

COMMITTEE ON JUDICIARY
Room 14, State Capitol
Salem, Oregon

O R E G O N V E H I C L E C O D E

PART 1. RULES OF THE ROAD

ARTICLE 3. DRIVING ON RIGHT SIDE OF ROADWAY;
OVERTAKING AND PASSING; USE OF ROADWAY

Preliminary Draft No. 2; March 1974

Reporter: Marion Embick

Subcommittee on Revision

O R E G O N V E H I C L E C O D E

#

PART ____ . RULES OF THE ROAD

ARTICLE ____ . DRIVING ON RIGHT SIDE OF ROADWAY;

OVERTAKING AND PASSING; USE OF ROADWAY

Preliminary Draft No. 2; March 1974

#

Section 1. (Driving on right side of roadway.) (1) A driver commits the offense of failing to drive on the right if he fails to drive on the right half of a roadway of sufficient width, except:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing this movement;

(b) When preparing to turn left at an intersection, alley or private road or driveway;

(c) When an obstruction exists making it necessary to drive to the left of the center of the roadway, provided that a driver doing so shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the roadway within a distance as is an immediate hazard;

(d) Upon a roadway divided into three marked lanes for traffic under the rules applicable on it; or

(e) Upon a roadway restricted to one-way traffic.

(2) Failure to drive on the right is a _____.

COMMENTARY

A. Summary

Subsection (1) provides that a driver shall drive on the right half of a roadway of sufficient width except when passing, when making a left turn, when the roadway is obstructed, when it is marked into three lanes of traffic, or when it is one-way.

B. Derivation

This section is based on UVC s 11-301 and 13 Alaska Adm. Code s 02.050. The UVC places all provisions dealing with driving on the right in one section. This draft breaks down the section into three separate sections. It is anticipated that sections 1, 2 and 3 would carry similar penalties.

C. Relationship to Existing Law

The requirements for driving on the right, now stated in ORS 483.302, 483.304 and 483.308, would be repealed. The requirements restated in this draft section and those which follow are drawn in terms of position on a highway and not in terms of position on a roadway as is done in this draft.

"Roadway" is defined in subsection (4) of ORS 483.020 to mean "that portion of a street or highway improved, designed or ordinarily used for vehicular traffic." This was the definition of the 1934 UVC and was revised in 1944 as follows:

1-158. Roadway. That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

"Roadway" is used in subsection (4) of ORS 483.304 to mean the parts of a divided highway, which is the meaning of the UVC definition. It is the term used in ORS 483.218, the statute prohibiting persons from standing in a roadway to solicit rides from the driver of a private car. Roadway was held to include the shoulder area of the roadway which is used for temporary or emergency travel. 35 Op Atty Gen 833 (1971). The opinion recognizes that the purpose of the hitchhiking law is to protect the safety of motorists and hitchhikers and not prohibit hitchhiking entirely.

COMMENTARY

"Roadway" will be defined in the Article on general definitions. The definition will include the meaning of the second half of the latest UVC definition as well as the exclusion of shoulder in the UVC definition.

ORS 483.302 would be repealed by this draft section. It does not include the exceptions of the one-way roadway or the roadway divided into three marked lanes of this draft section. A driver is therefore required to keep a position in the right curb lane at all times except when passing or getting ready to turn left, or the right half is out of repair.

The duty to drive on the right has been held to apply only to the circumstance of vehicles approaching each other from opposite directions in a single roadway. Lindner v. Ahlgren, 257 Or 127, 477 P2d 219 (1970).

When oncoming vehicles meet, a party not driving on the right half of the road is not necessarily negligent if he acts as a reasonably prudent person. Mennis v. Highland Trucking, Inc., 261 Or 233, 492 P2d 464 (1972); Raz v. Miller, 231 Or 220, 226, 372 P2d 955 (1962); Harrison v. Avedovich, 249 Or 584, 588 - 590, 439 P2d 877 (1968); Edwards v. State Military Dept., 8 Or App 620, 494 P2d 891 (1972).

Violation of this motor vehicle statute (as well as other motor vehicle statutes) creates a presumption of negligence which may be rebutted by showing that the party so violating has nevertheless acted reasonably. Barnum v. Williams, 96 Adv Sh 89, ___ Or ___, 504 P2d 122 (1972).

The terms "intersection," "alley," "private road or driveway" and "right of way" will be defined in the Article on general definitions.

