

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 8. SPEED RESTRICTIONS

Preliminary Draft No. 1; November 1973

Reporter: Marion Embick

Subcommittee on Revision

OREGON VEHICLE CODE

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PART I. RULES OF THE ROAD

ARTICLE P. SPEED RESTRICTIONS

Preliminary Draft No. 1; November 1973

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Section 1. (Basic speed rule.) (1) A person commits the offense of violating the basic speed rule if he drives a vehicle upon a highway at a speed greater than is reasonable and prudent, having due regard to the traffic, surface and width of the highway, the hazard at intersections, *weather, visibility* and any other conditions then existing.

(2) Violating the basic speed rule is a _____.

COMMENTARY

A. Summary

This provision restates the basic rule as it is found in ORS 483.102, which would be repealed, in a form that makes clear, first, the definition of the offense, and second, its classification for penalty purposes.

B. Derivation

This section is merely a change in the style of the existing law statement of the basic rule.

C. Relationship to Existing Law

The Oregon statement of the basic speed rule covers by implication all the varying conditions, whether roadway type, traffic, weather or any other which are specifically listed in the basic rule stated in UVC s 11-801. Washington, Wyoming, Idaho and Alaska are among the 22 states with a basic speed rule taken from UVC s 11-801.

This basic rule taken together with ORS 483.104 has meant that whenever the question of speed is involved, the ultimate fact at issue is violation of the basic rule, not

whether the vehicle traveled in excess of the speed designated for the area. Rauw v. Huling and Sparks, 199 Or 48, 259 P2d 99 (1953); Lemons v. Holland, 205 Or 163, 284 P2d 1041, 286 P2d 656 (1955); Hess v. Larson, 259 Or 536, 486 P2d 533 (1971).

UVC s 11-801.1 states maximum speed limits. According to the annotation covering UVC s 11-801.1, Traffic Laws Annotated 1972, the code has since 1956 provided what is known as the "absolute speed limit" rule. Thirty-two states and the District of Columbia provide maximum speed limits that are absolute. Nine states provide that driving faster than a speed limit specified in the law is prima facie evidence that the speed is not reasonable and is unlawful.

Oregon is categorized as having generally prima facie speed limits, with absolute limits for trucks and busses, and in the case of posted bridges.

Washington, Alaska, Montana and Wyoming are among the 32 states with absolute limits. California has generally prima facie speed limits, with an absolute maximum of 65 miles per hour.

There are many variations among the states in the speeds set for urban and rural school zone, day and night driving conditions and type of vehicle.

TEXT OF UNIFORM VEHICLE CODE

§ 11-801—Basic rule

No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. (REVISED, 1968.)

§ 11-801.1—Maximum limits

Except when a special hazard exists that requires lower speed for compliance with § 11-801, the limits hereinafter specified or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of such maximum limits. (REVISED, 1968.)

1. Thirty miles per hour in any urban district;
2. Sixty miles per hour in other locations during the daytime;
3. Fifty-five miles per hour in such other locations during the nighttime.

Daytime means from a half hour before sunrise to a half hour after sunset. Nighttime means at any other hour.

The maximum speed limits set forth in this section may be altered as authorized in §§ 11-802 and 11-803. (REVISED, 1956; REPOSITIONED, 1968.)

TEXT FROM TRAFFIC LAWS ANNOTATED

RULES OF THE ROAD

§ 11-801.1

§ 11-801.1 [11-801]—[Basic Rule and] Maximum Limits—

[(b)] Except when a special hazard exists that requires lower speed for compliance with [paragraph (a) of this] § 11-801, the limits *hereinafter* specified [in this section] or established as *hereinafter* authorized shall be maximum lawful speeds, and no person shall drive a vehicle [on a highway] at a speed in excess of such maximum limits.

1. Thirty miles per hour in any urban district;
2. Sixty miles per hour in other locations during the daytime;
3. Fifty-five miles per hour in such other locations during the nighttime.

Daytime means from a half hour before sunrise to a half hour after sunset. Nighttime means at any other hour.

