

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 I. RULES OF THE ROAD

ARTICLE 7. SPECIAL STOPS REQUIRED

~~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.

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 ____ . SPECIAL STOPS REQUIRED

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Section 1. (Stopping at railroad crossings upon signal of approaching train.) (1) A driver approaching a railroad grade crossing commits the offense of failure to stop at a railroad grade crossing if he does not stop his vehicle at a clearly marked stop line on the near side of the crossing or, if none, not less than 10 feet nor more than 50 feet from the nearest rail of the crossing when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train; or

(b) A crossing gate is lowered; or

(c) A flagman gives a signal of the approach or passage of a railroad train; or

(d) An approaching railroad train gives an audible signal and because of its speed or nearness to the crossing is an immediate hazard; or

(e) An approaching train is clearly visible and because of its nearness to the crossing is an immediate hazard.

(2) Failure to stop at a railroad grade crossing is a _____.

(3) A driver who has stopped for the passing of a train at a railroad grade crossing in accordance with the provisions of subsection (1) of this section shall not proceed across the railroad tracks until he can do so safely:

(4) A driver who proceeds in violation of subsection (3) commits a _____.

(5) A driver commits the offense of unlawful crossing of a railroad crossing gate or barrier if he drives any vehicle through, around or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.

(6) Unlawful crossing of a railroad crossing gate is a _____.

COMMENTARY

A. Summary

Subsection (1) provides that a driver must stop at a railroad grade crossing at a clearly marked stop line or, if none, not less than 10 nor more than 50 feet from the nearest rail when he is made aware of an approaching train either by the warning of a signal device or lowering of a crossing gate or flagman signal, audible signal, or when the approaching train is clearly visible and close enough to be an immediate hazard.

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

Subsection (3) provides that the driver who has stopped for the passing train shall not proceed across the tracks until it is safe.

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

Subsection (5) prohibits a driver from driving through, around or under a crossing gate or barrier.

Subsection (6) classifies a violation of subsection (5).

B. Derivation

This section is based on UVC s 11-701.

C. Relationship to Existing Law

This draft section would replace ORS 483.224 which is verbatim the same as the analogous 1930 UVC section. ORS 483.224 would be repealed. This section states in specific

terms the several means by which a driver is made aware of an approaching train and requires the driver to stop at a specific marked stop line on the near side of the crossing or, if none, at a specific distance from the nearest rail. ORS 483.224 simply requires the driver to stop before traversing the crossing if he is approaching a railroad grade crossing or interurban railway grade crossing and a signal gives warning of an approaching train. There is no exact delineation of stopping place, no rule stating when the driver may proceed again, and no prohibition against going through, around or under a closed gate.

ORS 483.224 applies both to railroad and interurban railway grade crossings in that it uses both terms. This draft provision, although not using the term "interurban railway," likewise is applicable to both in that the definition of "railroad" would include an interurban railway.

Section 2. (Certain vehicles must stop at all railroad grade crossings.) (1) As used in this section:

(a) "Passenger transport vehicle" means a school bus, worker transport bus, a bus operated for transporting children to and from church or an activity or function authorized by a church, or any vehicle used in the transportation of persons for hire by a non-profit entity as provided in subsection (11) of ORS 767.035.

(b) "School bus" means a vehicle as defined in subsection (4) of ORS 485.010.

(c) "Worker transport bus" means a vehicle as defined in subsection (5) of ORS 485.010.

(2) Except as provided in section 3 of this Article, the driver of a motor vehicle described in subsection (2) of this section before crossing at grade any railroad tracks shall:

(a) Stop the vehicle at a clearly marked stop line or, if none, not less than 10 nor more than 50 feet from the nearest rail of the railroad and, while stopped, listen and look in both directions along the tracks for approaching trains and signals indicating approaching train; and

(b) Proceed across the tracks after stopping only when he can do so safely in the gear of the motor vehicle that does not require manually changing gears while proceeding, and without manually changing gears.

(3) This section applies to:

(a) A passenger transport vehicle;

(b) A motor bus designated for, or carrying passengers for hire;

and

(c) A motor truck carrying explosive substances or inflammable liquids as a cargo or part of a cargo.

(4) A driver of a motor vehicle described in subsection (3) of this section who fails to stop, remain stopped, or proceed after stopping at railroad tracks as required by subsection (2) of this section commits a _____.

COMMENTARY

A. Summary

Subsection (1) defines the term "passenger transport vehicle" as including a school bus, worker transport bus, bus operated for transporting children on church functions or activities, and a vehicle used to transport persons for hire by a non-profit entity. It defines "school bus" and "worker transport bus" in terms of the existing ORS ch 485 definitions.

