

COMMITTEE ON JUDICIARY
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O R E G O N V E H I C L E C O D E

PART I. RULES OF THE ROAD

ARTICLE I. OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

General Provisions

Preliminary Draft No. 2; November 1973

Reporter: Marion Embick

Subcommittee on Revision

OREGON VEHICLE CODE

#

PART ____ . RULES OF THE ROAD

ARTICLE ____ . OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

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Section 1. ORS 483.036 is amended to read:

483.036. (Provisions of chapter to be applicable, uniform and controlling throughout state, including ocean shore.) [(1)] The provisions of this chapter shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein and [no local authority shall enact or enforce any rule or regulation in conflict with the provisions of this chapter.]

[(2)] The laws of this state relative to the rules of the road and the regulation of motor vehicles using the public highways of the state shall apply to] on all portions [of the shore] of the ocean shore which have been or may hereafter be declared [to be] a state recreation area. [Law enforcing agencies vested with authority to enforce such laws shall likewise be vested with authority to enforce the provisions of ORS 483.124.]

COMMENTARY

A. Summary

The application and uniformity of the chapter provisions throughout the state is stated so as to include the portions of the ocean shore declared state recreation areas in a single sentence for greater clarity and brevity.

The prohibition to local authorities to enact conflicting rules is deleted because this prohibition already is set out in ORS 483.042 (1). The direction that the law enforcing agencies authorized to enforce vehicle laws are authorized to enforce ORS 483.124 is deleted for relocation probably in ORS 483.124, which limits vehicle speed on the ocean shore.

B. Derivation

No substantive change in existing law other than deletion and restatement of deleted portions in other sections. There is a similar provision in UVC s 15-101.

C. Relationship to Existing Law

This section makes no substantive change. This section on uniformity and applicability is appropriate as the initial provision for this Article. It was authority in Winters v. Bisailon, 152 Or 578, 54 P2d 1169 (1936), for holding invalid a city ordinance restricting speed of motor vehicles within the city limits to 25 miles per hour as in conflict with state statute. A municipal parking ordinance not in conflict with state law was upheld in Ceccacci v. Garre, 158 Or 466, 76 P2d 283 (1938).

Section 2. (Provisions of chapter refer to vehicles upon the highways and ocean shore; exceptions.) The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways and to all portions of the ocean shore which have been or may hereafter be declared to be a state recreation area, except where a different place is specifically referred to in a given section.

COMMENTARY

A. Summary

This section restricts application of the rules of the road (and such other parts of existing law as are retained in the proposed revision of ORS chapter 483) to vehicles operated on the highway and on the portions of the ocean shore declared state recreation areas, unless another place is specifically referred to in another section of the statutes.

B. Derivation

The section is based on the UVC s 11-101. Oregon has not had a comparable provision.

C. Relationship to Existing Law

Oregon has not had a statute restricting the application of the vehicle laws to operation of vehicles on the highways. The offenses of reckless driving, driving under the influence of intoxicating liquor, dangerous drugs or narcotic drugs, and driving with .15 percent blood alcohol level, do require proof of the driver's operation of the vehicle on a highway and, in the case of driving under the influence, a street or thoroughfare within this state, under ORS 483.992 and 483.999. Proof of this element was an issue in State v. Brown, 5 Or App 412, 485 P2d 444 (1971).

The opening Article of this chapter will be comprised of general definitions, and will include a definition of the term "highway," which is an amendment of ORS 483.010, as it was amended by chapter 223, Oregon Laws 1973, to include the concept of the UVC definition of highway in section 1-122, which defines highway to be the entire width between the

boundary lines of every public way. The UVC definition is for every publicly maintained way. The amendment of ORS 483.101 by chapter 223, Oregon Laws 1973, deleted "publicly maintained" and substituted simply the adjective "public".

Definition of highway: "'Highway' means every public way, and thoroughfare, including the entire width between the boundary lines thereof, and every bridge, viaduct, structure and place, when any part or parts of these ways, bridges, places, are open to the use of the public for purposes of vehicular travel."

