

Committee on Judiciary
Reference Paper

By: Marion Embick

Date: March 1974

Art 11. Miscellaneous Rules,

SUBJECT: Comparison of Uniform Vehicle Code and Oregon Law

UVC Chapter 11, ARTICLE I (In Part) SPECIAL RULES FOR ANIMALS
ON HIGHWAY

§ 11-104—Persons riding animals or driving animal-drawn vehicles

Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions of this chapter which by their very nature can have no application.

OREGON LAW

483.034 Application of chapter to bicyclists and to persons riding, driving or leading animal. Every person riding a bicycle or an animal upon a roadway and every person driving or leading any animal is subject to the provisions of this chapter applicable to the driver of a vehicle, except those provisions which by their very nature can have no application.

Cases:

A person leading a horse along a highway while on foot is subject to ORS 483.034. The mere fact that as a pedestrian he is leading horses on a highway does not bring him within the rules applicable to vehicles requiring proceeding on the right side of the road. Sertic v. McCullough, 155 Or 216, 63 P2d 884 (1936).

Analysis:

Under ORS 483.034, which applies to bicyclists as well as persons with animals, persons with animals are subject to the

UVC s 11-104; ORS 483.034 (Cont'd.)

duties applicable to the driver, but do not have the rights applicable to the driver under the code. The UVC provision states both rights and duties.

Under ORS chapter 607, livestock have a right to roam at will on the open range. Neither the stockowner nor the state has a duty to keep cattle off highways in open range area. Turrini v. Gulick, 98 Adv Sh 735, ____ Or App ____ (1974). If livestock are on the road, their owner will not be liable for damages arising solely out of ownership and permission to run at large for livestock have a right to be on the road. Kendall v. Curl, 222 Or 329, 353 P2d 227 (1960). Open range means an area wherein livestock may lawfully be permitted to run at large. ORS 607.005 (7).

Since UVC s 11-104 does not address itself to livestock roaming at will, there does not appear to be a policy conflict in adopting it while retaining the open range provisions.

At the time of writing there are four counties which are entirely open range: Grant, Harney, Lake and Wheeler. There are nine counties entirely closed: Clackamas, Clatsop, Coos, Gilliam, Hood River, Multnomah, Polk, Sherman and Tillamook. There are 23 counties mixed.

Incorporated cities are excluded from open range.

PROPOSED DRAFT SECTIONS

Section _____. (Failure to yield right of way to animal.)

(1) When a driver approaches a person riding, leading or driving a horse or other animal on the highway from the opposite direction and the person signals by raising his hand, the driver commits the offense of failure to yield the right of way to an oncoming animal if he fails to stop and remain standing as long as is reasonably necessary to allow the animal to pass.

(2) Failure to yield the right of way to an animal is a
_____.

Section _____. (Duty of caution to person with animal.) (1) A driver shall use caution when he passes a person riding, leading or driving an animal on the highway.

(2) A driver shall turn off the engine of his vehicle and not restart it as long as is reasonably necessary to prevent accident when he approaches a person riding, leading or driving an animal on or across the highway regardless of the direction of travel if:

- (a) The animal appears badly frightened; or
- (b) The person signals to the driver to turn off the engine.

(3) Violation of subsection (1) or (2) of this section is a
_____.

OREGON LAW

483.314 Passing horses or other animals. (1) The operator of a motor vehicle shall, when a person riding, leading or driving a horse or other animal:

(a) In the opposite direction signals by raising his hand, bring such motor vehicle immediately to a stop, and remain stationary so long as may be reasonable to allow such animal to pass.

(b) Is traveling in the same direction, use reasonable caution in passing such animal.

(2) If such animal appears badly frightened or the person operating the motor vehicle is signaled so to do, he shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of others.

Cases:

ORS 483.314 does not apply when neither the rider of a horse gives a signal nor does the horse itself appear badly frightened or frightened at all. Lawry v. McKennie, 177 Or 604, 164 P2d 444 (1945).

Analysis:

This section is a rewording of ORS 483.314, which would be repealed, for the purpose of style and format consistency. There is no comparable UVC section.

OREGON LAW

483.540 Carrying dog or child on external part of motor vehicle. (1) No person shall carry a dog upon a public street or highway upon the hood, fender, running board or other external part of any automobile or truck unless the dog is protected by framework, carrier or other device sufficient to keep it from falling from the vehicle.