The maximum speed limits set forth in this section may be altered as authorized in §§ 11-802 and 11-803.

UVC § 11-801.1 (Rev. ed. 1968). Although virtually all 1968 changes in the introductory portion of this section involved its transfer from subsection (b) of the 1962 Code § 11-801, the addition of "*hereinafter*" and the deletion of the phrase "in this section" incorporate the special maximum limits for certain vehicles specified in UVC §§ 11-805 and 11-806(a) and (b). The phrase "on a highway" was deleted as unnecessary in view of UVC § 11-101.

Statutory Annotation

This Annotation is divided into six parts:

- I. Absolute-*prima facie* speed limits.
- II. Speed limits in urban areas.
- III. Reduced limits for nighttime driving.
- IV. Speed limits based on type or use of vehicle.
- V. Speed limits for designated highways.
- VI. Speed limits for school zones.

*I. Absolute-*prima facie* speed limits.*

Since 1956, the Code has provided what is generally known as the "*absolute* speed limit" rule. The essence of this rule is the establishment of specific statutory or administratively-posted speed limits which may not be exceeded, though a lesser speed may be required for compliance with the basic speed rule.

Prior to 1956, the Code provided what is called the "*prima facie* speed limit" rule, under which operating in excess of specified or posted limits is *prima facie* evidence of "speeding" unless the driver can establish that his speed, even though in excess of any applicable limit, was nevertheless reasonable under the circumstances.

Thirty-two states and the District of Columbia conform to the Code by providing maximum speed limits that are absolute:

TEXT FROM TRAFFIC LAWS ANNOTATED (Cont'd.)

Alaska ¹	Kansas	Nevada ⁵	South Dakota
Delaware	Kentucky	New Mexico	Tennessee
Florida	Louisiana	New York	Vermont
Georgia ²	Maine	North Carolina	Virginia
Hawaii ³	Maryland	North Dakota	Washington
Illinois	Mississippi	Oklahoma	West Virginia
Indiana	Missouri	Pennsylvania	Wisconsin
Iowa	Montana ⁴	South Carolina	Wyoming

1. Alaska allows exceeding any speed limit to pass a vehicle proceeding at less than the legal limit. The speed and duration of the exception is only for a distance necessary to complete the pass with a reasonable margin of safety. Washington has a similar law described in § 11-804, *infra*.

2. However, Georgia H.B. 1227, § 1, CCH ASLR 563 (1970) provides that unless a driver's speed is at least 10 miles per hour over the posted limit, a conviction can not be based on the use of speed detection devices except in school zones.

3. Hawaii does not have any statewide speed limits. Its law prohibits driving in excess of posted limits and limits established by county ordinance.

4. Outside urban districts during the daytime, Montana specifies no general limits. In urban areas and at night, limits specified are absolute.

5. Except for drivers of school buses and solid-tire vehicles, the Nevada laws do not specify maximum speed limits. But the limits for such drivers, as well as any limits that may be posted by the department of highways or counties, are absolute. See §§ 484.070 to 484.095.

The laws of nine states provide, as did the Code prior to 1956, that driving in excess of any speed limit specified in the law shall be prima facie evidence that the speed is not reasonable and that it is unlawful:

Arizona	Massachusetts	Ohio	Texas
Colorado	New Jersey	Rhode Island	Utah
Idaho			

The laws of nine other states contain some limits that appear to be absolute and others that are prima facie:

Alabama—Virtually all stated limits are prima facie, but limits of 60 or 50 miles per hour stated in § 5(1) as well as those posted on bridges under § 7 are absolute.

Arkansas—Speed limits are absolute, but limits altered and posted by local authorities are prima facie under § 75-602.

California—Virtually all stated limits are prima facie, but the limit of 65 miles per hour in § 22349 appears absolute. Any alteration of that limit, or of any other limit, would probably be prima facie under § 22351(b), although § 22356 mentions increased "maximum speed limits of 70 miles per hour" on freeways.

Connecticut—Limits of 60 and 70 miles per hour specified in § 14-219(a) are probably absolute, but all other limits, which are determined and posted by state and local authorities, are prima facie under § 14-219(b).