In the separate sections of subsequent Articles of this chapter which define traffic offenses and prescribe penalties for the offenses in the case of certain offenses, the restriction that the offense relates to acts or conduct of persons on a public highway or public way will be removed so that the proscribed acts or conduct are a violation wherever committed within the state.

(ORS 483.038 to 483.045 are not affected by this draft.)

COMMENTARY

References to State Highway Commission are to be deleted and replaced by Oregon Transportation Commission in accordance with chapter 249, Oregon Laws 1973.

483.038 Effect of chapter on permissive use of private roadway. Nothing in this chapter shall prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as a matter of right, from prohibiting such use, or from requiring different or additional conditions than those specified in this chapter, or otherwise regulating such use as may seem best to such owner.

483.040 Authority of State Highway Commission to mark highways and control traffic. (1) The commission is authorized to classify, designate and mark both intrastate and interstate highways lying within the boundaries of this state and to provide a uniform system of marking and signing such highways under the jurisdiction of this state. Such system of marking and signing shall correlate with and so far as possible conform to the system adopted in other states.

(2) The commission is authorized to determine the character or type of traffic control signals to be used, and to place or erect them upon state highways, at places where the commission deems necessary for the safe and expeditious control of traffic. So far as practicable, all such traffic control signals shall be uniform as to type and location. No traffic control signals shall be erected or maintained upon any state highway by any authority other than the commission, except with its written approval.

483.041 Regulating use of freeway by parades, pedestrians; "freeway" defined. (1) The commission or a local authority, with respect to a freeway or a portion thereof under their respective jurisdictions, may by order, ordinance or resolution prohibit or restrict the use of the freeway:

(a) By parades or nonmotorized traffic; or

(b) By pedestrians except to obtain emergency services for a disabled motor vehicle that is on the freeway.

(2) Such prohibitory regulation shall be effective when appropriate signs giving notice thereof are erected upon any freeway and the approaches thereto, and when such signs have been so erected no person shall disobey the restrictions stated on such signs.

(3) As used in this section, "freeway" means a highway to which all rights of access have been acquired by the public authority having jurisdiction of the highway. [1967 c.319 §2]

483.042 Powers of local authorities in controlling traffic. (1) Local authorities, except as specifically authorized in this chapter, shall have no power or authority to alter any of the regulations declared in this chapter, or to enact or enforce any rule or regulation contrary to the provisions of this chapter.

(2) Local authorities shall have power to provide by ordinance for the regulation of traffic by means of traffic officers, semaphores or other signal devices on any portion of the highway where traffic is heavy or continuous, may prohibit other than one-way traffic upon certain highways, and may regulate the use of the highways by processions or assemblages. Where one-way traffic is provided for, such authorities shall erect and maintain suitable signs at reasonable intervals upon the highway informing the public of such fact. All such signs shall be so placed as to be visible to the driver of an approaching vehicle.

(3) Local authorities may regulate the speed of vehicles in public parks and shall erect at all entrances to such parks adequate signs giving notice of any special speed regulations.

(4) It is a valid defense in any prosecution for a violation of this section that the highway was not signed as required in this section.

(ORS 483.038 to 483.045 are not affected by this draft.)

483.043 Authority of municipalities to designate one-way streets, roads or highways. The municipal authorities of any incorporated city or town may designate any street, road or highway within the corporate limits of an incorporated city or town under their jurisdiction as a one-way street, road or highway upon which vehicular traffic is permitted to move in one direction only, but shall not designate as a one-way street, road or highway any street, road or highway under the jurisdiction of the State Highway Commission or any county, without the written consent of the highway commission or the county court or board of county commissioners, as the case may be.

[1953 c.186 §1]

483.044 Erection of signs by local authorities; control by State Highway Commission. (1) Subject to the authority vested in the State Highway Commission, local authorities in their respective jurisdictions shall erect and maintain appropriate signs designating business and residence districts, and railway or interurban railway grade crossings; such other signs, markings and traffic control signals as are deemed necessary to direct and regulate traffic and to carry out the provisions of this chapter; and such additional signs as may be appropriate to give notice of local parking and other special regulations.

