

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 5. PEDESTRIANS' RIGHTS AND DUTIES

Preliminary Draft No. 1; April 1974

Reporter: Marion Embick

Subcommittee on Revision

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regarding this draft, please bring
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O R E G O N V E H I C L E C O D E

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PART _____. RULES OF THE ROAD

ARTICLE _____. PEDESTRIANS' RIGHTS AND DUTIES

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Section 1. (Pedestrian obedience to traffic control devices and traffic regulations.) (1) Except when he is otherwise directed by a police officer, a pedestrian commits the offense of failure to obey an official traffic control device if he does not obey the instructions of:

(a) An official traffic control device specifically applicable to him; or

(b) A traffic or pedestrian control signal as provided in sections [2 and 4, Article _____, Traffic Signs, Signals and Markings].

(2) A pedestrian shall be granted the privileges and shall be subject to the restrictions stated in this chapter.

(3) A pedestrian who fails to obey an official traffic control device or pedestrian signal commits a _____.

COMMENTARY

A. Summary

This section provides that pedestrians shall obey official traffic control devices and shall have the privileges and be subject to the restrictions stated in the chapter.

B. Derivation

This section is based on UVC s 11-501.

C. Relationship to Existing Law

There is no comparable provision in existing Oregon traffic law. Yarbrough v. Carlson, 102 Or 422, 202 P 739 (1921), held that the rules of the road were enacted for the guidance of vehicular traffic and do not apply to pedestrians.

Under section 2 of the Article on General Provisions of this draft, the provisions of the chapter apply to the operation of vehicles upon highways and the ocean shore. Under section 4 of this draft Article persons riding an animal or driving an animal-drawn vehicle or on a roadway are granted the rights and are subject to the duties applicable to a driver unless these rights and duties are inapplicable. This draft section will provide the same rule for pedestrians as sections 2 and 4 of the General Provisions draft provide for operation of vehicles and persons riding and driving animals. There will be a similar provision on the rights and duties of bicyclists in the draft Article on that subject.

The term, "pedestrian," will be defined in the Article on general definitions. There is no definition of "pedestrian" in Oregon statutory law. Maletis v. Portland Traction Co., 160 Or 30, 83 P2d 141 (1938), used the definition of Webster's New International Dictionary of "going on foot," "one who journeys on foot," and held that a child walking on the sidewalk is as much a pedestrian as if walking on the street.

The UVC definition is "Any person afoot."

Section 2. (Pedestrian's right of way in crosswalk.) (1) When a pedestrian is crossing a roadway within a crosswalk where there are no traffic control signals in place or in operation, a driver shall stop before entering the crosswalk and yield the right of way to the pedestrian except:

(a) Upon a roadway with a safety island, and the driver is proceeding along the half of the roadway on the far side of the safety island from the pedestrian; or

(b) Where a pedestrian tunnel or overhead crossing has been provided at or near a crosswalk.

(2) A driver who fails to stop and yield the right of way to a pedestrian crossing within a crosswalk under subsection (1) of this section commits a _____.

COMMENTARY

A. Summary

This section contains rules applicable at crosswalks. A crosswalk will be defined in the Article on general definitions.

Subsection (1) provides that when a pedestrian is crossing a roadway within a crosswalk and there are no traffic signals in operation, all drivers must stop and yield the right of way to the pedestrian, except that where there is a safety island, a driver is not required to stop and yield the right of way to a pedestrian crossing or in a crosswalk on the far side of the safety island, or where there is a pedestrian tunnel or overhead bridge near the crosswalk.

Subsection (2) provides the classification for a violation of subsection (1).

B. Derivation

This section is based on subsections (a) and (c) of UVC s 11-502.

C. Relationship to Existing Law

Enactment of this draft section would bring a major change in pedestrian right of way rules. Under both the existing provision of Oregon law, which is subsection (1) of ORS 483.210, and the comparable provision of the UVC, only drivers proceeding in the lane where a pedestrian is crossing in a crosswalk, and those drivers in the other lanes so close that the pedestrian is in danger, must yield the right of way to the pedestrian. Under the draft section all drivers proceeding on a roadway, regardless of whether the roadway is for one or two-way traffic, must stop for pedestrians in crosswalks unless there is a safety island or an overhead bridge or pedestrian tunnel. If there is a safety island, only drivers on the same side of the roadway as the crossing pedestrian must stop and yield the right of way.