Michigan—Stated limits are generally prima facie, but those applicable to drivers of school buses, trucks and combinations of vehicles, as well as those established on state trunk line and county highways, are probably absolute.

Minnesota—Absolute limits apply inside municipalities and prima facie limits apply on all other highways.

Nebraska—Stated speed limits are generally absolute, but prima facie limits apply in any business district and residence district lying outside any city

TEXT FROM TRAFFIC LAWS ANNOTATED (Cont'd.)

or village. See §§ 39-7,108 and 39-723. But limits determined and posted under §§ 39-7,108(5) or 39-1371 appear to be prima facie.

New Hampshire—Absolute speed limits apply to turnpikes, motor-driven cycles, vehicles towing house trailers and solid-tire vehicles. All other limits are prima facie.

Oregon—Stated speed limits are generally prima facie, though limits for trucks and buses may be absolute. Posted limits for bridges are absolute.

II. Speed limits in urban areas.

UVC § 11-801.1 provides general speed limits on the basis of area and makes two such designations—"urban districts" and any other location. Prior to 1954, the Code stated limits for "business districts" and "residence districts." See the definitions of these three terms in UVC §§ 1-183, 1-154 and 1-106.

The categorization of states in this part indicates only whether the state employs the Code concept of a general limit applicable in all "urban districts." It does not attempt to indicate other methods used in the laws of some states to stratify speed limits; for example, basing them on whether the highway lies within a city or town.

Ten states conform to the Code in that they specify a maximum speed limit in "urban districts" (see definition of this term in UVC § 1-183):

Arkansas	Indiana	Montana	South Dakota
Idaho	Minnesota	South Carolina	Texas
Illinois			Wyoming

Twenty-three states provide separate maximum limits in business districts and residence districts, as did the Code until 1954:

Alabama*	Georgia	Nebraska*	Pennsylvania
Arizona	Iowa*	New Jersey	Rhode Island
California	Kansas*	New Mexico	Utah
Colorado*	Kentucky	North Carolina*	Virginia
Delaware	Maine	North Dakota	West Virginia
Florida	Michigan	Oregon	

Section 2. ORS 483.104 is amended to read:

483.104. (Maximum speeds, exceeding which is prima facie evidence of violation.) Any speed in excess of the speeds designated in this section or under ORS 483.106 or 483.108 shall be prima facie evidence of violation of [ORS 483.102] the basic speed rule. The speeds designated in this section are:

(1) Twenty miles per hour:

(a) When passing school grounds when children are present, or a crosswalk when children are present, if notice of such grounds or crosswalk is indicated plainly by signs or signals conforming to ORS 483.044.

(b) When approaching [within 100 feet of] a grade crossing of a railway, interurban railway or street railway where the driver's view of the crossing or of any traffic on such railway [within a distance of 400 feet in either direction] is obstructed.

(c) In any business district.

(d) Upon approaching within 50 feet and in traversing an intersection of highways where the driver's view in either direction along any intersecting highway within a distance of 200 feet is obstructed, except that when traveling upon a through street or at traffic-controlled intersections the district speed applies.

(2) Twenty-five miles per hour:

(a) In any residence district.

(b) In public parks [within cities] unless a different speed is designated by local authorities ^{or the Dept of Transportation} and duly posted.

- (3) Fifty-five miles per hour in other locations.

COMMENTARY

This is a housekeeping amendment to delete reference to ORS 483.102 which is repealed by section 1 of this draft.

Section 3. ORS 483.106 is amended to read:

483.106. (Special speed limits set by Department of Transportation.) Whenever the [commission] Department of Transportation determines, upon the basis of an engineering and traffic investigation, that any speed designated in ORS 483.104 is greater or less than is reasonable or safe under the conditions found to exist upon any state highway, or [section] portion thereof, not within the corporate limits of any city, the [commission] department may designate a [different] reasonable and safe speed thereupon, which shall be effective when appropriate signs giving notice thereof are erected upon such highway. Such a designated speed may be declared to be effective at all times or at such times as are indicated upon the said signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs.

