safety was the factor when determining the absolute maximum for busses.

Mr. Ross reported that over 26% of speeding citations issued by the police are for busses and trucks and he believed that the officer knows that if he tickets the professional driver he is likely to have a conviction which has some bearing on the high percentage of tickets. Information released by Greyhound indicates that busses were driving approximately 200,000 miles between accidents and the great majority of those accidents reported are minor accidents with fixed objects.

The average Greyhound driver has 18 years' safe driving experience and drives approximately 75,000 miles per year.

Senator Carson asked Mr. Ross if he approved a change in the law whereby the bus drivers would be given an affirmative defense provision and in this manner if they were cited for a higher speed such as when in the process of passing another vehicle, they could defend their action. Mr. Ross replied that the affirmative defense would be fair if the bus driver and the automobile driver were treated equally.

Judge Schwab asked if there was any technical data available which supports the distinction between busses and automobiles or any evidence to show that busses are just as safe or safer, because of the required built-in safeguards, as the average car.

Mr. E. W. Mattingly expressed the opinion that the busses were much safer than autos and advised the committee of the extensive training and safety programs which the drivers undergo and that as professional drivers they should have the same right and consideration to judge whether or not they are capable of driving more than 55 mph. The 65 mph speed was a reasonable speed but it is unfair to restrict them to the 55 mph speed limit and they should be allowed more flexibility, he contended.

Senator Carson asked Mr. Mattingly to relate his experience in driving, for example, two miles over the limit. Mr. Mattingly replied that the situations vary - some tickets were unjustified in that they were given for traveling three to four miles over the limit in an area where it was not unreasonable to operate at that speed, and there were times when a ticket could be justified and the driver got off with a warning.

Judge Schwab asked if the designated speed of 55 mph is too low in most cases for safe operation of the vehicle and Mr. Mattingly responded that it would depend on the flow of traffic. Judge Schwab observed that it may be practical to raise the designated speed to a more realistic figure and then give an agency the authority to reduce it at particular times of the year or in dangerous areas. Mr. Mattingly said that if there would be such a fluctuating posted maximum speed limit to operate under, he would believe it could be turned into a speed trap. With the exception of posted curves, he was of the opinion the limit should be posted at the safe maximum speed. Mr. Mattingly added that it was not too immaterial to the bus drivers whether they are placed under a maximum speed or under the provisions of the basic rule, so long as they have the same privileges as the ordinary citizen.

Mr. Fred Spivey, representing Trailways, commented that there is no way to make a safe driver out of anyone by setting the speed limit for defensive driving but rather it is in the training given the drivers. He reiterated the concerns of the other witnesses in that the bus drivers should be given the same privileges as the passenger car drivers.

Mr. Spivey next detailed the requirements of a bus driver which include previous experience in heavy equipment; two weeks of extensive training; student trips with other drivers for approximately two to three weeks and yearly physicals. Following the student trips, the company then places the driver on a 90 day probationary period and can dismiss him at any time during that period.

Mr. Ross reported that Greyhound accepts for training one out of 50 applicants and during the course of a six weeks training period, 25% of those who begin are eliminated for reasons of unsuitability. Before the applicants are accepted for training, they are given a battery of tests and complete physical examinations under the standards set by the Federal Department of Transportation, with particular attention given to vision and circulatory problems.

In response to Mr. Paillette's query as to how Oregon law compares with other western states, Mr. Ross reported that Oregon is the only state where there is a prima facie evidence provision for the general public and an absolute maximum for busses.

Senator Carson asked Mr. George if it is feasible to increase the speed of busses on the freeways during the energy crisis to 65 or 70 mph and Mr. George stated that mechanically the busses are constructed to obtain the maximum efficiency out of their engines at certain speeds, which he assumed was based on transmission ratios, but that the automotive manufacturer could possibly supply information to show what speeds were the most efficient for the equipment. He noted that there was a psychological effect to having a large bus pass a small compact but he did not have any factual data to show what specific effect it would have on accident rates, and in his opinion there was none.