Under subsection (1), ORS 483.210, a crossing pedestrian's right of way in a crosswalk is also limited in that if he is stopped at the center line area of a roadway, he must not leave it to continue crossing, as it qualifies as a "place of safety." Plasker v. Fazio, 259 Or 171, 485 P2d 1075 (1971).

The draft section retains the requirement of Oregon law that the driver stop as well as yield the right of way to the pedestrian in the crosswalk. The analogous UVC section requires that the driver yield and stop only if need be.

Since the draft section requires all drivers on a roadway, regardless of their direction of travel, to stop and yield to a pedestrian in a crosswalk unless there is a safety island or overhead bridge or tunnel, it appears that the center line area under this rule could no longer be interpreted as a place of safety for a crossing pedestrian.

The provisions of subsections (b) and (d) of UVC s 11-502 are the subject of sections 3 and 4 of this draft Article.

ORS 483.210 would be repealed and its provisions, with changes as described, restated in sections 2, 3 and 4 of this Article.

Section 3. (Pedestrian leaving curb.) (1) A pedestrian shall not suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(2) A pedestrian who walks or runs into the path of a vehicle in violation of subsection (1) of this section commits a _____.

COMMENTARY

A. Summary

Subsection (1) provides that a pedestrian shall not suddenly leave a curb and move into the path of a vehicle close enough to be a hazard.

Subsection (2) classifies a violation of subsection (1).

B. Derivation

This section is based on subsection (b) of UVC s 11-502 (Revised 1971).

C. Relationship to Existing Law

The "other place of safety" of this rule as stated in this draft section and in subsection (1) of ORS 483.210 has been interpreted to include the center line area of the roadway. Plasker v. Fazio, 259 Or 171, 485 P2d 1075 (1971). With the rule of section 2 of this draft Article that pedestrians crossing in a crosswalk have a curb-to-curb right of way, except where there is a safety island, pedestrian bridge or tunnel, the midline area would not appear to be an area of safety as it is in existing Oregon law.

Section 4. (Drivers not to overtake stopped vehicle.) (1) When a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, a driver approaching from the rear shall not overtake and pass the stopped vehicle.

(2) A driver who overtakes and passes a vehicle which has stopped pursuant to subsection (1) of this section commits a _____.

COMMENTARY

A. Summary

Subsection (1) provides that when a vehicle is stopped at a crosswalk for a pedestrian, a vehicle approaching from the rear shall not pass the stopped vehicle.

Subsection (2) classifies a violation of subsection (1).

B. Derivation

This section is based on subsection (d) of UVC s 11-502.

C. Relationship to Existing Law

This section contains the same rule for not passing a vehicle which is stopped to allow a pedestrian to cross on a crosswalk as is stated in subsection (3) of ORS 483.210, except that it utilizes the simpler UVC language to describe the point beyond which the driver is not to advance. The UVC language states that the vehicle shall not pass the stopped vehicle whereas ORS 483.210 (3) states that the driver "shall not cause or allow the front end of his vehicle to pass beyond the front end of the stopped vehicle."

Section 5. (Crossing at other than crosswalks.) (1) A pedestrian commits the offense of failure to yield the right of way if he fails to yield the right of way to a vehicle upon a roadway when he is crossing the roadway:

(a) At any point other than within a marked crosswalk or an unmarked crosswalk at an intersection; or

(b) Where a pedestrian tunnel or overhead pedestrian crossing has been provided.

(2) A pedestrian who fails to yield the right of way commits a _____.

(3) A pedestrian shall not cross a roadway between adjacent intersections where traffic control signals are in operation except in a marked crosswalk.

(4) A pedestrian who crosses a roadway in violation of subsection (3) of this section commits a _____.