COMMENTARY

A. Summary

This section, as amended, authorizes the Department of Transportation to alter designated speeds and provides that:

- (1) All such general limits may be either raised or lowered.
- (2) Such alterations in speed limits must be based on an engineering and traffic investigation.
- (3) The authority extends to all or any part of any highway in the state system.
- (4) Signs giving notice of the altered limits are required.

(5) Limits may vary according to the time of day.

(6) The limits may also be varied based upon any factor relating to safe speed, including type of vehicles and weather conditions.

B. Derivation

The first sentence amends ORS 483.106 to state that the Department of Transportation, formerly the State Highway Commission, may designate a "reasonable and safe" speed rather than a "different" speed. The second sentence is based on UVC s 11-802.

C. Relationship to Existing Law

ORS 483.106 provides that the State Highway Commission may designate a "different" speed from the speeds designated by the provisions of ORS 483.104 when it finds the ORS 483.104 designated speed greater or less than is reasonable or safe. This amendment provides that the commission, now the Department of Transportation by the enactment of Chapter 249, Oregon Laws 1973, may designate a reasonable and safe designated speed when a deviation from the designated speeds of ORS 483.104 is indicated.

ORS 483.106 has not included authorization for the establishment of speed designations at different times, for different vehicle types or different weather conditions other than by implication.

The authority to designate a speed on a highway or a section of a highway is amended to state highway or "portion" thereof, to fit the Chapter 483 definition of highway in its inclusion of "every public way, thoroughfare and place" intended for the public's vehicle use.

TEXT OF UNIFORM VEHICLE CODE

§ 11-802—Establishment of State speed zones

Whenever the (State highway commission) shall determine upon the basis of an engineering and traffic investigation that any maximum speed hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the State highway system, said (commission) may determine and declare a reasonable and safe maximum limit thereat, which shall be effective when appropriate signs giving notice thereof are erected. Such a maximum speed limit may be declared to be effective at all times or at such times as are indicated upon the said signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs. (REVISED, 1962.)

Section 4. ORS 483.108 is amended to read:

483.108. (State Speed Control Board; appointment, vacancy, compensation and expenses of certain member; board to set speed limits.)

(1) There hereby is created the State Speed Control Board, consisting of the Administrator of the Motor Vehicles Division of the Department of Transportation, the Superintendent of the Department of State Police, the [chairman of the State Highway Commission] Administrator of Highways and one additional member appointed by the Governor as provided in subsection (2) of this section for a term of two years. The Administrator of the Motor Vehicles Division of the Department of Transportation, the Superintendent of the Department of State Police and the [chairman of the State Highway Commission] Administrator of Highways may each designate a representative to serve in his place.

(2) In appointing the one additional member of the State Speed Control Board, the Governor shall choose a representative of the interests of cities. The League of Oregon Cities may nominate five persons for appointment as the board member representing interests of cities. The Governor shall appoint one of the persons so nominated or some other person as the board member to represent the interests of cities. A vacancy in the office of the additional member shall be filled by appointment by the Governor as provided in this subsection for a two-year term.

(3) The board member appointed under subsection (2) of this section is entitled to compensation and expenses as provided in ORS 292.495.

(4) The board has authority to make or cause to be made, and, if requested by any county court or board of county commissioners of any county, or municipal authority of any city, shall make or cause to be made an engineering and traffic investigation with respect to the designated speeds provided for in ORS 483.104 applicable to any county road or city street, or section thereof. If upon such investigation the board finds that the designated speed is greater than is reasonable or safe or less than is reasonable under the conditions found to exist thereon, the board after due notice and opportunity for hearing to the county commissioners or municipal authority affected thereby shall give written notice to such county court or board of county commissioners or city or town of any proposed deviation from such designated speeds. Such county court or board of county commissioners or city or town shall, within 30 days after receipt of such written notice, file with such speed control board a written statement of objections to such proposed deviation and may request a hearing thereon. No such deviation shall be ordered until such written objections have been considered by the board or such requested hearing has been held on not less than five days' notice. The board thereupon may designate different speeds, which shall be effective when appropriate signs giving notice thereof are erected upon such road or street.