Mr. W. H. Staats alluded to an earlier question as to whether the designated speed at 55 mph is too slow and stated that due to the manner in which the busses are set up, it is too slow. The busses have four speed transmissions and when driving at 55 mph and approaching a small slope, the bus is dropped into third gear and uses more fuel. There is only a five or six mile leeway in the top gear, he said, and consequently the driver is constantly changing the gears.

Captain Williams expressed agreement with the testimony as to the quality of the bus drivers and the position taken by them for a maximum speed for all vehicles on the highway. He referred to earlier testimony relating to the number of citations given and quoted statistics from July 1, 1972 to June 30, 1973 which show a total of 221,862 arrests made by traffic officers, 179 of which were bus speeding citations with 22 of those dismissed for various reasons, plus 10 warnings issued for bus speeding. With respect to trucks, he advised that the arrests totaled 13,000 for speeding and basic rule arrests totaled 46,982, although he stressed that consideration must be given to the larger percentage of

trucks on the highway. He noted that the 179 figure amounted to less than one-half an arrest daily and that copies of this annual report would be sent to the committee members per Senator Carson's request.

Senator Carson wondered if it could be justified to omit the trucks and Captain Williams replied that this problem could be solved by placing all the vehicles under a maximum speed, of which the trucks are now under.

Representative Bunn asked about the possibility of posted speed limits, and allowing the basic rule to operate five or ten percent above, and a maximum speed above that which would allow the driver to take into account all the weather and road conditions. Captain Williams reported that this system would complicate matters further.

Mrs. Embick replied to Senator Carson's earlier comment regarding the absolute limit for trucks and stated that she had contacted Robert Knipe of the Oregon Trucking Association as to the Association's reaction to this provision and was informed that they were in agreement. She was directed by the members to contact L. B. Day, representing the Teamsters Union, to obtain the position taken by the drivers.

Mr. Ross referred to Captain Williams' earlier testimony and stated that the witnesses present at today's meeting represented less than 400 bus drivers and with the 179 arrests made for speeding as was reported, it would indicate that almost one-half of the drivers had received speeding tickets during the year, which would be a high percentage. Mr. Ross stressed that the argument which has been put forth by the witnesses for busses does not necessarily apply to trucks. He said this argument could be supported by other states who treat busses in the same category as passenger cars but usually place restrictions on trucks.

Ms. Howard voiced support of the position taken by the bus drivers and noted that the Division does not find the types of driver problems in the bus accident reports as in the truck accident reports. She believed that the policy of excluding the trucks, not only from the standpoint of the size of the vehicle, but the training and capabilities of the driver, is a valid point.

Mr. Paillette wondered if the charter busses in the state would be included in this comparison and Mr. Spivey remarked that only those operating solely within the state are not covered by DOT regulations as are the larger companies who travel interstate. Ms. Howard mentioned that the PUC is now adopting for intrastate drivers some of the regulations which apply to interstate and she believed they would be coming under more control. Mr. Mattingly remarked that some of the intrastate charter carriers use part-time drivers although he was not aware of the training program involved and Chairman Browne suggested limiting the draft to interstate carriers.

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Judge Schwab suggested a maximum speed of 75 mph on interstate freeways and 65 mph on other highways and Representative Bunn asserted that there are highways in Oregon where a driver could travel 70 mph without visibility problems and did not believe it wise to post a 65 mph limit in such an area which in effect would be asking the drivers to violate the law. He agreed that a 75 mph maximum speed limit could be set but was concerned that it might encourage placing a slower limit on other highways where the basic rule could apply if the conditions were right.

Senator Carson stated that by giving the drivers a reason for setting a certain speed, there would be better compliance than under a basic rule which no one understands. He stressed objection to setting speeds through the averages taken, although Representative Marx expressed agreement to using the 85% average as it is related to the manner in which the drivers are actually performing, he said.