COMMENTARY

A. Summary

Subsection (1) provides that a pedestrian is to yield the right of way to a vehicle where the pedestrian is crossing a roadway not at a crosswalk and where there is an overhead pedestrian crossing or a pedestrian tunnel.

Subsection (2) classifies a violation of subsection (1).

Subsection (3) prohibits a pedestrian from crossing a roadway between adjacent intersections where there are traffic control signals operating unless he crosses in a marked crosswalk.

Subsection (4) classifies a violation of subsection (3).

B. Derivation

This section is based on subsections (a), (b) and (c) of UVC s 11-503. The rule of subsection (d), UVC s 11-503, which authorizes diagonal crossings at intersections when authorized by official traffic control devices, is not included. The committee considers it not appropriate for safe, expeditious traffic control in Oregon.

C. Relationship to Existing Law

The rules stated in subsection (1) of this draft section are substantively the same as those in UVC s 11-503 (a) and (b) and subsections (2) and (4) of ORS 483.210. The rule of subsection (1) of the draft that a pedestrian crossing not in a crosswalk must yield to vehicles was held in DeWitt v. Sandy Market, Inc., 167 Or 226, 115 P2d 184 (1941), to mean that a pedestrian crossing a street not in a crosswalk and therefore required to yield to vehicular traffic violates this duty as much by colliding with the rear part of the vehicle as by walking in front. The rule does not mean that a pedestrian is prohibited from crossing at other than a crosswalk. Marvin v. Harrison, 182 Or 121, 180 P2d 119, 186 P2d 534 (1947); Simpson v. Hillman, 163 Or 357, 97 P2d 527 (1940). A motorist is not thereby relieved of the duty of care. Ibid.

There is no counterpart in the Oregon code for the rule of subsection (3) of this draft section which was taken from subsection(c), UVC s 11-503. The Suggested Uniform Traffic Ordinance for Oregon, Bureau of Governmental Research and Service, University of Oregon (1970), in section 37 provides that pedestrians are to use crosswalks in blocks with marked crosswalks or if within 150 feet of a marked crosswalk. A footnote suggests that it might be desirable to modify the 150 foot distance.

The provisions of subsection (4), ORS 483.210, authorizing state and local authorities in their respective jurisdictions to prohibit pedestrians from crossing a highway except within a crosswalk as well as those of subsection (6) of ORS 483.210 relating to establishing or closing crosswalks will be located with other similar authorization provisions in the Article on General Provisions.

Section 6. (Exercise of due care.) The provisions of section 2, 3, 4 or 5 of this Article do not relieve a driver or a pedestrian from the duty to exercise due care.

COMMENTARY

The duty to use due care is stated in subsection (5) of ORS 483.210 in the same terms as in this draft section. ORS 483.210 includes many of the Oregon traffic code rules for pedestrians. It would be repealed by this draft Article on pedestrians' rights.

The more specific detailed provisions of the analogous UVC section, s 11-504 relating the duty of due care to the child and the obviously confused, incapacitated or intoxicated person, were examined and rejected by the committee as being an ill-advised attempt to state each separate possible application of the general rule of due care.

The provision is parallel to the UVC s 11-504 requirement of precaution on observing an intoxicated person. Added to the code in 1971, it prohibits intoxicated persons from walking on a highway except on a sidewalk. Its adoption was rejected on the basis that its treatment of public drunkenness as a crime conflicts with the recent legislative decision to decriminalize Oregon laws on this subject. (See ORS 430.305 to 430.335).

The requirement of UVC s 11-504 that a driver use his horn when necessary to give a pedestrian warning was considered as potentially causing more hazard than would be averted by not using the horn. This UVC requirement is therefore omitted from the draft section.

Subsection (1) of ORS 483.345 requires that a driver exercise reasonable control of a vehicle as may be necessary to avoid colliding with any object, and that a collision is not necessary to be in violation of this rule. Subsection (2) provides that the rules of pleading and evidence related to negligence and contributory negligence are not changed by the provisions of subsection (1). Subsection (3), added by Chapter 679, Oregon Laws 1973, makes the offense a Class C misdemeanor. This section, with certain minor changes, was part of the basic rule stated in ORS 483.102 until deleted by amendment of that section by Chapter 340, Oregon Laws 1971. Section 2 of Chapter 340 provided that section 1, which was compiled and under existing law is ORS 483.345, was to be

added to and made a part of ORS 483.114 to 483.118. Hence ORS 483.345 is not located in the part of the rules of the road directed by the enacting law.