COMMENTARY

This section amends existing law by deleting references to the chairman of the State Highway Commission and replacing them with the "Administrator of Highways" in accordance with Chapter 249, Oregon Laws 1973.

(ORS 483.110 is not affected by this draft.)

483.110 Payment of expenses of board and of expenses in establishing special speed limits. The per diem, travel and other expenses of the additional member of the State Speed Control Board authorized to be paid by ORS 483.108 and the expense of any engineering and traffic investigation made pursuant to ORS 483.106 or 483.108 shall be borne by the commission and paid for from the State Highway Fund. The expense of erecting any signs pursuant to such sections shall be borne by the agency having jurisdiction over the street or highway. All such signs shall comply with ORS 483.044.

COMMENTARY

References to State Highway Commission are to be deleted and replaced by Department of Transportation in accordance with Chapter 249, Oregon Laws 1973.

Section 5. ORS 483.112 is amended to read:

483.112. (Designation of speed in complaint; speed trap evidence not admissible; use of radar; arrest without warrant in radar cases.)

(1) In every charge of violation of the law as to speed, consisting of or including [a violation of ORS 483.102] violating the basic speed rule, the complaint and the summons or notice to appear shall specify the speed at which the defendant is alleged to have driven, and the speed designated for the district or location. If a charge also is made of violation of any other provision of this chapter, the complaint and the summons or notice to appear also shall specify such other offense alleged to have been committed.

(2) No evidence as to the speed of a vehicle operated on a highway by any person arrested for violation of any law regulating the speed of vehicles shall be admitted in any court at the consequent trial of such person, when such evidence relates to or is based upon the maintenance or use of a speed trap.

(3) A speed trap, within the meaning of this section, is a particular section of, or distance on, any highway the length of which has been or is measured for distance and marked off or otherwise designated or determined, and the limits of which are within the vision of an officer who calculates the speed of a vehicle by using the elapsed time during which the vehicle travels between the entrance and exit of such measured and marked area.

(4) The use of radiomicro waves or other electrical device shall not be deemed to be a speed trap within the meaning of this section. When the speed of a vehicle has been checked by radiomicro waves or

other electrical device, the driver of the vehicle may be arrested without a warrant if the arresting officer is in uniform and has either:

(a) Observed the recording of the speed of the vehicle by the radiomicro waves or other electrical device; or

(b) Received, from the officer who has observed the speed of the vehicle recorded by the radiomicro waves or other electrical device, a radio message giving the license number of the vehicle and the recorded speed, dispatched immediately after the speed of the vehicle was recorded.

COMMENTARY

This is a housekeeping amendment to delete reference to ORS 483.102 which is repealed by section 1 of the draft.

Section 6. (Minimum speed regulation.) (1) A person commits the offense of violating the minimum speed regulation if he drives a motor vehicle, or combination of motor vehicles, at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(2) Whenever the Department of Transportation determines on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede or block the normal and reasonable movement of traffic, the department may designate a minimum speed limit below which no person shall drive a vehicle, except when necessary for safe operation or in compliance with law, and that limit shall be effective when posted upon appropriate fixed or variable signs.

(3) Violating the minimum speed regulation is a _____.

COMMENTARY

A. Summary

Subsection (1) provides that it is a violation of the minimum speed regulation if a person drives a motor vehicle at a speed which is so slow as to impede or block traffic except when necessary for safe operation or in compliance with law.

Subsection (2) provides that after an engineering investigation is made and the Transportation Department decides on the basis thereof that slow speeds consistently impede or block highway traffic, the department may designate a minimum speed, and no person may drive less except when necessary for safety or in compliance with law. This limit shall be effective where appropriate signs are posted.

B. Derivation

This section is based on UVC s 11-804.

C. Relationship to Existing Law

Subsection (1) of the draft section substantially broadens the applicability of ORS 483.114 in that under ORS 483.114 minimum speed regulation applies only to arterial highways rather than to any part of a state highway. Also the statement of the basic speed rule in subsection (1) of ORS 483.114 is not included in the draft section as by its terms the basic rule applies to all drivers of vehicles. ORS 483.114 would be repealed.