(2) No person shall carry any child upon a public street or highway upon the hood, fender, running board or other external part of any motor vehicle.

There is no UVC counterpart for this statute.

OREGON LAW

483.614 Driver's duty to help animals. Any person operating a motor vehicle or motorcycle which strikes and injures any domestic animal shall stop and give such animal reasonable attention.

There is no UVC counterpart for this statute.

ARIZONA § 28-858

§ 28-858. Duty when approaching horses and livestock

Every person operating a motor vehicle upon any public highway and approaching any horse-drawn vehicle, or any horse upon which any person is riding, or livestock being driven upon the highway, shall exercise reasonable precaution to prevent frightening and to safeguard such animals, and to insure the safety of any person riding or driving the same. If such animals appear frightened the person in control of such vehicle shall reduce its speed, and if requested by signal or otherwise shall not proceed further toward such animals unless necessary to avoid accident or injury, until such animals appear to be under control.

COLORADO § 13-5-60

13-5-60. Pedestrians on highways.--(1) Pedestrians walking along highways where sidewalks are not provided shall walk on the left side of highways facing approaching traffic.

(2) No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any private vehicle.

(3) It shall be unlawful for any person who is under the influence of intoxicating liquors or any narcotic or stupefying drug to walk or be upon that portion of any highway normally used by moving motor vehicle traffic.

(4) This section applying to pedestrians shall also be applicable to riders of animals.

Source: L. 35, p. 802, § 102; CSA, C. 16, § 217; CRS 53, § 13-4-61; L. 61, p. 213, § 23.

CONNECTICUT § 14-226

Sec. 14-226. Operator to report injury to dog. Any person who has knowledge of causing, by the operation of a motor vehicle, injury or death to a dog shall at once stop and render such assistance as may be possible, shall immediately report such injury or death to such dog's owner or such owner's representative and shall give his name, address and operator's license and registration numbers to such owner or representative or any witness or peace officer. If unable to ascertain and locate such owner or representative, such operator shall, at once, report the injury or death to a police officer, constable, state police officer or inspector of motor vehicles, to whom he shall give the location of such accident and a description of the dog. Any person who violates any provision of this section shall be fined not more than twenty-five dollars. No operator shall be convicted under the provisions of subsection (a) of section 14-224 when such operator has caused injury or death to a dog. (1949 Rev., S. 2411.)

CRIMES AND PUNISHMENTS
CRUELTY TO ANIMALS

C § 61A. Duty of motorist striking domestic animal; duty of police.

Any person who knowingly strikes and injures a domestic animal with a motor vehicle shall stop and notify the appropriate State, county or municipal police of such striking and injury. The police, in turn, shall notify the local organization or governmental unit or agency designated by the appropriate local government to bring such injured animals under proper medical care. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than fifty dollars (\$50.00). (1967, ch. 371.)

MARYLAND § 470.

LIVESTOCK

DRIVING ON IMPROVED HIGHWAYS

§ 470. Cattle crossing signs.

At the request of any farmer whose land is divided by a highway, and who regularly drives livestock across such highway, the State Roads Commission may erect, at an approximate distance of five hundred (500) feet from each side of such crossing, a sign giving notice of the presence of such crossing. When livestock are being driven across such highway, vehicles between the two signs shall stop until the livestock have crossed the highway.

Any person found guilty of violating this section shall be guilty of a misdemeanor and fined not more than ten dollars (\$10.00) for each offense. (An. Code, 1951, § 461; 1941, ch. 313.)

NEW MEXICO § 64-18-62

64-18-62

MOTOR VEHICLES

64-18-62. Animals on highway.—A. It is unlawful for any person, during the hours of darkness, to ride a horse or other animal upon the traveled portion of any highway which is normally used by motor vehicles.

B. It is unlawful for any person negligently to permit livestock to wander or graze upon any fenced highway at any time or, during the hours of darkness, to drive livestock along or upon any highway which is normally used by motor vehicles.

C. Owners of livestock ranging in pastures through which unfenced roads or highways pass shall not be liable for damages by reason of injury or damage to persons or property occasioned by collisions of vehicles using said roads and highways and livestock or animals ranging in said pastures unless such owner of livestock is guilty of specific negligence other than allowing his animals to range in said pasture.