Mrs. Embick reported that almost every state has a basic rule whether or not there is a maximum speed limit and called attention that the basic rule would be retained, although Senator Carson was of the understanding that if there was a maximum speed limit plus a basic rule, the basic rule would only work down. Under existing law the basic rule works both up and down and the question would be whether a maximum limit should be set so the basic rule only works to that posted speed or if it should go beyond and allow some leeway. The question would then arise as to whether this leeway would then be referred to as prima facie, rebuttable presumption or affirmative defense.

Representative Bunn asked if a maximum speed limit could be set at 75 mph with the provision that the basic rule is in effect under that lid in every condition and Senator Carson remarked that anything over the 75 mph limit on a state highway would then be strictly a violation of the law.

Senator Carson moved to adopt a maximum speed limit of 75 mph on a freeway with the proviso that the basic rule would apply under that ceiling. Motion carried unanimously.

Senator Carson moved to modify section 8 to exclude the motor bus and to repeal the present distinction between the automobile driver and the interstate bus driver, giving the bus driver the same rights and privileges as the former is now allowed. Motion carried unanimously.

Senator Carson moved that the proposed basic rule amendments to section 2 (Appendix A) prepared by Mr. Paillette, which set the maximum speed limits and allow the affirmative defense provision be substituted for the present system that any speed in excess of those designated shall be prima facie evidence of violation of the basic speed rule.

Representative Marx, in examining the report on arrests and convictions for violation of the basic rule as compared to those given to traffic signal violations, noted there is a lesser percentage of citations given for violation of the basic rule, and voiced objection to placing any additional burden on the citizen.

Judge Schwab was of the opinion the affirmative defense was more in line with that of the other Codes and emphasized that the rationale for having the posted speeds would be that the determination has been made that speeds beyond that are unsafe and the burden should be placed on the driver to explain his reasons for breaking the maximum speed limit.

Mr. Paillette asked if the effect of Senator Carson's motion was that the basic rule would apply below the designated speed and between the designated posted speed and 75 mph the affirmative defense provision would apply - above the 75 mph speed there will be no defense and Senator Carson answered in the affirmative.

Representative Bunn asked for an explanation for using the basic rule below the designated speed and affirmative defense above and Senator Carson responded that the basic reason is that citations are seldom given for traveling under the posted speed. The posted speed, which is the designated speed, has become the fixed speed in most citizens' minds, including the officers, who very seldom cite for going below. If this shift is workable, he said, when driving under the designated speed there is no presumption that the driver has violated any rule and under the basic rule it will place the burden on the state to prove it was hazardous to drive under that speed. The burden will then shift to the driver if he goes over the designated speed, he believed, because of the public policy statement that it is unsafe to drive over the certain speed.

Representative Marx was of the opinion the breakdown as explained by Senator Carson would actually make it more difficult for the citizen to understand. Senator Carson disagreed and pointed out that the driver's manual could state that the designated or posted speed is the lawful speed and driving in excess up to the maximum of 75 mph places the burden on the driver to prove it was a safe speed.

Ms. Howard declared that the speed section of the Code is perhaps the most difficult to explain to judges, police and public alike because of the prima facie aspect and agreed that the approach taken in the proposed amendments would clarify it to a great extent.

Representative Bunn expressed concern that once the affirmative defense provision is allowed, the police could apply it in ways other than have been used before and abuse the privilege. Senator Carson shared his concern and stressed that if the change were to be made, he would wish to monitor the statistics to observe any change in police

practices. Although he did not think this would occur, the driver should be protected and another look be taken at this rule. Chairman Browne commented that if a problem would arise she thought it would come from the smaller cities and sheriffs rather than the State Police.

Mr. Paillette pointed out that the effect of casting this in terms of an affirmative defense will not have any practical or legal effect upon the typical vbr case where the prima facie evidence provision now applies. He noted that the affirmative defense provision makes it clearer, but that from an enforcement standpoint he did not think the police would look upon an affirmative defense in any different manner than they would prima facie evidence and their enforcement burden would be the same either way.