(2) The erection and maintenance of such signs, markers and signals by the commission or local authorities shall be deemed an administrative act to be performed under general authority by the commission or local authorities. In the case of local authorities, the erection and maintenance of such signs, markers and signals shall be performed by the agency of such authority charged with traffic engineering or traffic law enforcement.

(3) Except in cities of over 50,000 inhabitants, the commission shall have general supervision with respect to the erection by local authorities of official traffic signs and signals, for the purpose of obtaining, so far as practicable, uniformity as to type and location of such signs and signals throughout

the state, and no local authority shall place or erect any traffic signs, signals or markings unless of a type conforming to specifications and at locations approved by the commission.

[Amended by 1959 c.124 §2]

483.045 Restricting of animal traffic to bridle paths. Each incorporated community within the State of Oregon shall have power, by law or ordinance, duly enacted, to regulate the use of its streets by horses and other animals to the extent that bridle paths may be designated upon certain streets and such animals be prohibited upon other streets.

[1959 c.350 §1]

Section 3. (Required obedience to traffic laws.) Unless otherwise provided to the contrary in a statute defining a specific traffic offense, it is a violation for any person to do any act forbidden or to fail to perform any act required in this chapter.

COMMENTARY

A. Summary

This section states that failure to obey a vehicle law is a "violation," unless declared otherwise. The term "violation" is defined in the Article on general definitions, and is taken verbatim from the definition of violation stated in the Oregon Criminal Code of 1971, ORS 161.565.

B. Derivation

This section is in part based on the UVC s 11-102 in purporting to classify all failures to obey vehicle laws under a single grade of culpability. There is the significant difference that the UVC classification is "misdemeanor". The laws of 28 states and the District of Columbia regulations contain provisions in verbatim or substantial conformity. Oregon has no provision similar to UVC s 11-102.

C. Relationship to Existing Law

There is no single provision in the existing motor vehicle law giving violations of the vehicle laws a single classification relative to gravity of offense unless other specific classification is made. The penalty provisions of existing law are contained in ORS 483.990 to 483.999 and contain no general provision of this type.

This provision, by classifying all violations of vehicle laws as a "violation" unless declared otherwise, effectively decriminalizes the major portion of the motor vehicle law. ORS 161.565 describes a violation as follows:

"161.565. 'Violation' described. An offense is a violation if it is so designated in the statute defining the offense or if the offense is punishable only by a fine, forfeiture, fine and forfeiture or other civil penalty. Conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime."

"161.575. Types of violations. (1) Any violation defined in the Oregon Criminal Code is expressly designated in the section defining the offense. Any offense defined outside this code which is punishable as provided in ORS 161.565 shall be considered a violation.

"(2) Violations are not classified."

"161.635. (3) A sentence to pay a fine for a violation shall be a sentence to pay an amount, fixed by the court, not exceeding \$250."

"161.655 (1) A sentence to pay a fine when imposed on a corporation for an offense defined in the Oregon Criminal Code or for an offense defined outside this code for which no special corporate fine is specified, shall be a sentence to pay an amount, fixed by the court, not exceeding:

"(e) \$500 when the conviction is of a violation."

Section 4. (Permitting unlawful operation of vehicle.) A person who is an owner, lessor or lessee of a motor vehicle, or who employs or otherwise directs the driver of a motor vehicle, commits the offense of permitting the unlawful operation of a vehicle if he knowingly permits or requires the operation of the motor vehicle upon a public highway when:

- (1) The vehicle is equipped otherwise than as required or permitted by law;
- (2) The vehicle is in excess of a weight permitted by law; or
- (3) The vehicle is operated in any manner contrary to law.

COMMENTARY

This section restates ORS 483.046 which would be repealed.

Section 5. (Failing to obey traffic officer.) A person commits the offense of failing to obey a traffic officer if he refuses or fails to comply with any lawful order, signal or direction of a traffic or police officer displaying his star or badge and having lawful authority to direct, control or regulate traffic.

Section 6. (Uniform or badge required.) Any traffic or police officer attempting to enforce the traffic laws of this state shall be in uniform or have conspicuously displayed upon his person a badge or star showing his lawful authority.