Phillips v. Ocker, 250 Or 30, 440 P2d 365 (1968), held that the duty of control implies also the ability to swerve reasonably so as to avoid a collision.

Since the provisions of ORS 483.345 are basically covered by this draft section, it is repetitive and would be repealed.

Section 7. (Pedestrian's use of sidewalk, shoulder and roadway edge.) (1) A pedestrian commits the offense of failure to use a sidewalk if he walks along and upon a roadway where there is a sidewalk available for pedestrian travel.

(2) A pedestrian commits the offense of failure to walk on the highway shoulder if he does not walk on the shoulder and as far as practicable from the roadway edge, except:

(a) Where there is a sidewalk available; or

(b) Where there is not any highway shoulder available for pedestrian travel.

(3) Where there is neither a sidewalk nor shoulder available, a pedestrian walking along and upon a highway shall walk as closely as practicable to an outside edge of the roadway and if on a two-way roadway, only on the left side of the roadway.

(4) A pedestrian who fails to walk on the sidewalk, shoulder or left side of the roadway in violation of subsection (1), (2) or (3) of this section commits a _____.

COMMENTARY

A. Summary

Subsection (1) requires the pedestrian to use a sidewalk when a sidewalk is available.

Subsection (2) requires the pedestrian to proceed on the highway shoulder when there is no sidewalk but there is a shoulder. He must proceed as far from the roadway edge as practicable.

Subsection (3) requires the pedestrian to walk as closely as practicable to the outside edge of the roadway in the event there is neither sidewalk nor shoulder. He must proceed on the left side if the roadway is two-way.

Subsection (4) classifies a violation of subsection (1), (2) or (3).

B. Derivation

This section is based on subsections (a), (b) and (c) of UVC s 11-506 (Revised 1971).

C. Relationship to Existing Law

Under ORS 483.220, which would be repealed, pedestrians are required to use the left side of highways outside of incorporated cities. There are no Oregon statutes providing rules analogous to those of subsections (a) and (b) of UVC s 11-506 requiring use of sidewalk or shoulder, or the outside edge of the roadway when there is no sidewalk or shoulder as is provided in subsection (c) of UVC s 11-506. These UVC rules are the subject of subsections (1), (2) and (3) of this draft section. ORS 483.220 has been interpreted to give a driver the right to use the entire traversable right-hand side of the highway including the shoulder. A person walking must use the left side and, if on the right-hand shoulder, is on the wrong side. Zahara v. Brandli, 162 Or 666, 94 P2d 718 (1939). A pedestrian on the left side of a highway under ORS 483.220 was not required to be on the shoulder as opposed to the paved traveled part. Kellye v. Greyhound Lines, Inc., 249 Or 14, 436 P2d 727 (1968). The holdings of these cases would no longer be valid with enactment of this draft section.

"Sidewalk" and "roadway" will be defined in the Article on definitions. "Roadway" will be defined as it is defined in the Uniform Vehicle Code to exclude the shoulder. This definition conflicts with the definition of existing Oregon law, ORS 483.020 (4), as interpreted by the Attorney General Opinion, 35 Atty Gen Op 833 (1971), to include the shoulder. In this draft Article "roadway" is the term which is the measuring standard for determining where a pedestrian is to be when walking along a highway.

The additional rule of pedestrian use of sidewalk of UVC s 11-505, requiring pedestrians to move on the right half of the sidewalk, is stated in ORS 483.216. It was considered of little value and application in Oregon. ORS 483.216 would be repealed.

Section 8. (Pedestrian must yield right of way.) (1) Except as otherwise provided in this chapter, a pedestrian upon a roadway shall yield the right of way to all vehicles upon the roadway.

