

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. 3; April 1974

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Subcommittee on Revision

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OREGON VEHICLE CODE

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PART ____ . RULES OF THE ROAD

ARTICLE ____ . SPEED RESTRICTIONS

Preliminary Draft No. 3; April 1974

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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This provision restates the basic rule as it is found in ORS 483.102, which would be repealed, in a form that makes clear, first, the definition of the offense, and second, its classification for penalty purposes. Weather and visibility have been added as specific factors to be considered in the determination of a reasonable and prudent speed.

B. Derivation

This section restates ORS 483.102 and adds weather and visibility.

C. Relationship to Existing Law

The ORS 483.102 statement of the basic speed rule covers by implication all the varying conditions, whether roadway type, traffic, highway conditions or any other which is 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.

The basic speed rule taken together with ORS 483.104, which would be repealed and its provisions restated in section 2 of this draft, with amendments, has meant that whenever the question of speed is in issue, the legal issue is violation of the basic rule and not whether the vehicle has traveled at a speed greater than that designated for the location. Rauw v. Huling and Sparks, 199 Or 48, 259 P2d 99 (1953); Lemons et al v. Holland et al, 205 Or 163, 284 P2d 1041, 286 P2d 656 (1955); Hess v. Larson, 259 Or 282, 486 P2d 533 (1971).

Section 2. (Maximum speeds.) (1) Except where a special hazard exists that requires a lower speed for compliance with section 1 of this Article, the speed limits designated under this section or section 4 or 6 of this Article shall be maximum lawful speeds. The speeds designated in this section are:

(a) Fifteen miles per hour when driving on an alley.

(b) Twenty miles per hour:

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

(B) When approaching a grade crossing or a railway, interurban railway or street railway where the driver's view of the crossing or of any traffic on the railway is obstructed.

(C) In any business district.

(c) Twenty-five miles per hour:

(A) In any residence district.

(B) In public parks, unless a different speed is designated by state or local authorities, as authorized by law, and duly posted.

(d) Fifty-five miles per hour in other locations unless a greater or lesser speed is designated in accordance with section 4 or 6 of this Article which shall be effective when appropriate signs giving notice thereof are erected upon the highway.

(2) A person who drives a vehicle at a speed greater than any of the speed limits specified under subsection (1) of this section commits the offense of speeding.

(3) Speeding is a _____.

COMMENTARY

A. Summary

Subsection (1) provides that speed limits designated under this section or under sections 4 and 6 of this Article are maximum speeds. The maximum speed is 20 miles when passing school grounds or a crosswalk with children if there is notice, when approaching a railway and the driver's view is obstructed, and in business districts. The maximum speed is 25 miles per hour in a residence district or in public parks except when a different speed is designated. The maximum speed in other locations is 55 miles per hour unless a greater or lesser speed is designated under section 4 or 6 of this Article. The maximum speed is 15 miles per hour when driving on an alley.

Subsection (2) provides that a person driving faster than any of these speeds commits the offense of speeding.

Subsection (3) classifies the offense.

B. Derivation

This section is based on UVC s 11-801.1.

C. Relationship to Existing Law

ORS 483.104, which would be repealed and its provisions with amendments restated in this section, designates the 20, 25 and 55 mile per hour speeds for the school area, railroad grade crossing, business and residence districts of this draft section. Under ORS 483.104 any speed in excess of the designated speed is prima facie a violation of the basic speed rule, which is to say, raises a disputable presumption of violation of the basic speed rule. This draft section establishes maximum speeds and provides that a person exceeding the specified speeds commits the offense of speeding.

There is no designated speed for drivers proceeding on an alley in ORS 483.104 and no definition of "alley" in the Oregon traffic code. Designated speed on alleys under existing law is the same as that on the streets and highways in the particular area involved and is set according to the alley's location in a business or residence district or otherwise, except where a different speed is set on a case-by-case basis under ORS 483.108. "Alley" will be defined in the Article on general definitions. The UVC definition is as follows:

s 1-102. Alley. A street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

Where conditions require a lower speed than specified, the basic speed rule would be violated by a driver proceeding at a maximum designated speed. The basic speed rule restated in section 1 of this Article is not altered by this draft section for the driver proceeding at a speed designated as maximum under conditions which require a lesser speed. The basic speed rule does not apply under this draft section to the driver proceeding at a speed greater than one of the designated maximums. He commits the offense of speeding. He has an affirmative defense to a charge of speeding under the provisions of section 3 of this draft if he is able to show his speed was reasonable and prudent under the conditions then existing.