COMMENTARY TO §§ 5 AND 6

Section 5 restates subsection (1) of ORS 483.048. Section 6 restates subsection (2) of that statute and also expands the scope of the requirement that an enforcing officer be in uniform or display his badge to cover all "traffic" laws. The statute is now limited to enforcement of "speed" laws. The policy of giving visual notice to a citizen of an officer's authority would seem to apply equally to any traffic law. The existing statute would be repealed.

Section 7. ORS 483.034 is amended to read:

483.034. (Persons riding animals or driving animal-drawn vehicles and driving or leading an animal.) Every person riding [a bicycle or] an animal [upon a roadway and every person] or driving an animal-drawn vehicle and every person driving or leading any animal, possesses all of the rights and is subject to [the provisions of this chapter] all of the duties of this chapter applicable to the driver of a vehicle, except those provisions which by their very nature can have no application.

COMMENTARY

A. Summary

This section provides that persons riding animals or driving animal-drawn vehicles and driving or leading an animal are subject to motor vehicle law insofar as its provisions are applicable

B. Derivation

This section is based on UVC § 11-104 in that it solely applies to persons with animals using the highways and deletes the bicyclists. ORS 483.034 is identical with the 1930 edition of this UVC section, except that it includes persons leading as well as driving animals, whereas the 1930 UVC version did not.

C. Relationship to Existing Law

This section is an amendment of ORS 483.034 to exclude bicyclists. The motor vehicle code of ORS chapter 483 will be made applicable to bicyclists and an article containing this provision and others now in existing law relating to bicyclists will be a part of this chapter on rules of the road. Persons leading animals were defined as pedestrians in Sertic v. McCullough, 155 Or 216, 63 P2d 884 (1936).

Section 8. (Public officers and employes.) The provisions of this chapter applicable to drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this state or any county, city, town, district or any other political subdivision of this state, subject to such specific exceptions as are set forth in this Act.

COMMENTARY

A. Summary

This section makes drivers of government-owned vehicles, whether federal, state or local, subject to ORS chapter 483, motor vehicle law, unless there is a specific exception.

B. Derivation

The section is based on UVC § 16-103. The 1930 edition of the analogous UVC section is identical to existing Oregon law. It makes an exception for highway construction workers, vehicles and equipment from motor vehicle law in the same section that specifically requires federal, state and local government vehicle drivers to obey the rules of the road.

C. Relationship to Existing Law

This section is a simpler, more concise statement of ORS 483.032(1). The specific statutory sections relating to operation of motor vehicles are deleted and replaced by the general statement "The provisions of this chapter applicable to drivers of vehicles upon the highways." ORS 483.032(1) is repealed.

Section 9. (Persons working on highways; exceptions.)

Unless made specifically applicable, the provisions of this chapter, except those contained in ORS 483.992, 483.993 and 483.999 do not apply to persons, motor vehicles and equipment while actually engaged in work upon a highway but do apply to such persons and vehicles when traveling to or from such work.

COMMENTARY

A. Summary

Persons, motor vehicles, and equipment working on highways are not subject to motor vehicle law, except for the laws relating to serious offenses contained in ORS 483.992, 483.993 and 483.999, while actually engaged in that work and at the site of the work.

B. Derivation

This section is based on UVC § 11-105. Only five states do not have provisions relating to persons working on highways. Many states do not, however, make a special exception of the laws relating to serious traffic offenses in the general rule.

C. Relationship to Existing Law

This section sets out in a brief concise manner the exception stated in ORS 483.032 (1), and provides that the rules relating to serious traffic offenses do apply to highway construction workers. Under existing law highway construction workers are not subject to the laws concerning reckless driving, driving under the influence, and driving with a .15 percent blood alcohol level. The UVC serious traffic offense law, contained in Article IX, applies to highway construction workers as is here proposed.