Section 2. (Slow driver duty to drive on right.) (1) As used in this section, "slow driver" means a driver who operates a vehicle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing.

(2) A slow driver commits the offense of failure to drive on the right if he fails to drive in the right-hand lane available for traffic or as close as practicable to the right-hand curb or edge of the roadway except:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing this movement;

(b) When preparing to turn left at an intersection, alley or private road or driveway.

(3) A slow driver failing to drive on the right commits a

COMMENTARY

A. Summary

Subsection (1) defines a slow driver.

Subsection (2) provides that a slow driver who fails to drive in the right lane except when passing or preparing to turn left commits an offense. Subsection (3) classifies the offense.

B. Derivation

This section is based on subsection (b) of UVC s 11-301. (See Commentary to section 1.)

C. Relationship to Existing Law

ORS 483.302, which would be repealed, provides that a driver must drive on the right side of the highway and as close as practicable to the right edge unless passing or turning left. ORS 483.304 provides this same duty to drive in the right-hand lane on highways marked into lanes for traffic. The driver proceeding on a highway outside city limits and passing traffic is excepted from the duty to drive on the right. The driver within a city on a laned highway must stay right unless passing or turning left. In the UVC the duty is restricted to slow drivers. This draft section restricts the duty to drive in the right curb lane to the slow driver.

ORS 483.303 provides that on a two lane two-way highway a slower vehicle shall move off the highway when a safe turnout exists to allow a driver driving according to the basic speed rule to pass.

The provisions of ORS 483.303, which will be repealed, are retained and restated with changes in form only in section 4 of this draft Article.

Section 3. (Duty to drive on right on two-way four lane roadway.)

(1) A driver commits the offense of failure to drive on the right if he drives to the left of the center line of a two-way roadway having four or more lanes for moving traffic, except:

(a) When authorized by an official traffic control device designating certain lanes to the left side of the center of the roadway for use by traffic; or

(b) When permitted under paragraph (c) of subsection (1) of section 1 of this Article; or

(c) When making a left turn at an intersection, alley or private road or driveway.

(2) Failure to drive on the right of a two-way four lane highway is a _____.

COMMENTARY

A. Summary

Subsection (1) of this section states the rule that a driver must be on the right of a two-way roadway having four or more lanes for traffic except when an official traffic control device otherwise directs, when there is an obstruction or when the driver turns left. Subsection (2) classifies the offense.

B. Derivation

This section is based on subsection (c) of UVC s 11-301. (See Commentary to section 1.)

C. Relationship to Existing Law

Paragraph (b) of subsection (2) of ORS 483.308 provides that on a highway of four or more lanes a driver shall not drive to the left of the center line unless more than two

Page 7

Driving on Right Side of Roadway;
Overtaking and Passing; Use of Roadway
Preliminary Draft No. 2

lanes are allocated to traffic proceeding in a single direction and it is so signposted. This paragraph of ORS 483.308 differs from subsection (c) of UVC s 11-301 in that it is expressed in terms of a highway and not a roadway and omits the requirement of posting signs to give notice.

ORS 483.308 relates both to rules for passing on the left and to exceptions which permit proceeding on the left of the center line of a highway. ORS 483.308 would be repealed. The provisions relating to passing on the left are in a subsequent draft section on this subject.

Section 4. (Slower driver duty to yield.) (1) A driver commits the offense of failure to yield to an overtaking vehicle if he fails to move his vehicle off the main traveled portion of the highway into an area sufficient for safe turnout when:

(a) The driver of the overtaken vehicle is proceeding at a speed less than a maximum speed under section 2 of this Article;

(b) The driver of the overtaking vehicle is proceeding at a speed in conformity with section 2 of this Article;

(c) The highway is a two directional two lane highway; and

(d) There is no clear lane for passing available to the driver of the overtaking vehicle.

(2) Failure of slower driver to yield to overtaking vehicle by use of safe turnout is a _____.

COMMENTARY

This section would replace ORS 483.303.

Section 5. (Duty of driver of 8,000 pound vehicle, vehicle with trailer or camper to drive on right.) (1) A driver of a vehicle having a gross weight of not less than 8,000 pounds, a camper or a vehicle with trailer commits the offense of failure to drive on the right if he drives in the left lane of a roadway having three or more lanes for traffic proceeding in one direction, except:

- (a) When necessary to enter or leave the roadway;
- (b) When reasonably necessary in response to emergency conditions;
- (c) When otherwise directed by an official traffic control device.

