

HOUSE COMMITTEE ON JUDICIARY

REVISED SUMMARY OF PROPOSED VEHICLE CODE

C-Engrossed Senate Bill 1
(Majority Report)

INTRODUCTION: FORMAT AND ORGANIZATION

The proposed code consists of four major parts:

Part I. Rules of the Road

Part II. Penalties and Procedures

Part III. Respective Powers of State and Local Authorities

Part IV. Miscellaneous Provisions

The four major parts of the revised code are further broken down by the Engrossed bill into 16 Articles comprised of 290 sections.

Many of the existing statutes which describe the rules governing the conduct of drivers and pedestrians are revised, and, in addition, new statutes proposed to make the Oregon code conform more closely with the Uniform Vehicle Code. The major part of the new provisions would be compiled into ORS chapter 483. Each of the offenses contained in the Rules of the Road would be classified as a specific class of traffic infraction or traffic crime. A new system of adjudication procedures is proposed for the noncriminal offenses, but the traditional criminal procedures would be retained for the traffic crimes.

Attached is a synopsis of the major provisions found in each of the 16 Articles.

ARTICLE 1. GENERAL PROVISIONS

SYNOPSIS:

Article 1, sections 1 to 12, sets out the applicability of the rules of the road to vehicles on highways and ocean shore unless specifically provided elsewhere, declares the principles of statewide uniformity, including application and uniformity on federal lands, and prospective application, and defines 19 terms which are either statutorily defined for the first time in Oregon or which are redefined, resulting in much-needed clarification in the law. The Article states the rules that police officers enforcing traffic laws must be in uniform or display an official identification card, that vehicle owners knowingly permitting unlawful operation of a vehicle are committing an offense and that workers at a highway construction site are exempt from the vehicle equipment rules. A person riding a bicycle, skates or toy vehicle is forbidden to cling to a vehicle. Emergency vehicles and ambulances are separately defined and their drivers granted privileges of disregarding specific rules of the road when traveling in response to an emergency.

ARTICLE 2. TRAFFIC SIGNS, SIGNALS AND MARKINGS

SYNOPSIS:

Sections 13 to 20 declare the general rule that the directions of official traffic control devices must be obeyed and set out the specific rules pertaining to the colored lights of traffic control signals, pedestrian signals, flashing signals, lane direction control signals and left turn on red light. Sections 19 and 20 are a restatement of existing law on unlawful display of signs resembling traffic signs and unlawful interferences with traffic control devices.

ARTICLE 3. DRIVING ON RIGHT SIDE OF ROADWAY

SYNOPSIS:

Sections 21 to 34 declare the rules for driving on the right side of the roadway, with the term "roadway" as defined in section 2 to exclude the shoulder, the rules for passing on the right and the left, and for the no-passing zone, the one-way roadway and the divided highway. Major changes are that drivers on a one-way roadway need not proceed in the right lane and, when passing on the right, may not do so by going off the roadway.

ARTICLE 4. RIGHT OF WAY

SYNOPSIS:

Sections 35 to 40 deal with the right of way rules. The rules of present law governing the right at an uncontrolled intersection and forfeiture of right of way by excessive speed are retained. The rule allowing a "shifting right of way" from the oncoming driver to the left turning driver is repealed. A left turning driver must yield to all oncoming drivers which are so close as to be a hazard. A definite and specific stopping line is established for a vehicle required to stop. This stopping line has not previously been set out.

ARTICLE 5. PEDESTRIANS' RIGHTS AND DUTIES

SYNOPSIS:

Section 41 making failure by a pedestrian to obey a traffic control signal an offense is new.

Sections 42 and 47 restate the present rules governing pedestrian right of way in a crosswalk requiring a driver to stop and yield to the crossing pedestrian so close as to be in a position of danger, requiring a driver not to overtake a vehicle stopped for a pedestrian in a crosswalk and requiring that both driver and pedestrian exercise due care. A pedestrian must use an overhead bridge or tunnel when available.