Subsection (2) provides that a driver of a vehicle described in subsection (3) must stop at a marked stop line or, if none, from 10 to 50 feet from the nearest rail, look carefully and proceed thereafter, when it is safe to do so, without changing gears.

Subsection (3) specifies the types of vehicles which must stop at railroad grade crossings.

Subsection (4) classifies a violation of the section.

B. Derivation

This section is based on subsection (a), UVC s 11-703. It also retains portions of subsection (1), ORS 483.228.

C. Relationship to Existing Law

ORS 483.228 and UVC s 11-703 provide that drivers of certain types of vehicles must stop before traversing a railroad grade crossing. The UVC section specifies the types of vehicles by providing that authorization be given to the appropriate state agency to adopt regulations in conformance with the most recent U. S. Department of Transportation regulations and these list certain vehicle types. This draft section retains the approach of ORS 483.228 in listing each type of motor vehicle required to stop. It augments

the list by adding busses used for transporting children on church functions and activities and those vehicles of non-profit corporations whose operation conforms to the provisions of subsection (11) of ORS 767.035.

The exceptions to the requirement of stopping which are contained in subsection (2), ORS 483.228, are stated in the next draft section.

The UVC requirements that the driver traverse the crossing in the gear which does not require shifting, and not manually shift during the crossing are not contained in ORS 483.228.

The provisions of ORS 483.228 and UVC s 11-703 that the driver stop not less than 10 feet or, in the case of the UVC, 15 feet, nor more than 50 feet from the railing are changed to require stopping at a clearly marked line or, if none, not less than 10 feet nor more than 50 feet from the rail.

Section 3. (Railroad grade crossings exempt from special stopping rule.) (1) The special stopping requirements of section 2 of this Article do not apply:

(a) At a crossing of a street or highway and street railway tracks;

(b) To interurban electric tracks where official traffic control signals are in operation and give indication to approaching vehicular traffic to proceed;

(c) To any railway tracks upon which operation has been abandoned and for which the Public Utility Commissioner has plainly marked that no stop need be made;

(d) To industry track crossings across which train operations are required by law to be conducted under flag protection;

(e) To industry track crossings within districts in which the maximum speed of vehicles is 20 miles per hour;

(f) To any crossing where an officer, under ORS 483.048, directs traffic to proceed, or where an operating official traffic control signal indicates that other traffic may proceed; or

(g) To any crossing protected by crossing gates.

(2) Except when a train is approaching, a driver of a motor bus carrying passengers for hire is not required to stop at crossings where the Public Utility Commissioner has determined and plainly marked that no stop need be made.

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

COMMENTARY

A. Summary

Subsection (1) states the exceptions to the rule of draft ~~section~~ 2 that certain vehicles must stop at all railroad grade crossings.

Subsection (2) provides that except when a train is approaching, a driver of a motor bus carrying passengers for hire is not required to stop at crossings which have been plainly marked by the Public Utility Commissioner as not requiring a stop.

Subsection (3) classifies a violation of the section.

B. Derivation

This section is based on subsections (2) and (3) of ORS 483.228 and subsection (b) of UVC s 11-703.

C. Relationship to Existing Law

The exceptions to the requirement of stopping by certain types of vehicles enumerated in draft ~~section~~ 2 are stated as listed in subsection (2), ORS 483.228, with the addition of railroad crossings protected by crossing gates, from paragraph (3), subsection (b), UVC s 11-703. The exceptions of the paragraphs numbered 1 and 2 of subsection (b), UVC s 11-703, are stated in paragraph (f), subsection (1) of this draft section, in the same wording as is used in existing law, paragraph (f), subsection (2), ORS 483.228.

By the provisions of ORS 483.040 as amended by ~~section~~ 3, ch 615, Oregon Laws 1973, the Public Utility Commissioner is vested with exclusive jurisdiction over the installation of protective devices at railroad-highway grade crossings. References of paragraph (c), subsection (2) and subsection (3) of ORS 483.228, to "commission"- "~~department~~" are changed to "Public Utility Commissioner" in conformance with the provisions of ORS ch 615.

Section 4. (Moving heavy equipment at railroad grade crossings.)

(1) A person who operates or moves any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of 10 miles per hour or less or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing shall:

(a) Give notice of an intended crossing to a responsible officer of the railroad in time for protection to be given before crossing the tracks; and

(b) Stop before making the crossing at a clearly marked line or, if none, not less than 10 feet nor more than 50 feet from the nearest rail and, while so stopped, shall look and listen in both directions along the tracks for approaching trains and shall not proceed unless the crossing can be made safely.

