

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. 2; August 1974

Tentative Draft

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Subcommittee on Revision

NOTE: If you attend any committee meeting regarding this draft, please bring your copy of the draft with you.

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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~~ ^{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~~ ^{SECTION 4} of that 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~~ ^{sections 2 and 4} of the General Provisions draft provide for operation of vehicles and persons riding and driving animals.

The term, "pedestrian," is defined in the Article on General Provisions. 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. A pedestrian by definition includes persons in wheelchairs, on crutches, in perambulators, on rollerskates, and other devices propelled by human power, exclusive of bicycles.

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 marked or unmarked 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:

(a) If the pedestrian is on the half of the roadway on and along which the driver is proceeding; or

(b) If the pedestrian is approaching the half of the roadway along which the driver is approaching so closely as to be in a position of danger.

(2) A pedestrian crossing a roadway within a crosswalk where there are no traffic control signals in place or in operation who is closely approaching or has reached the center of the roadway is in a position of danger under the provisions of subsection (1) of this section.

(3) A driver is not required to stop and yield the right of way to a pedestrian under the provisions of subsection (1) of this section:

(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.

(4) 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 states the rules for pedestrian-driver right of way at crosswalks uncontrolled by traffic control signals. A crosswalk is defined in the Article on General Provisions.

Subsection (1) simply restates the rule of subsection (1) of ORS 483.210, whereby the pedestrian has the right of way in the crosswalk over the driver approaching in the half of the roadway where the pedestrian is, and over the driver in the other half of the roadway when the pedestrian has approached that half so closely as to be in danger.

Subsection (2) provides that the pedestrian who is closely approaching or has reached the center of the roadway while crossing in the crosswalk is in a position of danger under subsection (1).

Subsection (3) provides that the driver is not required to stop and yield the right of way to the pedestrian when there is a safety island and the driver is on the far side of the safety island from the pedestrian or there is a tunnel or overhead crossing near.

Subsection (4) provides the classification of the violation of subsection (1).

B. Derivation

Subsection (1) of this section restates the rule of the initial provision of subsection (1) of ORS 483.210. The rules of the draft section are the same as subsections (a) and (c) of UVC s 11-502.

C. Relationship to Existing Law

This draft section makes no change in the pedestrian-driver right of way rules of the present Oregon traffic code except to expand or make more specific the duty of the driver to yield to a pedestrian in the far half of the roadway who has crossed half or almost half of the roadway. Under subsection (2), the pedestrian is in a position of danger and has the right of way.

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 a crosswalk. The analogous UVC

section requires that the driver yield and that he stop only if need be.

The provision of subsection (1), ORS 483.210, that the pedestrian crossing a roadway shall not suddenly leave a curb or other place of safety is stated in draft section 2 of this Article.

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 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 _____.

COMMENTARY

A. Summary

This section places an affirmative duty on the pedestrian to use a pedestrian tunnel or overhead crossing which is located at the place where the pedestrian is crossing the roadway. Subsection (2) of the draft section classifies a violation of the duty.

B. Derivation

This draft section may be compared to a traffic regulation of the District of Columbia, D.C. Traffic and Motor Vehicle Regs., Pt 1, s 53 (b) (1966), which provides that no pedestrian shall cross a specified street between certain streets "other than by proceeding over designated overpasses or through designated underpasses."

C. Relationship to Existing Law

This draft section requires a pedestrian to use a pedestrian overpass or tunnel that serves the place where the pedestrian is crossing the roadway. The pedestrian, under subsection (2) of ORS 483.210, is required to yield the right of way to vehicles, but after so doing may cross the roadway and avoid the overpass or tunnel. The rule of subsection (b) of UVC s 11-503 is identical to that of subsection (2), ORS 483.210. The rule of this draft section is new and not comparable to that of any other state except as noted under paragraph B above.

Section 4. (Pedestrian leaving curb.) (1) A pedestrian shall not suddenly leave a curb or other place of safety and move into the path of a vehicle which is so close as to constitute an immediate hazard.

(2) A pedestrian who moves 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 enlarging on the present statutory phrase of subsection (1), ORS 483.210, which determines the right of way of the pedestrian traversing a crosswalk in relation to his position of danger, so as to include the center of the roadway as a position of danger, the holding of Plasker v. Fazio would be modified in respect to the center line area being a place of safety.

Under subsection (1), ORS 483.210, the pedestrian's duty not to leave the curb or other place of safety is stated with reference to the pedestrian who is proceeding to cross or crossing the roadway. This draft section and the analogous UVC rule omit this qualifying phrase.

Section 5. (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 of any other vehicle 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."

The intent of this provision is to establish a duty on the part of the drivers of all vehicles approaching from the rear in all lanes of the roadway not to overtake or pass a vehicle stopped to permit a pedestrian to cross.

Section 6. (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 at any point other than within a marked crosswalk or an unmarked crosswalk at an intersection.

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

COMMENTARY

A. Summary

Subsection (1) provides that a pedestrian must yield the right of way to a vehicle when the pedestrian is crossing a roadway not at a crosswalk.

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

B. Derivation

The rule of this section is stated in subsection (4) of ORS 483.210 and in subsection (a) of UVC s 11-503.

C. Relationship to Existing Law

The rule of this section is a restatement of subsection (4), ORS 483.210. It 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.

The rule of subsection (b), UVC s 11-503, and subsection (2), ORS 483.210, giving the driver the right of way over the pedestrian at those portions of roadways served by pedestrian bridges and tunnels is not included in this draft section. It is duplicatory and redundant

in light of the provision of draft ~~section~~ 3 requiring pedestrians to use overhead bridges and tunnels when the area that the pedestrian is intending to cross is served by such a structure designed for pedestrian use.