(2) A driver of a vehicle described in subsection (1) of this section shall drive in the right curb lane of all roadways having two lanes for traffic proceeding in one direction except when he can move his vehicle from the right-hand lane to the left-hand lane without interference with the passage of other vehicles.

(3) A person violating subsection (1) or (2) of this section commits a _____.

COMMENTARY

A. Summary

A driver of a vehicle weighing over 8,000 pounds gross weight or with camper or a trailer must not drive in the left lane of a roadway having three lanes for traffic proceeding in one direction except when necessary for entrance or exit or because of an emergency or when otherwise directed by an official traffic control device. Subsection (2) provides that when the driver of these types of vehicles drives on a roadway having two lanes for traffic in one direction, the driver must drive in the right lane. Subsection (3) classifies the violation.

B. Derivation

This section is based on existing law.

C. Relationship to Existing Law

This section would replace Chapter 510, Oregon Laws 1973, as amended by section 2 of Chapter 55, Oregon Laws 1974 (Special Session House Bill 3336), which would be repealed. Violation of this law is a Class C misdemeanor.

Subsection (c) of UVC s 11-309 provides that official traffic control devices may be erected directing specified traffic to use a designated lane as well as designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway. Oregon traffic law has no similar provision. A subsequent section of this draft will provide for directing specified traffic to use designated lanes.

Cal. Vehicle Code ss 21655 and 21655.5 (1960, Supp. 1971) provide for designation of specific lanes for vehicles of particular classes and for exclusive or preferential use of freeway lanes for high-occupancy vehicles. This draft section makes no substantive change in Chapter 510, Oregon Laws 1973. Its purpose appears similar to the California statutes cited.

Section 6. ORS 483.306 is amended to read:

483.306. (Passing vehicles proceeding in opposite direction.)

(1) Drivers of vehicles proceeding in opposite directions shall pass each other to the right, [each giving] and upon roadways having width for not more than one lane of traffic in each direction, unless otherwise directed by an official traffic control device, each driver shall give to the other at least one-half of the main traveled portion of the roadway as nearly as possible.

(2) A person violating subsection (1) of this section commits a

COMMENTARY

A. Summary

Drivers of vehicles proceeding in opposite directions shall pass each other to the right. On a roadway wide enough for only one line of traffic in each direction a driver shall give at least half the traveled part of the roadway to the other driver unless otherwise directed by an official traffic control device. The violation is classified in subsection (2).

B. Derivation

This section is based on UVC s 11-302. Thirty-four states and the District of Columbia have laws in verbatim conformity with this section.

C. Relationship to Existing Law

ORS 483.306 provides the give way to the right rule but without the qualification of this draft section that on a two-way two lane roadway a driver must give at least half of the main traveled portion to the other driver. The analagous UVC section is modified to require a driver to give at least half the main traveled portion of the roadway to the oncoming vehicle, or a different share of the roadway when so directed,

to allow the Highway Division to apportion roadway lane use unevenly when circumstances require.

This section amends ORS 483.306, an automobile operation statute. When evidence is presented showing violation of the statute, a disputable presumption of negligence is raised. Barnum v. Williams, 96 Adv Sh 89, ___ Or ___, 504 P2d 127 (1972).

Section 7. (Overtaking a vehicle on the left.) (1) A driver overtaking a vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

(3) A driver shall not drive to the left side of the center of the roadway in overtaking and passing a vehicle proceeding in the same direction unless authorized by the provisions of this chapter and unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completed without interfering with the operation of a vehicle approaching from the opposite direction or a vehicle overtaken. The overtaking vehicle shall return to an authorized lane of traffic as soon as practicable.

(4) A person who violates subsection (1), (2) or (3) of this section commits a _____.

COMMENTARY

A. Summary

Subsection (1) restates the rule of subsection (1) of ORS 483.310 by substituting "roadway" for "highway" so that a driver passing on the left shall not again drive to the right side of the roadway until he has clearance. Subsection (2) restates the rule of subsection (2) of ORS 483.310 that the driver of the overtaken vehicle must give way to the right and adds the proviso except when being passed on the right.

Subsection (3) states the limitation on passing on the left that the left lane used as the passing lane is clear, and requires the driver to return to an authorized lane of travel as soon as practicable.