(2) A person who operates or moves a vehicle, equipment or structure as described in subsection (1) across a railroad grade crossing without giving notice or fails to stop before crossing or proceeds over the crossing when it is unsafe commits a _____.

(3) A person who operates or moves any vehicle, equipment or structure as described in subsection (1) over a railroad grade crossing where the railroad has provided a flagman shall obey the direction of the flagman.

(4) A person operating or moving any vehicle, equipment or structure across a railroad grade crossing who fails to obey the direction of a flagman provided by the railroad commits a _____.

COMMENTARY

A. Summary

Subsection (1) provides that an operator of certain types of heavy vehicles or structures having a normal speed of 10 miles per hour or less and a vertical clearance of less than nine inches must give notice of the intended crossing to a responsible railroad official, stop before traversing a railroad grade crossing at a clearly marked line or, if none, then not less than 10 nor more than 50 feet from the crossing, look and listen for approaching trains and not proceed unless the crossing can be made safely.

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

Subsection (3) requires the person operating or moving the vehicle or equipment described in subsection (1) to follow the directions of a flagman when the railroad has provided one.

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

B. Derivation

This section is based on UVC s 11-704.

C. Relationship to Existing Law

This draft section states the provisions of UVC s 11-704 as to normal speed and clearance of the vehicles and equipment which are required by the UVC to stop before crossing at a railroad grade crossing, except that the language of ORS 483.230 requiring notice to be given to a responsible officer of the railway is used instead of the UVC which says notice is to be given to a station agent.

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The stopping distances of ~~sections~~ 1 and 2 of this Article of not less than 10 feet nor more than 50 are used for the instances when there is no clearly marked ^{stop} line on the roadway.

The requirement of subsection (d), UVC s 11-704, that a person shall not cross when there is warning of an approaching train is deleted as redundant because this rule has already been stated in draft ~~section~~ 1 of this Article. ORS 483.230 would be repealed.

Section 5. (Overtaking and passing school bus.) (1) Except as provided in subsection (2) of this section, when a driver meets or overtakes from either direction a school bus or worker transport bus stopped or stopping on a highway and on which flashing red lights are operating, the driver shall stop before reaching the school or worker transport bus and remain standing until the flashing red lights are no longer actuated.

(2) A driver need not stop his vehicle when he meets or overtakes a school or worker transport bus stopped or stopping on the highway and on which flashing red lights are operating:

(a) On a highway with separate roadways when the bus is on a different roadway; or

(b) On a controlled-access highway when the school or worker transport bus is stopped in a loading zone which is part of or adjacent to the highway and ^{pedestrians} pedestrians are prohibited from crossing the roadway.

(3) Failure to stop before reaching a school or worker transport bus is a _____.

COMMENTARY

A. Summary

Subsection (1) provides that a driver meeting a school bus or worker transport bus from either direction which is either stopped or stopping and on which red lights are flashing shall stop before reaching the bus and remain so until the flashing red lights are turned off.

Subsection (2) states two exceptions to the requirement for stopping: on a highway with separate roadways when the bus and the driver meeting the stopped bus are on different roadways; and on a controlled-access highway when the bus is stopped in a loading zone and pedestrian crossing of the roadway is prohibited.

B. Derivation

This section is based on UVC s 11-706.

C. Relationship to Existing Law

Provisions defining and regulating the school bus and worker transport bus are located in ORS chapter 485. The rule of ORS 485.020 requiring a driver to stop when meeting a school bus or worker transport bus stopped on a highway with red lights flashing are in that chapter and applies equally to both types of busses.

This draft section is a direction to the driver of a vehicle meeting a stopped or stopping bus, whether school or worker transport. Those rules of both ORS 485.020 and UVC s 11-706 which state when the driver of the school and worker transport bus is to activate his flashing red lights and when he is forbidden to do so, and those rules on equipment and lettering on busses, are deliberately omitted from this draft section as they will be incorporated in Articles on equipment and in the special chapter on school and worker transport busses.

Unlike both the UVC rule and the rule of ORS 485.020, the draft section provides that a driver must stop when he overtakes or meets a school or worker transport bus which is stopping, as well as stopped, on the highway with its red lights flashing. Present law limits the requirement to the stopped bus.

The draft section does not use the complex language of ORS 485.020 to state a stopping point for the driver meeting the stopped or stopping bus. The more direct, concise UVC statement is used.