Thirty-seven states and the District of Columbia are in verbatim or substantial conformity with subsection (1) of the draft section.

The minimum speed regulation of ORS 483.114 has been interpreted to apply to traffic traveling along or across an arterial highway. Von Bergen v. Kuykendall, 240 Or 191, 400 P2d 553 (1965); Nelson v. Watters, 255 Or 64, 463 P2d 863 (1970); Wells v. Washington County, 243 Or 246, 412 P2d 798 (1966).

There is no provision in existing law analogous to subsection (2). Alaska, California and Washington are among the 37 states authorizing the setting of minimum speeds. In some of these states this power is granted to local authorities. California law declares the subsection applicable only to vehicles subject to registration. Approximately 16 states have the UVC requirement for posting of signs before a minimum speed limit becomes effective.

TEXT OF UNIFORM VEHICLE CODE

§ 11-804—Minimum speed regulation

(b) Whenever the (State highway commission) or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the (commission) or such local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law and that limit shall be effective when posted upon appropriate fixed or variable signs. (REVISED, 1971.)

§ 11-808—Racing on highways

(a) No person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, and no person shall in any manner participate in any such race, competition, contest, test, or exhibition.

(b) Drag race is defined as the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit.

(c) Racing is defined as the use of one or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles, or to test the physical stamina or endurance of drivers over long distance driving routes.

(d) Any person convicted of violating this section shall be punished as provided in § 17-101(c). (NEW SECTION, 1968.)

TEXT OF IDAHO CODE ANNOTATED

49-768. Racing on highways.—(1) No person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, on any street or highway in this state, and no person shall in any manner participate in any such race, competition, contest, test, or exhibition; provided, however, this section shall not apply to rallies, economy runs, tours, regularity runs and any other organized motoring activities where the objective is to maintain precise speeds, all within posted legal speed limits.

(2) "Drag race" is defined as the operation of two or more vehicles from a point side by side at accelerated speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit.

(3) "Racing" is defined as use of one or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles, or to test the physical stamina or endurance of drivers over long distance driving routes.

(4) This section shall not prohibit the use of the roadways of this state for organized motoring activities where speed or acceleration is not the objective of the contest but rather the prime objective is the precise measurement of time and distance within the posted legal speed limits.

(5) This section shall not prohibit organized motoring activities upon the roadways of this state where speed is a primary objective of the contest when prior written permission is obtained from the authority having jurisdiction over the area to be used and prior notification is given to law enforcement agencies in the area to be used.

(6) Any person convicted of violating this section shall be punished by imprisonment in the county or municipal jail for a period of not less than five (5) days nor more than ninety (90) days, or by a fine of not less than \$25 nor more than \$300, or both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months or by a fine of not less than \$50 nor more than \$300, or by both such fine or imprisonment, and providing further that the department of law enforcement shall suspend the license of any such person, 30 days for the first conviction, 90 days for the second conviction and one year for the third conviction of such offense. [as added L '69, ch. 195, sec. 1, p. 570]

Section 7. (Maximum speeds for vehicles equipped with solid or metal tires.) (1) A person commits the offense of violating the maximum speeds for vehicles equipped with solid tires if he operates or moves over or upon a public highway, road or street a vehicle equipped with solid tires at any greater rate of speed than specified in the following classification and schedule:

<u>Total tire width</u>	<u>Miles per hour</u>
Not over 14 inches -----	25
Over 14 inches and not over 16 inches -----	20
Over 16 inches and not over 22 inches -----	18
Over 22 inches and not over 30 inches -----	16
Over 30 inches -----	12

(2) A person commits the offense of violating the maximum speeds for vehicles equipped with metal tires if he operates or moves over or upon a public highway, road or street a vehicle equipped with metal tires at any greater rate of speed than specified in the following classification and schedule:

<u>Combined weight</u>	<u>Miles per hour</u>
2,500 pounds or less -----	10
Over 2,500 pounds and not over 5,000 pounds -----	8
Over 5,000 pounds and not over 7,000 pounds -----	6

Over 7,000 pounds prohibited except by permission granted by the department with respect to state highways, or the county court or board of county commissioners with respect to highways under their jurisdiction.