B. Derivation

This section is based on UVC s 11-303 and s 11-305, and on 13 Alaska Adm. Code s 02.065.

C. Relationship to Existing Law

ORS 483.310 would be repealed. It states rules for passing on the left and on the right. The rules for passing on the left are restated in subsections (1) and (2) of this draft section. The rules for passing on the right are stated in section 7 of this chapter.

Subsection (3) is similar to the provisions of subsection (1) of ORS 483.308 which is verbatim the provisions of the 1930 edition of the UVC. This provision, now UVC s 11-305, is enlarged to include the duty to return to the authorized lane of traffic as soon as practicable. The UVC provision stating there must be 200 feet clearance for an oncoming vehicle was considered and not included as being impossible for a driver to measure.

Because subsection (3) relates to rules on passing on the left, it is included in this draft section on this subject. ORS 483.308 would be repealed. Its provisions, which are not concerned with the left turn rules of this draft section, are covered by later sections.

A pedestrian leading a horse does not come within the statutory rule of the road applicable to passing vehicles. He may lead the horse on the left side of the road. Sertic v. McCullough, 155 Or 216, 63 P2d 884 (1936).

Section 8. (Overtaking on right.) (1) A driver may overtake and pass upon the right of another vehicle only:

(a) When the vehicle overtaken is making or the driver has signaled his intention to make a left turn; or

(b) Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(2) A driver may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement shall not be made by driving off the roadway.

(3) A person violating subsection (1) or (2) of this section commits a _____.

COMMENTARY

A. Summary

Subsection (1) provides passing on the right may be done only when the overtaken vehicle is turning left or on an unobstructed two lane unidirectional roadway.

Subsection (2) provides the passing on the right may only be done when it is safe, and never by driving off the roadway.

B. Derivation

This section is based on UVC s 11-304.

C. Relationship to Existing Law

ORS 483.310, which would be repealed, allows passing on the right when the highway has space for two lanes moving in the direction of the passing vehicle and the overtaken vehicle is turning left, and when there are two or more clearly marked lanes allocated to traffic moving in the same direction as the overtaking vehicle. Existing law has no provision comparable to subsection (2) that passing be done only when safe and may not be made by driving off the roadway.

Page 16
Driving on Right Side of Roadway;
Overtaking and Passing; Use of Roadway
Preliminary Draft No. 2

The laws of 42 states and the District of Columbia authorize passing on the right of a vehicle making a left turn. Oregon is not in this number because of the requirement of two lanes of traffic proceeding in one direction.

Section 9. (Further limitations on driving on left of center of roadway.) (1) A driver commits the offense of failing to drive on the right if he drives on the left side of a roadway:

(a) When approaching or upon the crest of a grade or a curve where the driver's view is obstructed within such a distance as to create a hazard if another vehicle approaches from the opposite direction;

(b) When approaching an intersection or railroad grade crossing where the driver's view is obstructed within such a distance as to create a hazard if another vehicle approaches from the opposite direction;

(c) When traversing an intersection or railroad grade crossing;
or

(d) When the view is obstructed upon approaching a bridge, viaduct or tunnel.

(2) The limitations in subsection (1) of this section do not apply:

(a) Upon a roadway restricted to one-way traffic; or

(b) When an obstruction exists making it necessary to drive to the left of the center of the roadway; or

(c) When a driver turns left into or from an alley, private road or driveway.

(3) Failing to drive on the right is a _____.

COMMENTARY

A. Summary

Subsection (1) prohibits a driver from driving on the left side of a roadway in areas where it is hazardous, specifically, approaching or on a hill or curve when the driver's view is obstructed, when approaching an intersection or railroad grade crossing and the driver's view is obstructed, when traversing an intersection or railroad grade crossing, and when the view is obstructed on approaching a bridge, viaduct or tunnel.

Subsection (2) provides that these restrictions do not apply when the roadway is one-way, when it is obstructed, or when a driver is making a left turn.

B. Derivation

This section is based on UVC s 11-306.

C. Relationship to Existing Law

Paragraph (a) of subsection (2) of ORS 483.308 restricts driving on the left in terms of the left side of the center line of a highway rather than the left side of the roadway as this draft section provides. Subsection (2) of ORS 483.308 states the limitations when there is a grade or curve in the terms used by UVC s 11-306 prior to its 1968 amendment, omitting restriction when on the crest of a grade and when approaching a curve. Paragraph (a) of subsection (1) of this draft section provides the broader limitation.