Section 10. (Application of speed regulation and traffic signals to emergency vehicles.) (1) As used in this section, "emergency vehicle" means a vehicle equipped as required by paragraph (c) of subsection (1) of ORS 483.423 and subsections (5) and (6) of ORS 483.432 and subsection (4) of ORS 483.446 and which is used by a publicly maintained fire or police department or airport security police or a vehicle of a federal agency which is designated as an emergency vehicle by that agency, or other vehicle authorized in writing by the commissioner.

(2) The driver of an emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, is subject to the privileges and conditions set forth in this section.

(3) The driver of the emergency vehicle may:

(a) Park or stand, in disregard of a statute, regulation or ordinance prohibiting that parking or standing;

(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 designated speed limits so long as he does not endanger persons or property; and

(d) Disregard regulations governing direction of movement or turning in specified directions.

(4) (a) The privileges granted to the driver of an emergency vehicle in paragraphs (a), (c) and (d) of subsection (3) of this

section, apply only when the driver of the vehicle is making use of a visual signal meeting the requirements of paragraph (c) of subsection (1) of ORS 483.423 and subsections (5) and (6) of ORS 483.432.

(b) The privileges granted to the driver of an emergency vehicle in paragraph (b) of subsection (3) of this section, apply only when the driver of the vehicle is making use of both a visual signal as described in paragraph (a) of this subsection, and an audible signal meeting the requirements of subsection (4) of ORS 483.446.

(c) A driver of an emergency vehicle, which is parked or standing in disregard of a regulation or ordinance prohibiting that parking, stopping or standing, may not use the audible signal.

(d) The driver of an emergency vehicle, which is operated as an emergency police vehicle, is not required to use either visual signal or the audible signal as described in paragraphs (a) and (b) of this subsection, to exercise the privileges granted in subsection (3) when it reasonably appears to the driver that the use of either or both would prevent or hamper the apprehension or detection of a violator of a statute, ordinance or regulation.

(5) The provisions of this section shall not relieve the driver of an emergency vehicle from the duty to drive with due regard for the safety of all persons, nor are they a defense to the driver in an action brought for criminal negligence or reckless conduct.

COMMENTARY

A. Summary

Subsection (1) defines an "emergency vehicle."

Subsection (2) provides that emergency vehicles have certain privileges when they are responding to an emergency call, in pursuit of an actual or alleged law violator, and when going to a fire.

Subsection (3) states the privileges of emergency vehicles with respect to parking and standing regulations, stop signals, speed and traffic direction regulations and signals and signs.

Subsection (4) requires use of visual signal by the emergency vehicle when the traffic regulations governing parking and standing, speeds, direction of movement and turns are disregarded, and use of both visual and audible signals by the emergency vehicle proceeding past a stop sign or signal after it slowed down. Use of the audible signal is prohibited by the driver of the emergency vehicle exercising the privilege of parking or standing in disregard of statute, regulation or ordinance prohibiting same. The driver of an emergency vehicle operated as a police emergency vehicle need not use either type of signal if their use would prevent or hamper apprehension of a violator of the law.

B. Derivation

Subsection (1) is based on 13 Alaska Adm. Code § 10.020.

Subsections (2) and (3) are based on UVC § 11-106.

Subsection (4) is based on 13 Alaska Adm. Code § 02.585 and UVC § 11-106.

C. Relationship to Existing Law.

ORS 483.120 which combines the privileges of all authorized emergency vehicles, including ambulances, is repealed. This draft section relates to emergency vehicles not including ambulances. The next section relates to ambulances.

The definition of an authorized emergency vehicle in ORS 483.002 is repealed. It defines an authorized emergency vehicle as a fire department, fire patrol, police, municipal

department or public service corporation emergency vehicle, and ambulances while being used for emergency purposes and displaying required lights and making an audible signal. The definition was interpreted in Dodson v. Lemon, 197 Or 444, 253 P2d 900 (1953) to mean that a police car not operating its audible warning device is not an emergency vehicle within the definition.

Subsection (2) stating the privileges apply only when the emergency vehicle is on the way to an emergency or pursuing is new. The qualification that an emergency vehicle is one only when on the way to an emergency in the definition section of existing law only covers one of the three types of emergency trips regularly required of law enforcement, rescue and fire suppression functions.