(2) A pedestrian who fails to yield the right of way upon a roadway to all vehicles under subsection (1) of this section commits

a _____.

COMMENTARY

A. Summary

Subsection (1) provides that a pedestrian on a roadway must yield the right of way to all vehicles except where provided otherwise in the chapter.

Subsection (2) classifies a violation of subsection (1).

B. Derivation

This section is based on subsection (d) of UVC s 11-506 (New 1971).

C. Relationship to Existing Law

There is no provision in the Oregon traffic code analogous to this rule. It would delimit the pedestrian's right to the right of way to the provisions specifically giving this right.

Section 9. (Pedestrians soliciting rides or business.) (1) A person commits the offense of unlawful hitchhiking if he stands in a roadway for the purpose of soliciting a ride.

(2) A person commits the offense of unlawful solicitation of employment, business or contributions from vehicle occupants if he stands on a highway to solicit employment or business or contributions from persons in a vehicle.

(3) A person commits the offense of unlawful solicitation of guarding a vehicle if he stands on or near a highway for the purpose of soliciting the watching or guarding of a vehicle while parked or about to be parked on a highway.

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

COMMENTARY

A. Summary

Subsection (1) prohibits soliciting a ride by a person standing in a roadway.

Subsection (2) prohibits soliciting employment, business or contributions from vehicle occupants by a person standing on a highway.

Subsection (3) prohibits soliciting the watching or guarding of a vehicle while parked or about to be parked on a highway by a person standing on or near a highway.

Subsection (4) classifies the offenses defined in subsection (1), (2) or (3).

B. Derivation

This section is based on UVC s 11-507.

C. Relationship to Existing Law

Under the rule of ORS 483.218, which relates to hitchhiking, as does subsection (1) of this draft section, soliciting a ride from a private vehicle by a person standing in a roadway is prohibited. "Roadway" is defined in subsection (4), ORS 483.020, as follows:

"Roadway" means that portion of a street or highway improved, designed or ordinarily used for vehicular travel.

"Roadway" is interpreted to be that portion of a street or highway on which vehicles travel including the shoulder used for temporary or emergency travel. 35 Atty Gen Op 833 (1971). This opinion, in addition to defining "roadway" to include the highway shoulder, concludes that ORS 483.218 prohibits hitchhiking by persons standing in the regularly traveled traffic lanes and on the paved or graveled shoulder, but "does not prohibit hitchhiking while standing off the shoulder, or on a shoulder which, because of its slope, different level, softness or other characteristics, is not designed for and cannot conveniently be used by vehicles."

The UVC definition of "roadway" excludes the shoulder. It will be the definition stated in the Article on general definitions. Its use in this draft section, defined to exclude the shoulder, is a major change from the existing rule.

According to Traffic Laws Annotated, 1972, standing in a roadway to solicit a ride is prohibited by the laws of 39 states and the District of Columbia. Seven states prohibit hitchhiking by persons on the highway.

There are no provisions in the Oregon traffic code comparable to subsections (2) and (3) of this draft section. Both subsections prohibit a commercial activity by a person on the highway rather than on the roadway as in subsection (1). Parking a vehicle on a right of way of a state highway for the purpose of advertising or selling merchandise is prohibited by ORS 483.347. That section is considered in the Article on Parking and Standing.

Section 10. (Driving through safety zone prohibited.) ORS

483.334 is amended to read:

483.334. [The] A driver [of a vehicle] shall not at any time drive through or [over] within a safety zone.

COMMENTARY

A driver will be defined in the Article on general definitions. Use of the term, "driver," makes redundant the repetition of "driver of a vehicle" as is done in the existing Oregon code.

"Safety zone" is defined in ORS 483.020, subsection (5), in the same terms as are used in UVC s 1-159:

"Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

The same definition will be retained in the revised code.

The amendment of ORS 483.334 is not substantive but merely rephrases the rule for clarity and consistency.

Section 11. (Pedestrians' right of way on sidewalks.) (1) A driver commits the offense of failure to yield the right of way to a pedestrian if he does not yield the right of way to any pedestrian on a sidewalk.