Section 7. (Exercise of due care.) The provisions of section 2, 3, 4, 5 or 6 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 states 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 *ch* 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 ^{ch} 340 provided that section 1, which was

compiled as, and in the existing code 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 that portion 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 8. (Pedestrian's use of sidewalk, shoulder and roadway edge.) (1) 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.

(2) A pedestrian commits the offense of failure to use highway shoulder if he does not proceed along and upon the shoulder improved for pedestrian use and as far as practicable from the roadway edge on a highway which has no paved sidewalk and which does have an adjacent shoulder area on one or both sides improved and intended for use by pedestrian traffic.

(3) Except in the case of the divided highway, a pedestrian commits the offense of failure to use left highway shoulder if he does not proceed along and upon the left shoulder and as far as practicable from the roadway edge on a two-way highway which has no paved sidewalk and which does have an adjacent shoulder area, paved or unpaved, intended for use by disabled vehicles and for emergency parking.

(4) A pedestrian shall proceed along the right highway shoulder, as far as practicable from the roadway edge, on a divided highway which has no sidewalk and does have a shoulder area intended for use by disabled vehicles and for emergency parking.

(5) A pedestrian commits the offense of unlawful use of roadway if he fails to proceed along and upon a highway which has neither sidewalk nor shoulder available, as near as practicable to an outside edge of the roadway, and, if the roadway is a two-way roadway, only on the left side of it.

(6) On a freeway on which pedestrian traffic is prohibited, the driver and 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.

(7) A pedestrian who proceeds on a highway in violation of subsection (1), (2), (3), (4), (5) or (6) of this section commits a _____.

COMMENTARY

A. Summary

Subsection (1) provides that a pedestrian must proceed on a sidewalk when there is a sidewalk.

Subsection (2) provides that a pedestrian must proceed on the highway shoulder improved and intended for pedestrian use when there is no sidewalk.

Subsection (3) provides that except in the case of the divided highway, a pedestrian must proceed on the left shoulder of a two-way highway that has neither sidewalk nor shoulder improved for disabled vehicle and emergency parking use.

Subsection (4) provides that a pedestrian must use the right shoulder on a divided highway which has no sidewalk and the shoulder is intended for disabled vehicle and emergency parking use.

Subsection (5) provides that a pedestrian must proceed along the outside edge of the roadway of a highway which has no sidewalk or shoulder and, if the roadway is two-way, on the left side of it.

Subsection (6) provides that on a freeway where pedestrian traffic is prohibited, the driver and passengers of a disabled vehicle may proceed to the nearest exit on the side of the freeway where the vehicle is disabled, where assistance can be obtained.

Subsection (7) classifies a violation of the other subsections.

B. Derivation

Subsections (1), (2) and (5) are based on subsections (a) and (c) of UVC s 11-506. Subsection (6) is based on Cal Vehicle Code s 21960 as amended by ch 498, Stats 1972.

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.

The rule of UVC s 11-506 (a) is stated in subsection (1) of this draft section. The rule of UVC s 11-506 (b) is modified so as to distinguish between "shoulder improved and intended for pedestrian use" and "shoulder intended for disabled parking." If the shoulder is intended for pedestrian use, under subsection (2) of the draft section the pedestrian must use it, regardless of which side of the highway has the improved shoulder. If only one side is improved for pedestrian use, it is intended that pedestrians use it. Under subsection (3), if the highway shoulder is not intended for pedestrian use, the pedestrian must proceed on the left shoulder. This rule is at variance with that of UVC s 11-506 (b), which allows use of the shoulder on either side, with no distinction between shoulder intended for pedestrians and that intended for a vehicle emergency. The rule of UVC s 11-506 (c) is the same as that of subsection (5) of the draft section.

The rules of this draft section represent a major change from the rule of ORS 483.220 which 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," "roadway" and "shoulder" are defined in the Article on General Provisions. In this draft section, the terms "roadway" and "shoulder," with a distinction drawn between "shoulder improved for pedestrians" and "shoulder for disabled vehicles," are the terms which by their definitions determine what part of the highway right of way a pedestrian must use and not use.

The rule of subsection (d), UVC s 11-506, is stated in the draft section following this section.

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 9. (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 10. (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 Provisions. 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 Stopping, Standing and Parking.

Section 11. (Driving through safety zone prohibited.) ORS

483.334 is amended to read:

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

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

COMMENTARY

A driver is defined in the Article on General Provisions. 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 12. (Pedestrian's 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 Required.

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 Provisions. 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 13. (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 9 and 10 of the Article on General Provisions, 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 sections 9 and 10 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. SS

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 14. ("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~~ ^{UVC} 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 15. (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 16. (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 not move his vehicle 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 not move his vehicle when approaching a blind pedestrian with white cane or guide dog crossing or about to cross a roadway. He shall not move his vehicle 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 in the situation where the blind pedestrian is crossing or about to cross a roadway, and extends 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

extension 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 17. (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 _____.

COMMENTARY

This section is a verbatim restatement of the second sentence of subsection (2), ORS 483.214. Only the statutory references are changed to the section numbers of the draft that replace the cited statutes. The rule of the section is that notwithstanding the usual rules of vehicular traffic at locations where vehicular traffic is regulated by traffic control signs, if a blind pedestrian enters a roadway, all drivers must stop until he has vacated the roadway.

Section 18. (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 19. (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 20. (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 19.