The exemption of emergency vehicles from compliance with traffic regulations on speeds, parking and standing, and turns of subsection (3) of this section are set out in ORS 483.120 (1) by reference to specific statutory section numbers. The maximum speed limit of 25 miles per hour of ORS 483.124 applicable to ocean shore is not included in the speed regulations from which the emergency vehicle is exempt. This omission may be based not on legislative intent but on the historical development of ORS 483.120 and the inadvertent overlooking of adding ORS 483.124 to subsection (1) of ORS 483.120 as a statute relating to speed not applying to the emergency vehicle.

ORS 483.002 provides the requirement that an emergency vehicle use a visual and an audible signal but specifies no type of signals and makes no provision that any type of driving regulation may be disregarded without the use of both signals. ORS 483.002 seems to require that the vehicle parking or standing in violation of the rules applicable to parking or standing which was not using both types of signals, is not an emergency vehicle with any of the driving privileges.

Subsection (4) of this draft section provides that the privilege to park or stand, to exceed designated speed limits, and to disregard turning regulations may be exercised when the visual signal is used. Both signals must be used only when the emergency vehicle does not stop where a stop is required. Use of the audible signal is prohibited by the parking or standing emergency vehicle. The emergency police vehicle driver need not use either signal if it appears to the driver that the use of either would hamper apprehension of violators of the law.

ORS 483.120 contains the provision, repeated in four separate paragraphs, that compliance with the particular paragraph or subsection 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.

Section 10 of this Article states this same duty in subsection (5) and extends it from "due regard for the safety of all persons using the highways" of ORS 483.120, to "safety of all persons." This provision was cited in Siburg v. Johnson, 249 Or 556, 439 P2d 865 (1968). The provision that the privileges of the driver of the emergency vehicle are not a defense in an action for criminal negligence or reckless conduct is new.

A subsequent section will provide authorization for a vehicle to be designated by the Oregon Transportation Commissioner as an emergency vehicle when it is not so classified according to the definition of subsection (1) because of being a police or fire or airport security or federal agency emergency vehicle. The section will apply to ambulances as well as other emergency vehicles which must obtain authorization from the Transportation Commissioner.

Section 11. (Application of speed regulations and traffic signals to ambulances.) (1) As used in this section, "ambulance" means any privately or publicly owned motor vehicle that is regularly provided or offered to be provided for the emergency transportation of persons suffering from illness, injury or disability. Police, fire, funeral home and other vehicles which serve a dual purpose, one of which meets the definition of "ambulance," are ambulances.

(2) "Emergency medical technician" means a person who attends any ill, injured or disabled person in connection with his transportation by ambulance. Policemen, firemen, funeral home employees and other personnel serving in a dual capacity, one of which meets the definition of "emergency medical technician," are "emergency medical technicians."

(3) The driver of an ambulance when responding to an emergency call, subject to the conditions of this section, may, with due regard to the safety of all persons, exercise the following privileges:

(a) Park or stand in disregard of a statute, regulation or ordinance prohibiting that parking or standing;

(b) Proceed past a red signal but only after coming to a stop and making certain that proceeding past the red signal will not endanger persons or property;

(c) Exceed the designated speed limits by not more than 10 miles an hour, so long as he does not endanger persons or property;

(d) Disregard regulations governing direction of movement or turning in specified directions.

(4) The privileges herein granted to the driver of an ambulance shall apply only when a person who is a certified emergency medical technician or who has been granted an exemption from the requirement of obtaining E.M.T. certification, all in accordance with the provisions of section 13, chapter 407, Oregon Laws 1973, and is an ambulance driver:

(a) Has reasonable grounds to believe that delay of an ambulance will jeopardize human life; and

(b) Operates or directs the operation of an audible signal or a visual signal meeting the requirements of the Transportation Commission in accordance with section 12, chapter 407, Oregon Laws 1973.

(5) The provisions of this section shall not relieve the driver of an ambulance from the duty to drive with due regard for the safety of all persons, nor are they a defense to the driver in an action brought for criminal negligence or reckless conduct.