Notwithstanding the use of the words "maximum lawful speed," this draft section when read with the one following, does not establish the absolute maximum speeds of UVC s 11-801.1.

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.

This draft section eliminates the 100 foot distance of ORS 483.104 for the 20 miles per hour speed at grade crossings, and eliminates the references to interurban railway and street railway which are obsolete. It also eliminates the 25 miles per hour speed when approaching within 50 feet of intersections with obstructed views.

Section 3. (Speeding; affirmative defense.) It is an affirmative defense to the offense of speeding that, having due regard to the traffic, weather, visibility, highway and other conditions then existing, the speed at which the person was driving was reasonable and prudent.

COMMENTARY

A. Summary

This section provides for an affirmative defense to the offense of speeding. The term "affirmative defense" is used in the same context as in the Oregon Criminal Code.

B. Derivation

This section has no counterpart in traffic law of any other state.

C. Relationship to Existing Law

The affirmative defense that under the conditions then existing, a person charged with speeding was driving at a reasonable and prudent speed is not dissimilar to the right of the person charged with violating the basic speed rule under ORS 483.102 to rebut the disputable presumption that arises on a showing that the person was driving at a speed greater than a speed designated under ORS 483.104. The effect of these three sections governing speed will be to restrict the charge of violating the basic speed rule to the driver proceeding at a maximum speed which is imprudent because of the conditions. The person charged with speeding has the affirmative defense under section 3 whereby he can show that a speed greater than a maximum designated in section 2 is reasonable and prudent because of the conditions such as good visibility, minimal traffic, etc. ORS 161.055 (2) provides that when an affirmative defense is raised at a trial, the defendant has the burden of proving the defense by a preponderance of the evidence.

Section 4. ORS 483.106 is amended to read:

483.106. (Special speed limits set by the Transportation Commission.) Whenever the [Department of] Transportation Commission determines, upon the basis of an engineering and traffic investigation, that any maximum speed designated in [ORS 483.104] section 2 of this Article is greater or less than is reasonable or safe under the conditions found to exist upon any state highway, or section thereof, not within the corporate limits of any city, the [department]commission may designate a [different] reasonable and safe maximum speed thereupon, which shall be effective when appropriate signs giving notice thereof are erected upon such highway.

COMMENTARY

A. Summary

This section is amended to give the Transportation Commission rather than the Department of Transportation the authority to set speeds which vary from the speeds designated in section 2 of this Article. The wording, "maximum speed," is used in conformance with the provisions of section 2 designating maximum speeds.

Chapter 249, Oregon Laws 1973, provided that where the State Highway Commission is referred to, the term, "Department of Transportation," should be substituted. The committee considered the Transportation Commission the appropriate body for this function.

The grant of authority in UVC s 11-802 to establish different speed limits depending on time of day, type of vehicle and weather conditions was considered by the subcommittee studying the rules of the road. The subcommittee's belief is that this broad authority belongs with the legislature and should not be granted to an administrative agency.

Under ORS 483.118 the Department of Transportation has authority to determine and declare maximum speed limits on any public bridge, causeway or viaduct. This section would be repealed by this draft as the authority specified is already provided in ORS 483.106.

Section 5. (State Speed Control Board; appointment, vacancy, compensation and expenses of certain members.) (1) There hereby is created the State Speed Control Board. The board shall consist of the Administrator of the Motor Vehicles Division of the Department of Transportation, the Superintendent of the Department of State Police, the Administrator of the Highway Division, and two additional members 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 Administrator of the Highway Division may each designate a representative to serve in his place.