Subsection (3) of ORS 483.308 prohibits passing a vehicle proceeding in the same direction at a railroad crossing or highway intersection unless passing can be done safely. Under the provisions of UVC s 11-306 there is no passing within 100 feet in these situations. The right to pass in an intersection when safe as provided in ORS 483.306 would be removed by this draft section, and the right to pass on approaching an intersection or railroad grade crossing would depend on whether the driver's view is obstructed.

There is a body of case law interpreting subsection (3) of ORS 483.308 as follows:

Whether passing at an intersection is safe is judged under the reasonably prudent person standard. Jepsen v. Magill, 243 Or 34, 411 P2d 267 (1966); Valdin v. Holteen and Nordstrom, 199 Or 134, 260 P2d 504 (1953). The statute is

not limited in its application to situations where cross traffic is present at an intersection but also applies where a vehicle attempts to pass a left turning vehicle. Perdue v. Pac. Tel. & Tel. Co., 213 Or 596, 326 P2d 1026 (1958).

The term, "intersection," will be defined in the Article on general definitions. The definition in subsection (2) of ORS 483.012 is verbatim that of the 1926 UVC. The revised version of the UVC s. 1-126 defines "intersection" with reference to roadways and to junctions with alleys:

1-126. Intersection. (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two roadways (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways (30) feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

(c) The junction of an alley with a street or highway shall not constitute an intersection.

An intersection as defined by ORS 483.012 does not include a junction of a highway and private road. Clark v. Fazio, 191 Or 522, 230 P2d 553 (1951). A junction where a road meets but does not cross a highway is an intersection. Perdue v. Pac. Tel. & Tel. Co., 213 Or 596, 326 P2d 1026 (1958). "At" an intersection has been interpreted to mean "near." Ibid at 605.

There is no provision in Oregon law similar to paragraph (c) of subsection (1) or to subsection (2) of this draft section.

ORS 483.308 would be repealed. The provisions of subsection (1) of ORS 483.308 governing passing on the left are restated in subsection (3) of section 6 of this draft. The provisions of paragraph (b), subsection (2), are restated in subsection (1) of section 3 of this draft.

Section 10. (No passing zone.) (1) A driver shall not drive on the left side of a roadway when the Department of Transportation or local authority having jurisdiction of the roadway has determined that the roadway or section thereof is especially hazardous for overtaking and passing or driving on the left side of the roadway and has prohibited these movements by appropriate signs or markings on the roadway which show the beginning and end of a no passing zone.

(2) A driver who drives on the left side of a roadway in violation of signs and markings in place to define a no passing zone commits a _____.

(3) The provisions of subsection (1) of this section do not apply:

(a) When the roadway is obstructed as described in subsection (1) of section 1 of this Article; or

(b) When a driver turns left into or from an alley, private road or driveway.

COMMENTARY

A. Summary

Subsection (1) provides that a driver shall not drive on the left side of a roadway when a no passing zone has been established on the roadway by the Department of Transportation or by the local authority having jurisdiction over it.

Subsection (2) classifies the offense of driving in violation of no passing signs or markings.

Subsection (3) excepts the situation of an obstructed roadway and the left turning driver from the application of the no passing zone rules.

B. Derivation

This section is based on UVC s 11-307.

C. Relationship to Existing Law

The authority to erect signs as necessary for the safe and expeditious control of traffic given to the State Highway Commission, now the Department of Transportation, by ORS 483.040 for state highways allows the placing of no passing zone signs and markings on state highways. ORS 483.044 authorizes local authorities in their respective jurisdictions to erect and maintain appropriate signs deemed necessary to direct and control traffic. The provisions of these sections are sufficient to authorize establishment of no passing zones and make redundant a subsection analagous to paragraph (a) of UVC s 11-307.

Section 11. (One-way roadways and rotary traffic islands.) (1)

A driver who proceeds upon a roadway designated for one-way traffic in a direction other than that indicated by an official traffic control device commits a _____.

(2) (a) A driver proceeding around a rotary traffic island shall drive only to the right of the island.

(b) A person who fails to drive only to the right of a rotary traffic island commits a _____.

COMMENTARY

A. Summary

Subsection (1) provides that a person driving not in the direction indicated by an official traffic control device commits a violation.

Subsection (2) provides that a driver proceeding around a rotary traffic island must drive to the right and provides a penalty for failing to do so.