(2) A driver failing to yield the right of way to a pedestrian on a sidewalk commits a _____.

COMMENTARY

A. Summary

Subsection (1) provides that a driver shall yield the right of way to pedestrians on a sidewalk.

Subsection (2) classifies the violation of subsection (1).

B. Derivation

This section is based on UVC s 11-509 (Revised 1971).

C. Relationship to Existing Law

There is no comparable provision in existing Oregon law. Under ORS 483.222 a driver in a business or residence district emerging from an alley or driveway or building must stop before driving onto a sidewalk. This section will be amended to conform to the analogous section of the UVC in its most current revision and will be located in the Article on Special Stops.

With no provision in existing law similar to this draft section, there is no superior right of way between the driver who has stopped pursuant to ORS 483.222 and the pedestrian on the sidewalk. Leite v. Sambo's Restaurants, Inc., et al, 96 Adv Sh 841, ____ Or ____, 506 P2d 176 (1973).

"Sidewalk" is defined in subsection (1) of ORS 483.024 and in the UVC in almost the same words. In Oregon law it is for use of pedestrians and in UVC by pedestrians. It will be defined in the Article on general definitions. The Leite case held that sidewalks are part of the street although intended for use by pedestrians.

This draft section applies equally to vehicles emerging from or entering an alley, private road or driveway.

Section 12. (Pedestrians yield to emergency vehicle or ambulance.)

(1) Upon the approach of an emergency vehicle or ambulance using a visual signal or an audible signal or both according to requirements of sections ____ and ____ of this chapter, every pedestrian shall yield the right of way to the emergency vehicle or ambulance.

(2) This section does not relieve the driver of an emergency vehicle or ambulance from the duty to:

(a) Drive with due regard for the safety of all persons using the highway; and

(b) Exercise due care to avoid colliding with any pedestrian.

(3) A pedestrian who fails to yield the right of way to an emergency vehicle or ambulance commits a _____.

COMMENTARY

A. Summary

Subsection (1) provides that a pedestrian must yield the right of way to an emergency vehicle or ambulance which is using the visual or audible signals required under the sections of the Article on General Provisions which define emergency vehicles and ambulances and state when emergency vehicles and ambulances may disregard specified rules of the road on the way to an emergency.

Subsection (2) provides that the driver of an emergency vehicle or ambulance is not relieved of his duty to drive with due care.

Subsection (3) classifies the offense.

B. Derivation

This section is based on UVC s 11-510.

C. Relationship to Existing Law

There is no comparable provision in the Oregon traffic code. According to Traffic Laws Annotated, 1972, only three states have provisions comparable to this section.

Section 13. ("Blind person," "guide dog," "white cane," defined.)

As used in this section:

- (1) "Blind person" means a person who is totally or partially blind.
- (2) "Guide dog" means a dog which is wearing a guide dog harness and is trained to lead or guide a blind person.
- (3) "White cane" means a cane or walking stick which is white in color or white with a red tip.

COMMENTARY

A. Summary

This section states the definitions now found in subsection (1) of ORS 483.214.

B. Derivation

There are no comparable definitions in the Uniform Vehicle Code.

C. Relationship to Existing Law

The provisions of ORS 483.214 include the definitions of this draft section, the rules requiring drivers to stop and yield to blind persons, the rule that vehicular traffic must yield to a blind pedestrian in the roadway notwithstanding the provisions regulating traffic flow where there are traffic control signals, the rule prohibiting use of white cane by sighted persons, and the rule that none of the foregoing provisions deprive a blind person without a cane or guide dog of the rights of all pedestrians. These rules are restated for consistency of style with the other sections of the draft Article, and are separated into five sections for greater facility in indexing and reference. The definitions are identical to those of subsection (1), ORS 483.214 except the term "dog guide" is amended to "guide dog." This term is recognized nationally to describe a dog trained to lead a blind person.

ORS 483.214 would be repealed.

Section 14. (Use of white cane by blind person.) (1) A blind person may carry and use a white cane on the highways and other public places of this state for the purposes of identification and protection.

(2) A person who is not a blind person shall not use or carry a white cane on the highways and other public places of this state.