History: Laws 1953, ch. 139, § 119.1; 1911 Comp. Supp., § 68-2169; Laws 1965, ch. 221, § 1; 1966, ch. 44, § 2.

Cross-Reference.

Unlawfully permitting livestock upon public highways, 40A-8-10.

§ 601. Leaving scene of injury to certain animals without reporting. Any person operating a motor vehicle or motorcycle which shall strike and injure any horse, dog or animal classified as cattle shall stop and endeavor to locate the owner or custodian of such animal or a police, peace or judicial officer of the vicinity, and take any other reasonable and appropriate action so that the animal may have necessary attention, and shall also promptly report the matter to such owner, custodian or officer (or if no one of such has been located, then to a police officer of some other nearby community), exhibiting his license and insurance identification card for such vehicle, when such card is required pursuant to article six of this chapter, giving his name and residence, including street and street number, insurance carrier and insurance identification information and license number. Violation of this provision shall be punishable by a fine of not more than ten dollars for the first offense, by a fine of not less than ten dollars for the second offense and by a fine of not less than twenty-five dollars for the third or subsequent offense. A police, peace or judicial officer receiving a report of such accident shall make a memorandum of the facts, reported, and of such additional facts relating to the accident as may come to his knowledge, and forthwith deliver the same to a police justice or other magistrate of the city, village or town where the accident occurred. Any such justice or magistrate or any police, peace or judicial officer to whom such accident may have been reported in the first instance shall keep in his office a record of the facts disclosed by such memorandum or report.

NEW YORK § 1229-a

§ 1229-a. Pedestrians, animals, and non-motorized vehicles prohibited on state expressway highways or state interstate route highways including the entrances thereto and exits therefrom. No person, unless otherwise directed by a police officer shall:

(a) As a pedestrian, occupy any space within the limits of a state expressway highway or state interstate route highway, including the entrances thereto and exits therefrom, except: in a rest area, parking area, or scenic overlook; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle or to obtain assistance; where a sidewalk, footpath or pedestrian crossing of such a highway is provided; (b) Occupy any space of a state expressway highway or state interstate route highway, including the entrances thereto and exits therefrom, with: an animal-drawn vehicle; herded animals; a pushcart; a bicycle; except in the performance of public works or official duties, or on paths or parts of such highway provided for such uses.

RHODE ISLAND § 31-26-3(a)

MOTOR VEHICLE LAWS

31-26-3

31-26-3. Duty to give information and render aid.—The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall, upon request, give his name, address and the registration number of the vehicle he is driving and shall exhibit his operator's or chauffeur's license to the person struck or the driver or occupant or the person attending any vehicle collided with and shall render to any person injured in such accident reasonable assistance, and shall immediately, by the quickest means of communication known to him or which should have reasonably been known to him to be available in the locality give notice of such accident to a nearby office of local or state police. In the event the office so notified does not have jurisdiction of the locale of the accident, it shall be the duty of the officer receiving such notice to immediately give notice of such accident to the office having jurisdiction.

The officer receiving such notice shall, if the circumstances reasonably require, immediately dispatch an ambulance or emergency medical service to the accident. Any police or fire department responding to a call for emergency medical service or assistance to a person injured in an accident shall continue to the locale of the accident even though it is outside the jurisdiction of said department and shall render such emergency service as is reasonably necessary.

(a) **Duty to stop in accidents resulting in death or injury to domesticated animals.**—The driver of any vehicle knowingly involved in an accident resulting in death or injury to a domesticated animal shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of the accident until he shall render all possible assistance to the injured animal, and shall immediately, by the quickest means of communication known to him or which should have reasonably been known to be available to him to be available in the locality give notice of such accident to the owner of such animal if known to him or to a nearby office of local or state police. In the event the office so notified does not have jurisdiction of the locale of the accident, it shall be the duty of the officer receiving such notice to give notice immediately of such accident to the office having jurisdiction.

(b) Any person failing to stop or comply with the requirements of this section shall upon conviction be punished by a fine of not more than fifty dollars (\$50.).