(2) In appointing the two additional members of the State Speed Control Board, the Governor shall choose a representative of the interests of cities and a representative of the interests of counties. The League of Oregon Cities and the Association of Oregon Counties may each nominate five persons for appointment as the board member representing the interests of the cities and counties respectively. The Governor shall appoint one of the persons nominated by the League of Oregon Cities and one of the persons nominated by the Association of Oregon Counties as the two board members representing city and county interests respectively. 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 members appointed under subsection (2) of this section are entitled to compensation and expenses as provided in ORS 292.495.

COMMENTARY

A. Summary

Subsection (1) provides for the establishment and composition of the State Speed Control Board.

Subsection (2) provides the method of selection of the board member representing cities and the board member representing counties.

Subsection (3) provides that board members are entitled to compensation and expenses under ORS 292.495.

B. Derivation

This section has no UVC counterpart but is similar to ORS 483.108.

C. Relationship to Existing Law

ORS 483.108 would be repealed and the provisions of this draft section and that following would replace it. This draft section changes existing board membership provisions by adding a representative of the counties. Also, the membership is changed by substituting for the Chairman of the State Highway Commission the Administrator of the Highway Division, in conformity with the organizational changes made by Chapter 249, Oregon Laws 1973.

Powers and duties of the board set out in subsection (4) of ORS 483.108 are stated in the following section.

Section 6. (Powers and duties of State Speed Control Board.)

(1) The board may make or cause to be made an engineering and traffic investigation with respect to the maximum speeds provided in section 2 of this Article applicable to any highway or section of highway upon which the Transportation Commission is not authorized by section 4 of this Article to designate any maximum speed. If requested by a state or local authority or federal agency having jurisdiction over a highway to make such an investigation the board shall make the investigation or authorize the state or local authority or federal agency having jurisdiction of the highway to proceed with the investigation and make a report thereof to the board. When a state or county highway lies within the corporate limits of a city and is under the jurisdiction of the Transportation Commission or a county, the city governing authority may request the board to make an investigation with respect to the maximum speed on the highway. The board shall make the investigation or authorize the city to proceed with the investigation and make a report thereof to the board. In any event the authority or agency requesting an investigation shall be allowed to participate with the board in the investigation.

(2) When a state or local authority or federal agency having jurisdiction of a highway or a city within whose incorporated limits is located a state or county highway requests an investigation by the board with respect to speed of the highway, it shall do so by written application and shall state in the application the maximum speed recommended by the requesting authority for the highway or section of highway in question.

(3) When an investigation is made in accordance with subsections (1) and (2) of this section, if the board finds that the maximum speed is greater than is reasonable or safe or less than is reasonable under the conditions found to exist at the area investigated, after due notice and opportunity for hearing to the authority or agency affected thereby, it shall give written notice to the authority or agency of any proposed deviation from the maximum designated speed. Within 30 days after receipt of the written notice the state or local authority or federal agency shall file with the board a written statement of objections, if any, to the proposed deviation and may request a hearing thereon. The board shall hold a hearing after giving written notice thereof to the affected agency or authority. The hearing shall be called not less than five days after giving the written notice. The board shall not order a deviation until after consideration of written objections and a hearing if the objecting authority or agency has so requested.

(4) After due consideration of written objections or after hearing if a hearing has been requested the board may designate different maximum speeds on the highways or sections thereof considered pursuant to subsections (1), (2) and (3) of this section. The speeds designated shall be effective when appropriate signs giving notice thereof are erected upon the highway or section of highway.

COMMENTARY

A. Summary

Subsection (1) provides that the board is authorized to make an engineering and traffic study regarding speed on any highway or stretch of highway not in the jurisdiction of the Transportation Commission. The state or local authority or

federal agency having jurisdiction or the city in which the highway is located may make the investigation and report the results to the board, and in every case, whether it or the board makes the investigation, has the right to participate with the board in the investigation. It shall make an investigation when so requested by the state or local authority or federal agency having jurisdiction over the particular highway, or by the city within whose corporate limits the highway lies.

Subsection (2) provides that the authority or agency requesting an investigation of the speed on a highway shall do so by written application and state in the application the speed it recommends.