Section 48 provides that a pedestrian must use a sidewalk or shoulder when there is a usable one adjacent to the roadway, and in using the shoulder should be as far as practicable from the roadway edge. He must use the left shoulder on a two-way highway which has a shoulder and no sidewalk except in the case of the divided highway when he must stay on the right. Section 49 provides that pedestrians must yield the right of way to vehicles except when specific rules provide otherwise, and section 52 grants the right of way on a sidewalk to a pedestrian. The rules of these three sections are new.

Section 50 clarifies existing law on the right to hitchhike by prohibiting it for persons on a roadway, under the definition of "roadway" which excludes the shoulder.

Article 5 (continued)

The rules governing blind pedestrians are stated in sections 54 to 58. Sections 59 and 60 prohibit pedestrians from being on a bridge after a bridge barrier operation signal is given and from crossing bridge or railroad crossing barriers.

ARTICLE 6. TURNING AND MOVING; SIGNALS
ON STOPPING AND TURNING

SYNOPSIS:

Sections 61 to 66 provide the rules for method of turning and making a U-turn, and of giving a turning or stopping signal by either hand and arm or signal lamp.

Section 61 provides the left turn at an intersection be made by turning to the left of the intersection's center whenever practicable.

Section 64 provides a turn signal must be given continuously during the last 100 feet traveled by the driver turning or changing lanes.

Section 65 makes it mandatory that signal lamps and not hand and arm signals be used at night.

ARTICLE 7. SPECIAL STOPS REQUIRED

SYNOPSIS:

Sections 67 to 70 require all drivers to stop before crossing a railroad grade crossing where they apprehend that a train is approaching, and drivers of specified vehicles such as school busses to stop before crossing railroad grade crossings under all circumstances, subject to exceptions such as for protected and abandoned crossings.

Section 71 provides that drivers approaching a stopped school or worker transport bus with flashing red lights operating must stop for as long as the lights are flashing.

ARTICLE 8. SPEED RESTRICTIONS

SYNOPSIS:

Sections 73 to 84 cover the basic speed rule and the designated speeds for different types of locales. The organization and functions of the State Speed Control Board are set out in sections 77 to 79. Its membership would include a representative of the counties as well as the cities. Trucks and passenger transport vehicles, defined to include school, worker transport and church school children busses as vehicles of non-profit corporations, are subject to maximum speed limits, under Section 82. This Article was amended by the Senate Judiciary Committee to retain Oregon's basic rule.

ARTICLE 9. SERIOUS TRAFFIC OFFENSES

SYNOPSIS:

The existing statutes on DUIL and driving with .15 percent or more blood alcohol content are repealed. The new offense of driving while under the influence of intoxicants would consist of either driving while under the influence of intoxicating liquor, dangerous drugs or narcotic drugs or with a blood alcohol content of .12 percent or more. Several other important changes in the law are proposed by the Article.

The existing statute covering driving while suspended or revoked would be repealed and the crime restated by section 92. Proof that the defendant knew of his suspension would not be an element of the offense, but failure to receive such notice would be an affirmative defense. The crime would be either a Class A misdemeanor or Class C felony depending on the underlying reason for the suspension.

Hit and run offenses resulting in personal injury to another would be a Class C felony. Hit and run resulting only in property damage would be a Class A traffic infraction. These penalties are set forth in section 94.

The crime of reckless driving would be a Class B misdemeanor and careless driving would become a Class C misdemeanor. Attempting to elude a police officer would be a Class A misdemeanor under section 91.

Article 9 (Cont'd)

misdemeanor under section 91.

The provisions relating to driving while under the influence of intoxicants, dangerous driving, attempting to elude, driving while suspended or revoked and failure to perform the duties of a driver involved in an accident (hit and run), except the requirements relating to filing accident reports, by operation of section 86 would apply upon any premises open to the general public for the use of motor vehicles. This would be a significant departure from existing law which is limited to offenses occurring upon a public highway.