B. Derivation

This section is based on UVC s 11-308.

C. Relationship to Existing Law

There is no provision in existing law comparable to subsection (1) of this draft section requiring a driver on a one-way roadway to proceed only as directed by the traffic signs, whether at all times or at certain times.

There is no provision in existing law stating a duty to stay right around a rotary traffic island. Anyone entering a circle having two lanes of traffic proceeding in the same direction has a duty to get into the right or outside lane of traffic before exiting from the circle. Williams v. Donohoe, 222 Or 578, 353 P2d 521 (1960). The court held that subsection (1) (a) of ORS 483.316, which governs turns at intersections, was applicable to vehicles proceeding around a circular island and making turns out from the

circular drive to an intersecting street. The circular drive was held to be a separate street with a T-shaped intersection where each street came into it.

Paragraph (a) of UVC s 11-308 is an authorization clause, authorizing state and local governments having jurisdiction to designate highways or sections or lanes thereof for use by vehicular traffic to proceed in one direction at all times or at certain times as directed. This type of authorization provision was considered more appropriately located in the Article on general provisions rather than in a subsection of the section on the rule of the road for proceeding on a roadway in the direction shown by official traffic control devices.

Section 12. (Driving on roadways laned for traffic.) (1) When a roadway is divided into two or more clearly marked lanes for traffic, the following rules apply:

(a) A driver shall drive his vehicle as nearly as practicable entirely within a single lane and shall not move from that lane until he has first made certain that the movement can be made with safety.

(b) When two-way movement of traffic is provided on a roadway divided into three lanes, a driver shall not drive in the center lane except:

(A) When the center lane is allocated exclusively to traffic moving in the same direction that the driver is proceeding by an official traffic control device directing the lane allocation; or

(B) When the driver is overtaking and passing a vehicle proceeding in the same direction and the center lane is clear of traffic within a safe distance; or

(C) When the driver is making a left turn.

(2) A person violating subsection (1) of this section commits a

COMMENTARY

A. Summary

Subsection (1) provides that when a roadway is divided into two or more lanes, a driver shall stay in one lane as much as practicable, and on a two-way three lane roadway shall not drive in the center lane unless passing, turning left or allowed by an official traffic control device.

Subsection (2) classifies the offense.

B. Derivation

This section is based on UVC s 11-309.

C. Relationship to Existing Law

ORS 483.304 in subsections (2) and (3) thereof provides the rules of subsection (1) of this draft section, the basic differences being that the rules for a two-way three lane roadway are stated in ORS 483.304 in terms of a highway, secondly, that the exception made for passing does not include provision that passing be done only when the center lane is clear and, thirdly, there is no exception for turning left. The provisions of subsections (2) and (3) of ORS 483.304 are generally the same as the 1930 edition of the UVC. ORS 483.304 would be repealed.

There are no provisions in existing law or in this draft section comparable to paragraphs (c) and (d) of UVC s 11-309. General authority for installation of traffic control devices for the purpose of directing traffic in the use of lanes probably is sufficiently granted in ORS 483.040 in relation to state highways and in ORS 483.044 in relation to county and city highways. (See Commentary to section 5 relative to designation of particular lanes for certain traffic and Commentary to section 11 relative to traffic control authorization provisions.)

Section 13. (Following too closely.) (1) A driver shall not follow a vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon and condition of the highway.

(2) A driver of a truck, motor bus or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district or upon a freeway within the corporate limits of a city and which is following another truck, motor bus or motor vehicle drawing another vehicle shall, when conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy the space without danger. This rule shall not prevent a truck, motor bus or motor vehicle drawing another vehicle from overtaking and passing a vehicle or combination of vehicles.

(3) Except in the case of a funeral procession motorcade, a driver traveling upon a roadway outside of a business or residence district or upon a freeway within the corporate limits of a city in a caravan or motorcade whether or not towing another vehicle shall operate his vehicle so as to leave sufficient space between vehicles to enable a vehicle to enter and occupy the space without danger.

(4) A person who violates subsection (1), (2) or (3) of this section commits a _____.

COMMENTARY

A. Summary

Subsection (1) prohibits a driver from following another vehicle more closely than is reasonable and prudent under the traffic and highway conditions.

Subsection (2) provides that a driver of a truck, motor bus or motor vehicle drawing another vehicle going along a roadway outside a business or residential area or on a freeway in city limits and following another like vehicle shall, when possible, leave enough space for an overtaking vehicle to occupy without danger. This provision doesn't prevent a truck, bus or motor vehicle drawing another vehicle from passing.