(3) A person who carries a white cane in violation of subsection (2) of this section commits a _____.

COMMENTARY

A. Summary

A blind person may use a white cane on the highways and other public places and a sighted person may not.

B. Derivation

This section states the rules of subsection (3) of ORS 483.214. The UVC has no comparable provision.

C. Relationship to Existing Law

This section restates ORS 483.214 (3) for consistency of style.

Section 15. (Duty of driver to yield to blind pedestrian.) (1)

A driver approaching a blind pedestrian carrying a white cane in a raised or extended position or accompanied by a guide dog, who is crossing or about to cross a roadway, shall immediately stop and yield the right of way to the blind pedestrian. He shall remain stationary until the blind pedestrian has vacated the roadway.

(2) A driver who fails to stop and yield to a blind pedestrian under subsection (1) of this section commits a _____.

COMMENTARY

A. Summary

Subsection (1) provides a driver must stop, yield the right of way, and remain stationary when approaching a blind pedestrian with white cane or guide dog crossing or about to cross a roadway. He shall remain stationary until the blind pedestrian is out of the roadway.

Subsection (2) classifies the offense.

B. Derivation

This section is a restatement of subsection (2) of ORS 483.214 regarding duty to stop for blind pedestrians about to cross a highway or in a roadway.

C. Relationship to Existing Law

Subsection (2) of ORS 483.214 requires a driver approaching a blind pedestrian to stop, with no language setting out where this blind pedestrian must be in relation to the approaching driver. It also requires a driver to yield and stop when a blind pedestrian is in the roadway where traffic is directed by traffic control signals, regardless of the usual rules for vehicular traffic direction by traffic control signals.

This draft section limits the duty of the driver to stop and take precautions to the situation where the pedestrian is crossing or about to cross a roadway, and broadens the right of way of the pedestrian in the roadway to include both roadways where traffic is directed by a signal and where there is no traffic control signal. This

broadening is done by removing from the right of way of the blind pedestrian crossing or about to cross the roadway the condition that he be in a roadway where there are traffic control signals. The additional rule of subsection (2) of ORS 483.214 that the traffic rules related to traffic control signals do not apply when a blind pedestrian is in the roadway, is stated in section 16 of this draft Article.

Under the UVC provision added to the Code in 1971 which is comparable to ORS 483.214, a driver must yield the right of way to a blind pedestrian carrying a clearly visible white cane or accompanied by a guide dog. The rule of subsection (1) of this draft section is similar to the UVC provision but goes further by requiring the driver to stop. The requirement of ORS 483.214 to take precautions to prevent accident or injury are not included in this draft section as they are implied in the duty to stop and yield the right of way.

Section 16. (Blind pedestrian in roadway with traffic control signals.) The provisions of sections ____ and ____ of this chapter relating to the regulation of vehicular traffic by traffic control signals shall not apply when a blind pedestrian has entered a roadway.

COMMENTARY

A. Summary

The rules governing vehicle traffic direction by traffic control signals do not apply when a blind person has entered a roadway.

B. Derivation

This section is a restatement of the rule of subsection (2) of ORS 483.214 that traffic control signals are not to apply when a blind pedestrian is in the roadway.

C. Relationship to Existing Law

See commentary to section 15.

Section 17. (Rights of blind pedestrian without white cane or guide dog.) A blind pedestrian who is not carrying a white cane or accompanied by a guide dog has all the rights and privileges granted by law to all pedestrians.

COMMENTARY

This section restates the rule of subsection (4),
ORS 483.214.

Section 18. (Unlawful use of bridge by pedestrian.) (1) A pedestrian commits the offense of unlawful use of a bridge if he enters or remains upon a bridge or approach to a bridge beyond the bridge signal, gate or barrier after a bridge operation signal has been given.

(2) Unlawful use of a bridge by a pedestrian is a _____.

COMMENTARY

A. Summary

A pedestrian is prohibited from entering or remaining upon a bridge or its approach beyond the signal, gate or barrier after a signal is given.

Subsection (2) classifies the offense.