Action was taken on Senator Carson's earlier motion to adopt the recommendations on the first two proposed amendments to section 2 submitted by Mr. Paillette (Appendix A). Voting for the motion: Bunn, Carson, Chairman Browne. Voting no: Marx. Motion carried.

The Chairman expressed the desire to hear from Mr. Day and members of the Speed Control Board with relationship to the position taken by the truck drivers as to speeds set.

Mrs. Embick called attention to section 2 and the amendments adopted by the subcommittee at its meeting of November 26 and pointed out that the section itself had not been adopted at that time. She called attention to paragraph (b) of subsection (2) and suggested the words "within cities" be deleted inasmuch as this language would contemplate singling out only the public parks within cities.

Representative Bunn moved paragraph (b) of subsection (2) be amended to delete the words "within cities" following "parks."

Mr. Paillette suggested the insertion of a reference to ORS 483.106 in paragraph (b) and the phrase "or the Department of Transportation" be inserted following "by local authorities." He believed this would prevent an ambiguity between the section which refers to "any park" and ORS 483.106.

The motion to adopt Representative Bunn's proposed amendment incorporating Mr. Paillette's suggested amendment was unanimously adopted by the members.

Representative Bunn moved the adoption of section 2, as amended. Voting aye: Bunn, Marx, Chairman Browne. Not voting: Carson. Motion carried.

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With respect to the meeting scheduled for December 20, Mr. Paillette asked that the subcommittee members reserve the full day in order to complete consideration of the draft at that time.

The meeting was adjourned at 1:15 p.m.

Respectfully submitted,

Norma Schnider, Clerk
Subcommittee on Revision

COMMITTEE ON JUDICIARY
Room 14, State Capitol
Salem, Oregon

PROPOSED AMENDMENTS TO

SPEED RESTRICTIONS
Preliminary Draft No. 1

Section _____. (Maximum speed limits.) (1) Except where a special hazard exists that requires a lower speed for compliance with section 1 of this Article, the speed limits designated under ORS 483.104, 483.106 or 483.108 shall be maximum lawful speeds.

(2) A person who drives a vehicle at a speed in excess of any of the speed limits specified under subsection (1) of this section commits the offense of speeding.

(3) Speeding is a _____.

Section _____. (Speeding; affirmative defense.) It is an affirmative defense to the offense of speeding that, having due regard to the traffic, weather, highway and any other conditions then existing, the speed at which the person was driving was reasonable and prudent.

* * *

(ALTERNATE SECTION)

Section _____. (Maximum speed limits; disputable presumption of violation of basic speed rule.) Any speed in excess of the speed limits designated under ORS 483.104, 483.106 or 483.108 create a disputable presumption of violation of the basic speed rule.

* * *

December 1973

Appendix B
Committee on Judiciary
December 11, 1973

COMMITTEE ON JUDICIARY
Room 14, State Capitol
Salem, Oregon

PROPOSED AMENDMENTS TO SECTION 8 (2)(a) and (3)

Section 8. (Maximum speeds for motor busses, highway post-office busses, school and worker transport busses.)

(2) A person commits the offense of violating the maximum speed limit for motor trucks equipped with pneumatic tires if he drives a motor truck at a speed greater than:

(a) Sixty miles per hour or such lesser speed as has been designated on an interstate highway on which a speed greater than the speed designated by subsection (3) of ORS 483.104 has been designated under ORS 483.106 or 483.108; or

(b) Fifty miles per hour on any street, road or highway not an interstate highway.

(3) A person commits the offense of violating the maximum speed limit for motor busses and highway post-office busses if he drives a motor bus or highway post-office bus on any highway, street or roadway at a speed greater than 65 miles per hour when the maximum designated speed thereon is 65 or more miles per hour, or the speed so designated, whichever is less.