(3) Violation of the maximum speed limitations for vehicles equipped with solid or metal tires is a _____.

COMMENTARY

This section states the rules for vehicles with solid or metal tires with no substantive change from existing law as stated in subsections (1) and (2) of ORS 483.116. The speed limits for trucks and the different types of busses provided in subsections (3) and (4) of ORS 483.116 are stated in the draft section following this one. ORS 483.116 would be repealed.

Section 8. (Maximum speeds for motor busses, highway post-office busses, school and worker transport busses.) (1) As used in this section:

(a) "Interstate highway" means a highway that is part of the National System of Interstate and Defense Highways established pursuant to section 103 (d), Title 23, United States Code;

(b) "Highway post-office bus" means a vehicle designed and used for transporting United States mail and postal clerks;

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

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

(2) A person commits the offense of violating the maximum speed limit for motor trucks equipped with pneumatic tires if he drives a motor truck at a speed greater than:

(a) Sixty miles per hour on an interstate highway on which a speed greater than the speed designated by subsection (3) of ORS 483.104 has been designated under ORS 483.106 or 483.108; or

(b) Fifty miles per hour on any street, road or highway not an interstate highway.

(3) A person commits the offense of violating the maximum speed limit for motor busses and highway post-office busses if he drives a motor bus or highway post-office bus on any highway, street or roadway at a speed greater than 65 miles per hour when the maximum designated speed thereon is 65 or more miles per hour.

(4) A person commits the offense of violating the maximum speed limit for school busses and worker transport busses if he drives a school bus or worker transport bus on any highway, street or roadway at a speed greater than 55 miles per hour.

(5) Violation of subsections (2) to (4) of this section is a

(6) This section does not apply to ambulances or hearses.

(7) Notwithstanding any other provision of this section, the motor vehicles referred to in this section are subject to the provisions of section 1 of this Article.

COMMENTARY

This section makes no substantive change from existing law, subsections (3) and (4) of ORS 483.116. This section states the offenses of exceeding speed limits for trucks and busses and states the penalty.

Section 9. ORS 483.118 is amended to read:

483.118. (Speed on public bridge, causeway or viaduct.) (1)

The [commission] Department of Transportation upon request from any local authorities shall, or upon its own initiative may, conduct an investigation of any public bridge, causeway or viaduct. If it finds that such structure cannot with safety to itself withstand vehicles traveling at the speed otherwise permissible under this chapter, the [commission] department shall determine and declare the maximum speed of vehicles which such structure can withstand, and shall cause or permit suitable signs stating such maximum speed to be erected and maintained at a suitable distance before each end of such structure. The findings and determination of the [commission] department shall be conclusive evidence of the maximum speed which can with safety to any structure be maintained thereon.

(2) [No person shall drive any] A person commits the offense of violating the maximum speed limit if he drives a vehicle upon any public bridge, causeway or viaduct at a speed greater than that established under subsection (1) of this section [and evidenced by signs posted in accordance with that subsection].

(3) Violating the maximum speed limit determined and declared for a bridge, causeway or viaduct is a _____.

COMMENTARY

This draft section is a restatement of existing law amended as to form only. Subsection (3) is new and contemplates that the offense will ultimately be classified for penalty purposes, as will all offenses contained in the code.

Section 10. (Speed races prohibited on public ways; publishing or advertising results.) (1) As used in this section, "drag race" means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit.

(2) As used in this section, "racing" means the use of one or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles, or to test the physical stamina or endurance of drivers over long distance driving routes.

(3) A person commits the offense of speed racing on a highway if he drives a vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or makes a speed record, or participates in any manner in any such race, competition, contest, test, or exhibition upon any road, street, or highway in this state.

(4) Speed racing on a highway is a _____.