B. Derivation

This section is based on subsection (a) of UVC s 11-513. This section was added to the code in the 1971 revision.

C. Relationship to Existing Law

This rule appeared in the Model Traffic Ordinance from 1952 to 1968 when it was deleted from the ordinance and added to the UVC. There is no comparable provision in the Oregon traffic laws.

Section 19. (Pedestrian crossing closed bridge or railroad grade crossing barrier prohibited.) (1) A pedestrian commits the offense of unlawful crossing of bridge or railroad grade crossing barrier if he passes through, around, over or under any crossing gate or barrier at a bridge or railroad grade crossing while the gate or barrier is closed or being opened or closed.

(2) Passing a closed bridge or railroad grade crossing gate or barrier is a _____.

COMMENTARY

A. Summary

This section prohibits a pedestrian from moving past a closed or closing gate or barrier at a bridge or railroad grade crossing.

B. Derivation

This section is based on UVC s 11-513 (b).

C. Relationship to Existing Law

See commentary, section 18.

TEXT OF UNIFORM VEHICLE CODE

§ 11-501—Pedestrian obedience to traffic-control devices and traffic regulations

(a) A pedestrian shall obey the instructions of any official traffic-control device specifically applicable to him, unless otherwise directed by a police officer. (NEW, 1968.)

(b) Pedestrians shall be subject to traffic and pedestrian-control signals as provided in §§ 11-202 and 11-203. (REVISED, 1968.)

(c) At all other places, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter.

§ 11-502—Pedestrians' right of way in crosswalks

(a) When traffic control signals are not in place or not in operation the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard. (Revised 1971.)

(c) Paragraph (a) shall not apply under the conditions stated in § 11-503(b).

(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

§ 11-503—Crossing at other than crosswalks

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements. (NEW, 1962.)

TEXT OF UNIFORM VEHICLE CODE (Cont'd.)

§ 11-504—Drivers to exercise due care

Notwithstanding other provisions of this chapter or the provisions of any local ordinance, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused, incapacitated or intoxicated person. (REVISED, 1971.)

§ 11-505—Pedestrians to use right half of crosswalks

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

§ 11-506—Pedestrians on highways

(a) Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(b) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.

(c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway 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.

(d) Except as otherwise provided in this chapter, any pedestrian upon a roadway shall yield the right of way to all vehicles upon the roadway. (SECTION REVISED; SUBSECTION (d) NEW, 1971.)

§ 11-507—Pedestrians soliciting rides or business

(a) No person shall stand in a roadway for the purpose of soliciting a ride.

(b) No person shall stand on a highway for the purpose of soliciting employment, business, or contributions from the occupant of any vehicle.

(c) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway. (SECTION REVISED, 1968.)

§ 11-508—Driving through safety zone prohibited

No vehicle shall at any time be driven through or within a safety zone. (REPOSITIONED, 1962.)

TEXT OF UNIFORM VEHICLE CODE (Cont'd.)

§ 11-509—Pedestrians' right of way on sidewalks

The driver of a vehicle shall yield the right of way to any pedestrian on a sidewalk. (REVISED, 1971.)

§ 11-510—Pedestrians yield to authorized emergency vehicles

(a) Upon the immediate approach of an authorized emergency vehicle 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, or of a police vehicle properly and lawfully making use of an audible signal only, every pedestrian shall yield the right of way to the authorized emergency vehicle.

(b) This section shall 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 nor from the duty to exercise due care to avoid colliding with any pedestrian. (NEW SECTION, 1971.)

§ 11-511—Blind pedestrian right of way

The driver of a vehicle shall yield the right of way to any blind pedestrian carrying a clearly visible white cane or accompanied by a guide dog. (NEW, 1971.)

§ 11-512—Pedestrians under influence of alcohol or drugs

A pedestrian who is under the influence of alcohol or any drug to a degree which renders himself a hazard shall not walk or be upon a highway except on a sidewalk. (NEW, 1971.)

§ 11-513—Bridge and railroad signals

(a) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate, or barrier after a bridge operation signal indication has been given.

(b) No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed. (NEW SECTION, 1971.)