Subsection (3) provides that the board, on receipt of written notice of objections to the speed deviation it recommends, shall consider these objections and if requested hold a hearing.

Subsection (4) provides that the board, after considering the objections and holding a hearing if requested, may order the speed on the highway under consideration changed from the speed designated under section 2 of this Article, and the speed is effective when signs giving notice are erected.

B. Derivation

The section is a revised version of ORS 483.108 (4).

C. Relationship to Existing Law

The provisions of subsection (4) of ORS 483.108, which the section replaces, are contained in this section with certain changes. The authority of the Transportation Commission to set speeds under section 4 of this draft Article is limited to state highways exclusive of those in city limits. This authority is exactly parallel to that given in ORS 483.106 to the Highway Commission. The authority of the State Speed Control Board under ORS 483.108 extended only to county and city streets, thus leaving state highways within city limits out of its bailiwick, as well as highways on federal lands within the state. This draft section will allow the board to set speeds on state and county highways in city limits when a city so requests, and on federal agency highways, as well as on city and county highways as exists under ORS 483.108. The board will be

required to investigate when a city so requests. The requesting authority or agency may make the investigation and must in any event be allowed to participate with the board. The requesting agency or authority must state the speed which it recommends that the board set.

The authority to set designated speeds is reworded for consistency with section 2 of this Article to give authority to set maximum speeds.

Section 7. ORS 483.112 is amended to read:

483.112. (Designation of speed in complaint; 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 or the offense of speeding, the complaint and the summons or notice to appear shall specify the speed at which the defendant is alleged to have driven, and the maximum 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.]

(2) 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.] Based upon a description of the vehicle or other information received from the officer who has observed the speed of the vehicle recorded, has probable cause to make the arrest.

COMMENTARY

A. Summary

Subsection (1) of this section provides that in every charge of violation of speed law the summons or notice must state the speed at which the person is alleged to have driven and the maximum speed for the location.

Subsection (2) provides that when speed has been checked by an electrical device there may be a warrantless arrest by a uniformed police officer who has observed the electrical recording of the speed, or has probable cause to make the arrest based on the vehicle description or other information received from the officer viewing the recording of speed.

B. Derivation

This section amends ORS 483.112.

C. Relationship to Existing Law

The provisions of subsections (2) and (3) defining a speed trap and prohibiting admitting evidence obtained by speed traps, and the reference to speed trap in

subsection (4) of ORS 483.112 are deleted by this draft section. The subcommittee recognized that radar and other electronic devices measuring speeds have a necessary role in maintaining highway safety and continued prohibition of the use of a rudimentary form of measuring vehicle speed would be a logically untenable position.

Subsection (a) of UVC s 11-807 provides that in every charge of speed law violation the speed of the defendant must be alleged, and the maximum speed applicable within the district.

The provision of subsection (1) that if a charge also is made of a violation of any other provision of the chapter (meaning other than violation of the basic rule) the complaint and summons shall so specify is deleted as it appeared to authorize the charging of two violations in a single complaint.

Section 8. (Impeding traffic.) (1) A person commits the offense of impeding traffic 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 he must proceed at a reduced speed for safe operation or in compliance with law or because of emergency.

(2) Impeding traffic is a _____.

COMMENTARY

A. Summary

Subsection (1) describes the offense of impeding traffic and subsection (2) classifies it.

B. Derivation

This section is based on subsection (a) of UVC s 11-804.

C. Relationship to Existing Law

ORS 483.114 would be repealed by this draft section. Its application was restricted to arterial highways but did not define an arterial highway. The standard of ORS 483.114 allowed the driver to impede traffic when necessary. This draft section changes the standard from necessity to emergency, and does not restrict application of the law to arterial highways.

Subsection (b) of UVC s 11-804 authorizes state or local authorities on the basis of an engineering and traffic investigation to determine and declare a minimum speed for any highway or section of highway to be effective when notice is posted. The subcommittee considered the minimum speed concept and rejected it as the offense of impeding traffic, together with the subsequent provision regulating position on highway for trucks and trailers and slow vehicle turnout, appears to cover the problem of the slow driver clogging the highway.