Subsection (3) requires a driver outside a business or residential district or on a freeway in city limits, traveling in a caravan or motorcade which is not a funeral procession, to leave sufficient space between vehicles so that a vehicle may enter the space without danger.

Subsection (4) classifies the offense.

B. Derivation

Subsection (1) is practically verbatim the same as subsection (1) of ORS 483.312. Subsections (2) and (3) are based on subsections (b) and (c) of UVC s 11-310. Subsection (4) is the culpability classification.

C. Relationship to Existing Law

Subsection (1) is the same as subsection (1) of ORS 483.312 except that the phrase "due regard to the speed" is amended to "due regard for the speed."

Subsection (2) enlarges the application of existing law to include motor vehicles drawing another vehicle, and to set the standard for following too closely not in terms of a specific measurement between vehicles, such as the 300 feet of ORS 483.312, but sufficient space for an overtaking vehicle to occupy safely. The UVC does not include motor busses in its section on following too closely.

Most states limit the application of this rule on trucks, busses and motor vehicles drawing other vehicles to areas outside business and residence districts. Twenty-seven states establish specific distances, such as the 300 feet of ORS 483.312, to be left between vehicles. Fourteen states require the sufficient space for an overtaking vehicle to occupy.

The code requirement to leave sufficient space when conditions permit is omitted from ORS 483.312.

The prohibition against following too closely is not only for the car ahead but others as well, including the

occupants of an oncoming vehicle. Rough v. Lamb, 240 Or 240, 401 P2d 10 (1965); Garland v. Wilcox, 220 Or 325, 348 P2d 1091 (1960).

There is no counterpart in existing law for the provisions of subsection (3) of this draft section. Twenty-four states have provisions in verbatim conformity with this code subsection.

ORS 483.312 would be repealed and this section would replace its provisions.

Section 14. (Driving on divided highways.) (1) When driving upon a highway divided into two or more roadways by means of an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, a driver shall drive only upon the right-hand roadway unless directed or permitted to use another roadway by an official traffic control device or police officer.

(2) When driving upon a divided highway as described in subsection (1) of this section, a driver shall not drive over, across or within a dividing space, barrier or section except:

(a) At an authorized crossover or intersection; or

(b) When specifically directed otherwise by state or local authority.

(2) A person violating subsection (1) or (2) of this section commits a _____.

COMMENTARY

A. Summary

This section requires a driver on a highway divided into two or more roadways by an intervening space to drive only on the right unless otherwise directed by a traffic control signal or police officer, and not to drive on or over the dividing space unless at an authorized crossover or directed otherwise.

B. Derivation

This section is based on UVC s 11-311.

C. Relationship to Existing Law

Subsection (4) of ORS 483.304 provides that on a highway separated into two or more roadways by means of an unpaved or

paved section a vehicle must proceed only on the right and not cross except through an opening established for vehicle use by public authority.

The draft section follows the provision of subsection (4), ORS 483.304, in the statement of allowed crossover of the intervening space. ORS 483.304 would be repealed.

This draft section is not intended to apply to a median indicated only by paint.

TEXT OF UNIFORM VEHICLE CODE

§ 11-301—Drive on right side of roadway—exceptions

(a) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
2. When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard; (REVISED, 1962.)
3. Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or
4. Upon a roadway restricted to one-way traffic. (REVISED, 1968.)

(b) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

(c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (a)2 hereof. However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway. (REVISED, 1968.)

§ 11-302—Passing vehicles proceeding in opposite directions

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

TEXT OF UNIFORM VEHICLE CODE (Cont'd)

§ 11-303—Overtaking a vehicle on the left

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

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

(b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

§ 11-304—When passing on the right is permitted

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

1. When the vehicle overtaken is making or about to make a left turn;

2. Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement shall not be made by driving off the roadway. (SECTION REVISED, 1971.)

§ 11-305—Limitations on overtaking on the left

No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within 200 feet of any approaching vehicle. (REVISED, 1971.)

TEXT OF UNIFORM VEHICLE CODE (Cont'd.)