COMMENTARY

A. Summary

Subsections (1) and (2) define an ambulance and an emergency medical technician in the exact language used in the definitions of these terms in Chapter 407, Oregon Laws 1973.

Subsection (3) provides that an ambulance driver on the way to an emergency may disregard parking regulations, exceed the designated speed limits by not more than 10 miles an hour, proceed past a red signal after stopping, and disregard traffic regulations on directions and turning, under certain conditions.

Subsection (4) states the conditions to be that an emergency medical technician or an ambulance driver believes that delay of the ambulance will jeopardize life, and that an audible or a visual signal is in operation.

Subsection (5) states the driver's duty of due care to all persons, and that the provisions of the section are not a defense to an action for criminal negligence or reckless conduct.

B. Derivation

Subsections (1) and (2) are the definitions stated in subsections (1) and (3) of section 1, chapter 407, Oregon Laws 1973.

Subsection (3) is derived from UVC § 11-106 (a) and (b) which, however, apply to all authorized emergency vehicles. Subsection (3) also incorporates the special rules for ambulances regarding speed, stops, speed at controlled intersections, and turns of ORS 483.120 (2) and (3).

Subsection (4) restates the provisions of ORS 483.002 defining an emergency vehicle as one using audible and visual signals, in the terms of UVC 11-106 (c).

Subsection (5) is based on UVC § 11-106 (d) but uses different culpability terms.

C. Relationship to Existing Law

ORS 483.120 combines the privileges of authorized emergency vehicles and the not very closely related privileges, also far more restricted, of ambulances. The more limited privileges of ambulances are stated in this section. The conditioning of the exercise of the privileges on a reasonable belief that life would be jeopardized by delay and use of signals, either audible or visual, is new. ORS 483.120 (3) limits the use of audible and visual signals to the circumstance that delay of the ambulance will jeopardize life, but makes no positive requirement for their use. In the emergency vehicle definition of ORS 483.002, an emergency vehicle can only be such if the driver is operating the signals as well as if the vehicle is on the way to an emergency.

The "person" charged with the responsibility of determining when signals are to be used by ORS 483.120 (3) is changed to the "emergency medical technician" of chapter 407, Oregon Laws 1973. He is the person who attends those transported in ambulances and is the named person to determine when the enumerated privileges may be exercised except when there is no E.M.T.

The ORS 483.120 requirement that the privileges be exercised only with due regard for the safety of all persons using the highway is broadened to include all persons rather than only persons using the highway. The provision that the privileges are not a defense to a legal action for criminal negligence or reckless conduct is new.

The special provisions for ambulances differentiating them from other emergency vehicles were enacted by chapter 407, Oregon Laws 1959, and chapter 547, Oregon Laws 1961. Case law is, of course, the same as that applying to other emergency vehicles under ORS 483.120.

(ORS 483.121 is not affected by this draft.)

483.121 Record required when ambulance used; preservation. (1) When an ambulance is used as an authorized emergency vehicle, the driver or chauffeur shall, within 24 hours after such use, cause to be made and signed by him a record of so much of the following as becomes known to him:

(a) The time of day and the date when ambulance service was requested.

(b) The name of the ambulance driver or chauffeur.

(c) The name and address of any individual to be transported.

(d) Any reason to believe the life of the individual is jeopardized by delay of the ambulance.

(e) The location from which the individual is to be transported.

(f) The name and address of any person who requested the ambulance service.

(g) The time of day when service for the individual is begun or ended.

(2) The driver or chauffeur of an ambulance shall cause any record made pursuant to subsection (1) of this section to be preserved for not less than seven years.

(3) Upon demand of any district attorney the custodian of any record made pursuant to subsection (1) of this section shall make the record available to that district attorney for the purpose of investigating any alleged violation of ORS 483.120 by a driver or chauffeur of an ambulance.

TEXT OF UNIFORM VEHICLE CODE

CHAPTER 11

Rules of the Road

ARTICLE I—OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

§ 11-101—Provisions of chapter refer to vehicles upon the highways
~~—exceptions~~

The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

1. Where a different place is specifically referred to in a given section.

2. The provisions of article IX and (chapter 10) * shall apply upon highways and elsewhere throughout the State. (REVISED, 1971.)