Section 9. (Maximum speeds for motor trucks, 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) "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) A person commits the offense of violating the maximum speed limit for motor trucks if he drives a motor truck at a speed greater than:

(a) Sixty miles per hour or such lesser speed as has been designated on an interstate highway on which a speed greater than the speed designated by section 2 of this Article has been designated under section 4 or 6 of this Article; 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 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.

(4) A person violating subsection (2) or (3) of this section commits a _____.

(5) This section does not apply to ambulances.

(6) 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

A. Summary

Subsection (1) defines "interstate highway," "school bus" and "worker transport bus."

Subsection (2) provides maximum speed limits for motor trucks which are absolute.

Subsection (3) provides maximum speed limits for school busses and worker transport busses.

Subsection (4) classifies the offense.

Subsection (5) provides that ambulances are not subject to this section.

Subsection (6) provides that the basic speed rule applies to the motor vehicles having the special maximum speed limits of this section.

B. Derivation

This section is a restatement of those parts of ORS 483.116 which set speeds for trucks and school and worker transport busses.

C. Relationship to Existing Law

This section would repeal ORS 483.116. The provisions of subsections (1) and (2) of ORS 483.116 setting maximum speeds for vehicles with solid tires and metal tires are obsolete. The provisions of subsection (3) of ORS 483.116 setting absolute maximum speeds for motor trucks equipped with pneumatic tires are restated in subsection (2) of this section with deletion of the pneumatic tire proviso as being obsolete. The absolute speeds set for motor busses by subsection (4) of ORS 483.116 are not restated in this section. Motor busses, as motor vehicles under the definition of that term as it will be in the Article on Definitions, will be subject to the same speed laws as passenger vehicles of other types, namely, the basic speed rule, the maximums and the affirmative defense.

The absolute maximum speeds for school busses and worker transport busses of subsection (4), ORS 483.116, are restated in subsection (4) of this section.

The exclusion of hearses from the application of the speed rules of ORS 483.116 has been omitted from this draft section.

Under UVC s 11-806 special speed limits are set for vehicles towing house trailers and for vehicles equipped with solid rubber tires. The laws of 35 states contain one or more lower statutory speed limits applicable to vehicles that exceed a certain size or weight, all or certain combinations of vehicles, buses and/or vehicles in use for a particular purpose.

Section 10. (Speed races prohibited on public ways.) (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 _____.

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.

B. Derivation

Subsections (1), (2) and (3) are based on UVC s 11-808.

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. The definition is not intended to include the organized motoring activities known as rallies where speed or acceleration is not an objective of the contest.

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.

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 provisions of law by which the speed of motor vehicles using the public highways 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 on any part of the ocean shore in this state at a speed greater than 25 miles per hour or at a lesser speed if designated and posted under subsection (2) of this section.

(2) Whenever the [Department of] Transportation Commissioner 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 [department] commission may establish a maximum speed of less than 25 miles per hour on any specified section of such shore, and that limit shall be effective when posted upon appropriate fixed or variable signs.

(3) Violating the maximum speed limit on the ocean shore is

a _____.

COMMENTARY

A. Summary

Subsection (1) provides the maximum speed for vehicles on the ocean shore is 25 miles per hour or a lesser speed

if designated and posted by the Transportation Commission. Emergency vehicles and ambulances are an exception under the special rules applicable to them. The basic speed rule applies to drivers of all vehicles on the ocean shore.

Subsection (2) provides for the Transportation Commission setting speeds less than 25 miles per hour.

Subsection (3) classifies the offense.

B. Derivation

ORS 483.124 is amended to state the offense of violating the maximum speed limit on the ocean shore and to classify the offense. ORS 483.124 did not provide an exception to the speed limit for emergency vehicles as does this draft section. It authorized setting a lower speed after an engineering and traffic study. This draft section allows a lower speed limit to be set after an investigation which is not limited to traffic and engineering but may include a study of such factors as public safety.

(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.

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, C.C. (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	

TEXT OF UNIFORM VEHICLE CODE

§ 11-804—Minimum Speed Regulation

(a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(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.)