ARTICLE 10. STOPPING, STANDING AND PARKING

SYNOPSIS:

Sections 95 to 101 deal with restrictions on and prohibitions against parking and draw distinctions in the rules in relation to whether a vehicle is parked or stopped or standing, as these terms are defined in section 2. A disabled vehicle is an exception to the general rules.

ARTICLE 11. MISCELLANEOUS RULES

SYNOPSIS:

Sections 102 to 113 contain new rules requiring drivers leaving a vehicle unattended to lock the ignition as well as set the brake, to stop before crossing an intersection if it is obstructed, to exercise caution on meeting persons leading or riding livestock and, if the driver strikes a domestic animal, to render aid as practicable and notify its owner or the local peace officer. Illegal backing, stated in section 103, and opening and closing vehicle doors on the moving traffic side of the vehicle when it is not safe, stated in section 105, are new offenses. The rule of section 109 requiring a tow truck operator moving a damaged vehicle to remove injurious substances which have dropped from the vehicle on the highway is also new.

ARTICLE 12. SPECIAL RULES FOR MOTORCYCLES

SYNOPSIS:

Under the existing statutes, motorcycle operation is governed by the same rules of the road as apply to the operation of other motor vehicles. Motorcycle equipment rules require the operator to wear protective headgear and to keep head lamps on at all times. The motorcycle operator would be required to sit on a permanent seat, astride, facing forward, and carry a passenger only if the motorcycle is designed for a passenger, including provision of foot rests. A motorcycle operator is entitled to a full traffic lane but also is authorized to ride two abreast in a single lane. Method of passing may not be by using the same lane as the overtaken vehicle unless the overtaken vehicle is another motorcycle.

ARTICLE 13. SPECIAL RULES FOR BICYCLES
AND PLAY VEHICLES

SYNOPSIS:

Sections 121 to 130 restate existing bicycle rules with modifications as well as add new rules relating to the bicyclist's right of way, the driver's right of way in a bicycle lane, and the bicyclist's right to proceed two abreast when traveling on a roadway. A parent of a minor child would be responsible for knowingly permitting the child to operate an unlawfully equipped bicycle, but not for permitting unlawful operation itself. A bicyclist must yield the right of way to drivers except the oncoming driver who is making a left turn and the driver required to stop before entering the roadway on which the bicyclist is traveling.

ARTICLE 14. CLASSIFICATION OF OFFENSES:

DISPOSITION OF OFFENDERS

SYNOPSIS:

This Article, sections 131 to 156, proposes four classes of a new, noncriminal offense denoted as a "traffic infraction." Except as otherwise specifically provided, e.g., a license suspension or other similar sanction, the penalty for committing a traffic infraction would be a fine only, with the maximum fines for each class as provided in section 133.

In addition to proposing the new offense, the Article embodies new procedures for handling these offenses in the courts. Important changes in the existing adjudication procedures are made by the Article. For example, section 137 provides that trial of a traffic infraction would be by the court without a jury. The burden of proof standard would be a "preponderance of the evidence." Defense counsel would not be appointed, although a defendant, of course, could retain counsel. The state was granted a right to appeal from an acquittal of a traffic infraction.

As a result of these changes in the adjudication procedures, the trial of a traffic infraction case approximates a civil action. In order to preserve some of the rights granted a defendant in a criminal trial; the House Judiciary Committee amended section 137 to say that a defendant may not be required to be a witness in the trial of any traffic infraction.

Under section 134, any offense that would otherwise be punishable as a Class A traffic infraction, such as driving while under the influence of intoxicants, would be prosecuted and punishable as a Class A misdemeanor. Section 137 a. of the Engrossed Bill establishes the procedures for pleading and proving a prior conviction at trial for the second offense.

The prosecution would be required to plead and prove the previous conviction unless the defendant stipulates to that fact before trial. If the defendant does stipulate and the trial is by jury the court would be required to accept the stipulation regardless of whether or not agreed to by the prosecution.

Evidence of the previous conviction would become part of the record of the case, but, in order to avoid unduly prejudicing the jury, would not be offered or received by the court in the presence of the jury. No mention of the previous conviction would be allowed to be made to the jury.