§ 11-306—Further limitations on driving on left of center of roadway

(a) No vehicle shall be driven on the left side of the roadway under the following conditions:

1. When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

2. When approaching within 100 feet of or traversing any intersection or railroad grade crossing;

3. When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel.

(b) The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in § 11-301(a)2, nor to the driver of a vehicle turning left into or from an alley, private road or driveway. (SECTION REVISED, 1968.)

§ 11-307—No-passing zones

(a) The (State highway commission) and local authorities are hereby authorized to determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person every driver of a vehicle shall obey the directions thereof. (REVISED, 1971.)

(b) Where signs or markings are in place to define a no-passing zone as set forth in paragraph (a) no driver shall at any time drive on the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length. (NEW, 1956.)

(c) This section does not apply under the conditions described in § 11-301(a)2, nor to the driver of a vehicle turning left into or from an alley, private road or driveway. (NEW, 1968.)

TEXT OF UNIFORM VEHICLE CODE (Cont'd)

§ 11-308—One-way roadways and rotary traffic islands

(a) The (State highway commission) and local authorities with respect to highways under their respective jurisdictions may designate any highway, roadway, part of a roadway or specific lanes upon which vehicular traffic shall proceed in one direction at all or such times as shall be indicated by official traffic-control devices. (REVISED, 1968.)

(b) Upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by official traffic-control devices. (REVISED, 1968.)

(c) A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

§ 11-309—Driving on roadways laned for traffic

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

(a) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(b) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices. (REVISED, 1962.)

(c) Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device. (REVISED, 1962.)

(d) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device. (NEW, 1962.)

TEXT OF UNIFORM VEHICLE CODE (Cont'd)

§ 11-310—Following too closely

(a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(b) The driver of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a truck or motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles. (REVISED, 1971.)

(c) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions.

§ 11-311—Driving on divided highways

Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway unless directed or permitted to use another roadway by official traffic-control devices or police officers. No vehicle shall be driven over, across or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space or at a cross-over or intersection as established, unless specifically prohibited by public authority. (REVISED, 1962.)

§ 11-312—Restricted access

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

§ 11-313—Restrictions on use of controlled-access roadway

(a) The (State highway commission) by resolution or order entered in its minutes, and local authorities by ordinance, may regulate or prohibit the use of any controlled-access roadway (or highway) within their respective jurisdictions by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

(b) The (State highway commission) or the local authority adopting any such prohibition shall erect and maintain official traffic-control devices on the controlled-access highway on which such prohibitions are applicable and when in place no person shall disobey the restrictions stated on such devices. (SECTION REVISED, 1968.)

TEXT OF ALASKA ADM. CODE

13 AAC 02.050. Driving on right side of roadway. Upon a roadway of sufficient width, a vehicle shall be driven upon the right half of the roadway, and, when proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing, shall be driven in the right-hand lane available for traffic or as close as practicable to the right-hand curb or edge of the roadway, except

(1) when overtaking and passing another vehicle proceeding in the same direction under the rules governing this movement;

(2) when an obstruction exists making it necessary to drive to the left of the center of a roadway, a person doing so shall yield the right-of-way to a vehicle traveling in the proper direction upon the unobstructed portion of the roadway within a distance as to constitute an immediate hazard;

(3) upon a roadway divided into three marked lanes for traffic under the rules applicable on it;

(4) upon a roadway restricted to one-way traffic; or

(5) when preparing for a left turn at an intersection or into a private road or driveway. (Eff. before 7/28/59; am 12/15/61, reg. 3; am 8/10/66, reg. 22; am 12/31/69, reg. 31)

Authority: AS 28.05.030

13 AAC 02.065. Overtaking on left. (a) The following rules govern the overtaking and passing of a vehicle proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

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

(2) except when overtaking and passing on the right is permitted, a driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and may not increase the speed of his vehicle until completely passed by the overtaking vehicle.

(b) A vehicle may not be driven to the left side of the center of a roadway when overtaking and passing another vehicle proceeding in the same direction unless authorized by this chapter and unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completely made without interfering with the operation of a vehicle approaching from the opposite direction or a vehicle overtaken. The overtaking vehicle shall return to an authorized lane of travel as soon as practicable and, if the passing movement involves the use of a lane authorized for a vehicle approaching from the opposite direction, before coming within 200 feet of an approaching vehicle. (Eff. before 7/28/59; am 12/15/61, reg. 3; am 8/10/66, reg. 22; am 12/31/69, reg. 31)

Authority: AS 28.05.030

Cross Reference: 13 AAC 02.155(c)