The rule of subsection (d), UVC s 11-706, stating an exception to the stopping requirement for the highway having two roadways, and the controlled-access highway where pedestrian crossing is prohibited, is contained in the draft section. The provision of subsection (2), ORS 485.020, of an exception for a highway having two or more lanes for travel in each direction would be deleted.

ORS 485.020 would be repealed.

Burke v. Olson, 206 Or 149, 291 P2d 759 (1956)⁵, interpreted ORS 485.020 to exclude from its purview the school child who crosses a highway for a purpose which is neither to board nor leave a bus. The child so doing may not claim a right to cross the highway with motor vehicles stopped to allow such crossing.

When a driver following a school bus fails to stop as the bus stops, moves into the oncoming lane and collides with another vehicle which has also failed to stop as required by ORS 485.020, neither driver of the colliding vehicles can claim a right arising out of ORS 485.020. Johnson v. Hansen, 237 Or 1, 389 P2d 330, 390 P2d 611 (1964).

When a driver drives his vehicle into the rear end of an automobile stopped in response to a warning light on a stopped school bus, his failure to stop as required by ORS 485.020 (1) is not a violation of a duty owed to the stopped automobile. Coburn v. Miller, 248 Or 47, 432 P2d 314 (1967).

Under ORS 485.020 a driver of a school bus was held not authorized to stop the bus on the public highway as opposed to the shoulder of the highway, and the limitations on the right to leave a vehicle standing on the highway of ORS 483.362, prior to its amendment by ~~chapter~~ 76, Oregon Laws 1971, were held applicable to school busses. A school bus driver stopped on the public highway at an area where the shoulder was sufficient for parking was therefore a violation of ORS 483.362. McLain v. Lafferty, 257 Or 553, 480 P2d 430 (1971).

An administrative regulation authorizing school bus drivers to stop on the highway contrary to the rule of ORS 483.362 (prior to its amendment by ~~chapter~~ 76, Oregon Laws 1971), although issued pursuant to ORS 485.050, was invalid in so far as it conflicted with ORS 483.362. McLain v. Lafferty, supra.

A school district does not have a duty to deliver each child to his respective home in such a manner that no child would be required to cross the street. When a school bus parks in a private parking lot for the discharge of passengers, and a school child so discharged crosses the street and is struck by a vehicle, the school district is not liable for the child's injuries because the bus stopped in the parking lot instead of in the roadway where it would have activated its flashing red lights. Sanderlin v. Central School Dist. 13J, 6 Or App 429, 487 P2d 1399 (1971).

Section 6. (Stopping before driving onto sidewalk from alley, driveway or building.) (1) A driver commits the offense of failure to stop if he does not stop before driving onto a sidewalk or sidewalk area when he emerges from an alley, building, private road or driveway in a business or residence district.

(2). In the event there is no sidewalk or sidewalk area, a driver emerging from an alley, building, private road or driveway, as described in subsection (1) of this section, shall stop at the point nearest the roadway to be entered where the driver has a view of approaching traffic.

(3) Failure to stop on emerging from alley, building, private road or driveway is a _____.

COMMENTARY

A. Summary

This draft section requires a driver emerging from an alley, building, private road or driveway in a business or residence district to stop before driving on the sidewalk or sidewalk area or, if none, where he can see approaching traffic.

B. Derivation

This section is based on UVC s 11-705.

C. Relationship to Existing Law

This draft section restates the rule of UVC s 11-705 in a form and style consistent with that of the revised code. The major change made by the 1968 revision of this UVC section from its 1930 version was the addition of the rule of subsection (2) of this draft section. Under UVC s 11-705, the requirement of the driver emerging from an alley or driveway to stop when there is no sidewalk is stated in terms of the point nearest the street to be entered where he has a view of approaching traffic. The word "roadway" has been substituted for "street" in this draft section. "Street" is defined both in UVC s 1-172 and ORS 483.010 to be synonymous with "highway," and includes the sidewalk areas.

Durkoop v. Mishler, 233 Or 243, 378 P2d 267 (1963), held that ORS 483.222 requires a driver emerging from a driveway to stop and by lookout ascertain whether pedestrians are on the sidewalk before proceeding.

264 Or 498, 506 P2d 176
~~Or~~ Leite v. Sambo's Restaurants, Inc., ~~96 Adv Sh 841~~
~~Or~~ (1973), held that ORS 483.222, the rule of which is the basis of this draft section, simply requires a duty to stop by the motorist and grants no superior right of way of one party or the other, motorist or pedestrian, while crossing a sidewalk. A sidewalk is a part of the street albeit intended for pedestrian use.