(5) A manufacturer, dealer, distributor or other person commits the offense of illegal publication of speed racing if he publishes, advertises, offers for publication or advertisement or knowingly consents to be a party to the publication or advertisement of the time consumed or speed attained by a motor vehicle between fixed points or over given or designated distances upon the public highways of this state, where such time or speed would indicate or show a violation

of the speeds designated in or pursuant to section 1 of this Article to ORS 483.118 and ORS 483.124.

(6) Illegal publication of speed racing is a _____.

(7) This section does not prohibit the use of the highways of this state for organized motoring activities commonly known as rallies where speed or acceleration is not the objective of the contest but rather the prime objective is the precise measurement of time and distance within the posted legal speed limits.

COMMENTARY

A. Summary

Subsection (1) defines the term "drag race."

Subsection (2) defines the term "racing."

Subsection (3) establishes the offense of racing and prohibits racing, drag racing and exhibitions of speed on any road or highway of the state, and any manner of participation in racing or speed exhibitions.

Subsection (4) will classify the offense.

Subsection (5) prohibits a manufacturer, dealer or other person to publish or advertise or consent to be a party to publishing or advertising, the times or speeds of any motor vehicle when the times or speeds violate speed laws.

Subsection (6) classifies the offense.

Subsection (7) expressly allows organized motoring activities known as rallies where precision of time and distance measurements are the objective and not speed.

B. Derivation

Subsections (1), (2) and (3) are based on UVC s 11-808 as well as on Idaho Code Ann. ss 49-768 (Supp 1969). Subsection (5) is derived from subsection (2) of ORS 483.122. Subsection (7) is based on subsection (4) of the Idaho Code section stated above.

C. Relationship to Existing Law

Oregon law has no definition of drag race or racing. Of the 15 states which define "drag racing," eight states including Arizona and Idaho duplicate the UVC provision.

ORS 483.122 (1) prohibits holding a race or speed contest on a road or highway. This draft section is directed to any person driving a vehicle in a race or in any manner participating in a speed race or contest. The prohibition of existing law against publishing times and speeds which violate speed laws is retained as subsection (5) of this section. This provision is directed not against any type of driving but against publication and appears to this reporter to be obsolete and inappropriate as a part of the rules of the road.

Subsection (7) has no counterpart in Oregon law.

Liability of a participant in a race prohibited by ORS 483.122 was interpreted in Lemons v. Kelly, 239 Or 354, 397 P2d 784 (1964), to extend to third parties injured as a result of the race.

ORS 483.122 would be repealed.

Section 11. ORS 483.124 is amended to read:

483.124. (Maximum speed on ocean shore.) [(1) Notwithstanding any other provision of law by which the speed of motor vehicles using the public highway is fixed and determined, the maximum speed of any vehicle or conveyance on any part of the ocean shore is 25 miles per hour.]

(1) Subject to the provisions of law relating to emergency vehicles and ambulances and subject to the basic speed rule, a person commits the offense of violating the maximum speed limit on the ocean shore if he drives a vehicle or conveyance at a speed greater than 25 miles per hour on any part of the ocean shore in this state.

(2) Violating the maximum speed limit on the ocean shore is a

[(2)] (3) Whenever the [commission] Department of Transportation determines upon the basis of an engineering and traffic investigation that the speed of 25 miles an hour is greater than is reasonable or safe under the conditions found to exist with respect to any part of the ocean shore, the [commission] department may establish a maximum speed of less than 25 miles per hour on any specified section of such shore.

COMMENTARY

A. Summary

The maximum speed for vehicles on the ocean shore is 25 miles per hour, except for emergency vehicles and ambulances which function subject to their own special rules. Notwithstanding the 25 mile per hour speed limit, the basic speed rule applies to ocean shore motor vehicle traffic.

B. Derivation

This section is an amendment of ORS 483.124.

C. Relationship to Existing Law

ORS 483.124 is amended to conform to the structure of the statement of traffic offenses used throughout the chapter. There is the substantive change that the provisions relating to emergency vehicles and ambulances are an exception to the otherwise absolute speed limit of this draft section.