Under subsection (2) of section 137 a., however, evidence of the previous conviction would be admissible for the purpose of impeaching the credibility of the defendant if the evidence is otherwise admissible under the rules of evidence. The prosecution, under these circumstances, would be permitted to comment upon such evidence and the court to give instructions on the impeaching evidence and to permit it to go to the jury.

Other changes in the procedures would include under section 138 a ban on plea agreements in driving under the influence of intoxicants cases to prohibit a defendant charged with DUIL from pleading guilty or "no contest" or forfeiting bail to a lesser charge. At the trial of a traffic infraction only, the district attorney would not appear unless counsel appeared for the defendant.

Section 138 also grants a "rehabilitation option" to a defendant charged for the first time with the offense of driving while under the influence of intoxicants. If after a diagnostic examination determines the defendant to be a problem drinker or an alcoholic, the court, with the consent of the defendant, may order the defendant to enroll in an alcohol or drug rehabilitation program. The court could condition the order in any manner it considered appropriate to the rehabilitation of the defendant, which must include the condition that the defendant not be arrested again for the same offense during the course of the rehabilitation program.

Under subsection (3), if the defendant successfully completes the program and complies with the orders of the court, no other sentence could be imposed for the offense. If, however, the defendant fails to complete the program or to comply with any condition set forth in the court's order, the court would pronounce judgment (a fine) upon the offense.

Subsection (4) would prohibit the use in any other action or proceeding of any statement made by the defendant relating to the offense during the course of the rehabilitation program if made to a person employed by the program.

Subsection (5) prescribes appropriate orders to be entered by the court relating to the rehabilitation program. Each order would become part of the record of the case and a copy sent promptly to the Motor Vehicles Division for its records.

The trial judge would be specifically empowered by Section 141 to order license suspensions and other sanctions to deal more effectively with offenders convicted of serious offenses.

The period of a driver's license suspension for refusing to take a breath test was reduced by the House Judiciary Committee from 180 to 120 days.

ARTICLE 15. POWERS OF STATE AND LOCAL AUTHORITIES

SYNOPSIS:

The distribution of jurisdiction over regulation of traffic on the state's highways of existing law is retained except that the state agency authority is reposed in the Transportation Commission rather than the Department. The Commission is to adopt a manual and specifications for uniform standards, which are to be followed by local authorities in their constructing and placement of traffic control devices on highways under their jurisdictions. The Commission's right to supervise the local authorities in their use of traffic control devices is no longer subject to an exception for cities over 50,000 population. Section 159 provides that the local authority has a reasonable time period after the Act's effective date to conform traffic control devices to state specifications. It further provides that a city wishing to place a traffic control device on a street selected as a state highway route must apply in writing to the Highway Administrator for approval. If disapproval is not received from the Administrator in 90 days the local authority's recommendation is approved.

The authority granted in section 164 to the Highway Division and local authorities to establish no-passing zones is new. The jurisdiction stated in section 167 of the Transportation Commission over state highways in cities except where a state highway is routed over a city street is also new.

Art. 15 (Continued)

Section 169 amends ORS 484.030 to authorize a city attorney to prosecute in the name of the state for a state traffic offense committed in the city's jurisdictional authority.

ARTICLE 16. MISCELLANEOUS SECTIONS

SYNOPSIS:

This Article amends various sections throughout ORS to make them consistent with new vehicle code provisions. Example: ORS 8.660 (district attorney attending court and prosecuting offenses); ORS 9.320 (necessity for employment of attorney); ORS 133.080 (citation in lieu of custody); ORS 161.505 (definition of offense). Numerous sections of ORS Chapters 481, 482 and 483 are amended to reclassify the offenses as traffic infractions instead of crimes.

Approximately 80 existing statutes are repealed.

Operative date of the proposed Act would be July 1, 1976, to allow adequate time for judges, prosecutors and police to learn the new Code and to give sufficient time to MVD to revise its records, educate the public, prepare new driving manuals, etc.