* States which have adopted § 10-101 should not enact the reference to Chapter 10.

§ 11-102—Required obedience to traffic laws

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

§ 11-103—Obedience to authorized persons directing traffic

No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer or fireman invested by law with authority to direct, control or regulate traffic. (REVISED, 1971.)

§ 11-104—Persons riding animals or driving animal-drawn vehicles

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

§ 11-105—Persons working on highways—exceptions

Unless specifically made applicable, the provisions of this chapter except those contained in article IX hereof shall not apply to persons, motor vehicles and equipment while actually engaged in work upon a highway but shall apply to such persons and vehicles when traveling to or from such work. (REVISED, 1971.)

TEXT OF UNIFORM VEHICLE CODE (Cont'd)

§ 11-106—Authorized emergency vehicles

(a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(b) The driver of an authorized emergency vehicle may:

1. Park or stand, irrespective of the provisions of this chapter;
2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
3. Exceed the maximum speed limits so long as he does not endanger life or property; (REVISED, 1956.)
4. Disregard regulations governing direction of movement or turning in specified directions.

(c) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of an audible signal meeting the requirements of § 12-401(d) and visual signals meeting the requirements of § 12-218 of this act, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle. (REVISED, 1968.)

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

§ 15-101—Provisions uniform throughout State

The provisions of this act shall be applicable and uniform throughout this State and in all political subdivisions and municipalities therein and no local authority shall enact or enforce any ordinance on a matter covered by the provisions of this act unless expressly authorized. (REVISED, 1971.)

§ 16-103—Public officers and employees—exceptions

The provisions of chapters 10, 11, 12, 13 and 14 applicable to drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this State or any county, city, town, district or any other political subdivision of the State, subject to such specific exceptions as are set forth in this act.

TEXT OF MOTOR VEHICLE LAWS OF ALASKA

13 AAC 02.585. Authorized emergency vehicle. (a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in pursuit of an actual or suspected violator of a statute, regulation or ordinance or when responding to but not upon returning from a fire alarm, may disregard a statute, regulation or ordinance governing the operator or movement of a vehicle but subject to the conditions stated in this section.

(b) A driver of an authorized emergency vehicle, which is not operated as a police vehicle, may not exercise the exemptions granted in this section unless he is making use of both audible and visual signals meeting the requirements of 13 AAC 04.090 and 210(d), except as provided in (c) of this section.

(c) A driver of an authorized emergency vehicle, which is parked, stopped or standing in disregard of a regulation or ordinance prohibiting that parking, stopping or standing, may not use the audible signal.

(d) An authorized emergency vehicle, which is operated as an emergency police vehicle, shall be equipped with an audible signal meeting the requirements of 13 AAC 04.210(d). The audible signal shall be used to exercise the exemptions granted in this section and, if also equipped with a visual signal meeting the requirements of 13 AAC 04.090, both shall be used, unless it can be reasonably shown that the use of either or both would prevent or hamper the apprehension or detection of a violator of a statute, ordinance or regulation.

(e) The provisions of this section do not relieve the driver of an authorized emergency vehicle from his duty to drive with due regard for the safety of all persons nor protect him from the consequences of his reckless disregard for the safety of others. (Eff. before 7/28/59; am 12/15/61, reg. 3; am 8/10/66, reg. 22; am 12/31/69, reg. 31)

13 AAC 10.020. Authorized emergency vehicle. In the traffic regulations "authorized emergency vehicle" means a vehicle equipped as required by 13 AAC 04.090 and 210(d) and which is used by a publicly maintained fire or police department or the airport security police or a public or private ambulance service, or a vehicle of a federal agency which is designated as an emergency vehicle by that agency, or other vehicle authorized in writing by the commissioner. The term does not include a person's private vehicle equipped as provided by 13 AAC 04.100. (Eff. before 7/28/59; am 12/15/61, reg. 3; am 8/10/66, reg. 22; am 12/31/69, reg. 31)