

6/6/74

PROPOSED AMENDMENTS TO  
SECTION 2

PEDESTRIANS' RIGHTS AND DUTIES; P. D. No. 1

SUBJECT: Pedestrian right of way in crosswalk where traffic not controlled by traffic control signals.

1. Distinguish between the one-way and the two-way roadway:
  - A. All drivers on one-way roadway stop when a pedestrian is crossing in crosswalk until the pedestrian has completed crossing. See attached Alternative A.
  - B. Drivers on two-way roadway yield right of way to pedestrians crossing in a crosswalk on the half of the roadway along which the driver is proceeding, and to pedestrians so close to that half of the roadway as to be in danger. (This is the rule of ORS 483.210 (1), except that present law makes no distinction between one-and two-way roadways.) See attached Alternative B.

Companion provision is section 4 of the draft Article on Pedestrians' Rights and Duties which provides that when a vehicle is stopped at a marked or unmarked crosswalk to permit a pedestrian to cross the roadway, a driver of any other vehicle approaching from the rear shall not pass the stopped vehicle. Draft section 4 would not require a driver on a two-way roadway to stop for a pedestrian crossing within a crosswalk for which other drivers were stopped unless the driver was proceeding in the same direction as the stopped drivers.

2. Distinguish between intersection crosswalks and non-intersection crosswalks (marked crosswalks):

Statistics indicate pedestrian accidents take place more often in the marked crosswalk than the unmarked crosswalk. At a marked crosswalk, all drivers shall stop to allow pedestrians to cross the roadway, regardless of whether it is one-way or two-way. See attached Alternative C.

3. Require all drivers to yield the right of way to a pedestrian in a crosswalk, whether at an intersection or a non-intersection marked crosswalk:

This provision establishes a duty on the driver which depends on the definition of "right of way." The provision is drawn from the Wisconsin statutes, which define "right of way" as the privilege of the immediate use of the roadway. Wis Stat Ann s 340.01 (51). The rule of draft section 4, requiring a driver of a vehicle to stop when approaching from the rear a vehicle stopped for the crossing of a pedestrian, is stated in subsection (3), s 346.24, Wis Stat Ann. See attached Alternative D.

The rule of Alternative D does not require a driver to stop for a pedestrian in a crosswalk if yielding the right of way can be accomplished without stopping, even when the pedestrian is in the same half of the roadway as the driver. The driver in that half of the roadway already crossed by the pedestrian would not be required to stop or slow down as the privilege of immediate use is not even involved. The absence of the requirement to stop or yield also appears to extend to the pedestrian proceeding across an intersection crosswalk on a roadway onto which a driver, turning right or left, is advancing. Once the pedestrian has crossed the lane into which the driver is turning, there is no duty on the part of the driver to stop or stay stopped if he was originally stopped.

ALTERNATIVE A.

When a pedestrian is crossing a roadway restricted to one-way traffic within an intersection crosswalk where there are no traffic control signals in place or in operation, a driver shall stop before entering the nearest crosswalk on the roadway which the pedestrian is traversing, and remain stopped until the pedestrian has completed crossing the roadway.

ALTERNATIVE B.

When a pedestrian is crossing a roadway authorized for two-way traffic, within an intersection crosswalk, where there are no traffic control signals in place or in operation, a driver shall yield the right of way, slowing down and stopping if necessary to allow passage of the pedestrian, when he is upon the half of the roadway on which the driver is traveling, or when he is approaching so closely from the opposite side of the roadway as to be in danger.

ALTERNATIVE C.

When a pedestrian is crossing a roadway authorized for either one-way or two-way traffic, on a marked crosswalk which is not at an intersection, where there are no traffic control signals in place or in operation, a driver shall stop before entering the crosswalk and remain stopped until the pedestrian has completed crossing the roadway.

ALTERNATIVE D.

At an intersection or crosswalk where traffic is not controlled by traffic control signals or by a police officer, a driver shall yield the right of way to a pedestrian who is crossing the highway within a marked or unmarked crosswalk. (Based on Wis Stat Ann s 346.24.)

## CALIFORNIA VEHICLE CODE (Definitions)

### Pedestrian

s 467. A pedestrian is any person who is afoot or who is using a means of conveyance propelled by human power other than a bicycle.

### Motor vehicle

s 415. A "motor vehicle" is a vehicle which is self-propelled.

### Vehicle

s 670. A "vehicle" is a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved by human power or used exclusively upon stationary rails or tracks.

### Tunnel or Overhead Crossing

s 21953. Whenever any pedestrian crosses a roadway other than by means of a pedestrian tunnel or overhead pedestrian crossing, if a pedestrian tunnel or overhead crossing serves the place where the pedestrian is crossing the roadway, such pedestrian shall yield the right-of-way to all vehicles on the highway so near as to constitute an immediate hazard.

This section shall not be construed to mean that a marked crosswalk, with or without a signal device, cannot be installed where a pedestrian tunnel or overhead crossing exists.

Section \_\_\_\_\_. (Pedestrian tunnel or overhead crossing.) (1) A pedestrian commits the offense of failure to use pedestrian tunnel or overhead pedestrian crossing if he crosses a roadway other than by means of a pedestrian tunnel or overhead pedestrian crossing when a tunnel or overhead crossing serves the place where the pedestrian is crossing the roadway.

(2) A pedestrian who fails to use pedestrian tunnel or overhead pedestrian crossing commits a \_\_\_\_\_.

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ALTERNATIVE PROVISIONS

PEDESTRIANS' RIGHTS AND DUTIES; P.D. No. 1

SECTION 7

ALTERNATIVE A.

A pedestrian commits the offense of failure to use a sidewalk if he proceeds along and upon the roadway where there is an adjacent usable sidewalk.

ALTERNATIVE B.

Where a sidewalk is not available, a pedestrian proceeding along and upon a highway shall stay on the shoulder, as far as practicable from the roadway edge.

ALTERNATIVE C.

On a highway without paved sidewalk which has adjacent shoulder area on one or both sides improved and intended for use by pedestrian traffic, pedestrians shall proceed within the improved shoulder area except:

(1) On a divided highway where the pedestrian shall proceed only on the right adjacent shoulder; or

(2) On a freeway on which pedestrian traffic is prohibited, the driver or passengers of a disabled vehicle stopped on the freeway may walk to the nearest exit, in either direction, on that side of the freeway upon which the vehicle is disabled, from which telephone or motor vehicle repair services are available. (Based on Cal Vehicle Code s 21960 as amended by Ch 498, Stats 1972.)

ALTERNATIVE D.

On a highway without paved sidewalk which has adjacent paved shoulder area on one or both sides intended for use by disabled vehicles and as emergency parking, pedestrians shall proceed only on the left shoulder as far as practicable from the edge of the roadway.

ALTERNATIVE E.

On a highway which has no sidewalk or shoulder available, a pedestrian shall walk as near as practicable to an outside edge of the roadway and, if on a two-way roadway, shall walk only on the left side of the roadway.

Section 16. (Blind pedestrian in roadway with traffic control signals.) (1) Notwithstanding sections 2, 3, 4 and 5 of Article \_\_\_\_\_ [Traffic Signs, Signals and Markings], where the movement of vehicular traffic is regulated by traffic control signals, if a blind pedestrian has entered the roadway and is carrying a white cane in a raised or extended position or is accompanied by a guide dog, a driver approaching the blind pedestrian shall yield the right of way to the pedestrian and stop or remain stationary until the pedestrian has vacated the roadway.

(2) A driver who fails to yield the right of way to a blind pedestrian notwithstanding traffic control signals under subsection (1) of this section commits a \_\_\_\_\_.