TEXAS V.P.C. 1370a

V.P.C. 1370a. Animals running at large on State highways; enforcement notwithstanding other laws.—Section 1. Any person owning or having responsibility for the control of any horse, mule, donkey, cow, bull, steer, hog, sheep, or goat, who knowingly permits such animal to traverse or roam at large, unattended, only on the right-of-way of any U.S. Highway, or State Highway in this state but not including numbered farm-to-market roads, shall be guilty of a misdemeanor, and shall be fined in any sum not exceeding Two Hundred Dollars (\$200.00). Each day that an animal is permitted to roam at large in violation hereof shall constitute a separate offense.

Sec. 2. No civil cause of action for damage shall lie against any person, firm or corporation operating a vehicle on a designated highway in this state by reason of such vehicle's striking, killing, injuring or damaging any unattended animal running at large on a designated highway, except upon a finding of gross negligence in the operation of said vehicle or wilful intent to strike, kill, injure or damage such animal.

Sec. 3. This Act shall not prevent the movement of livestock from one location to another location by herding the livestock on, along or across the highway, or leading or driving the livestock on, along or across the highway.

Sec. 4. In addition to the penalty provided in Section 1 of this Act, any peace officer may authorize in writing any holder of a permit issued by the Railroad Commission granting authority to haul livestock, to pick up any livestock found unattended upon a designated highway to which this Act applies if the officer, after diligent inquiry, has been unable to locate the owner or persons responsible for the livestock. The livestock so picked up shall be delivered to the sheriff or any constable of the county where found. The sheriff or constable so receiving livestock shall make disposition of the livestock as provided in Title 121, Chapter 6, Revised Civil Statutes of Texas, 1925, which provides for the proper disposition of livestock running at large in certain counties, including, but not limited to, the authorization of impounding fees.

Sec. 5. The State Highway Patrolmen, as well as county and local enforcement officers, shall have the power and authority, and it shall be their duty to enforce all the provisions of this Act. The State Highway Patrolmen, sheriff, constable, or other enforcement officer, is authorized to carry out the enforcement of this Act without the use of a written warrant. Notwithstanding the provisions of Articles 6928 to 6971, inclusive, of the Revised Civil Statutes of 1925, or any amendments thereto, or any other laws heretofore enacted authorizing or permitting livestock to run at large on public roads, and notwithstanding the results of any elections heretofore, or hereafter held in accordance therewith, this Act shall be controlling in all cases wherein it conflicts with the above mentioned statutes or any action taken thereunder, provided, however, that this Act shall not take effect until July 1, 1960.

41-6-38. Livestock on highway — Collision, action for damages.

No person owning or controlling the possession of any livestock, shall willfully or negligently permit any such livestock to stray upon or remain unaccompanied by a person in charge or control thereof upon a public highway, both sides of which are adjoined by property which is separated from such highway by a fence, wall, hedge, sidewalk, curb, lawn or building; provided, that the foregoing provision shall not apply to range stock drifting into any such highway in going to or returning from their accustomed ranges. No person shall drive any such livestock upon, over or across any public highway during the period from half an hour after sunset to half an hour before sunrise, without keeping a sufficient number of herders with warning lights on continual duty to open the road so as to permit the passage of vehicles. In any civil action brought by the owner, driver or occupant of a motor vehicle or by their personal representatives or assignees, or by the owner of the livestock for damages caused by collision with any domestic animal or animals on a highway, there is no presumption that such collision was due to negligence on behalf of the owner or the person in possession of such livestock.

WASHINGTON §§ 16.24.065 and 16.24.070

Animals, Estrays, Brands and Fences

Chapter 16.24

ANIMALS, ESTRAYS, BRANDS AND FENCES

16.24.065 Stock at large in areas—Unlawful

16.24.070 Stock at large on highway right-of-way—Unlawful—
Impounding

16.24.065 Stock at large in areas—Unlawful. No person owning or in control of any livestock shall willfully or negligently allow such livestock to run at large in any stock restricted area, nor shall any person owning or in control of any livestock allow such livestock to wander or stray upon the right-of-way of any public highway lying within a stock restricted area when not in the charge of some person. [1937 c 40 § 6, RRS § 3070-3 and former RCW 16.24.070, part.]

16.24.070 Stock at large on highway right-of-way—Unlawful—Impounding. It shall be unlawful for any person to cause or permit any livestock to graze or stray upon any portion of the right-of-way of any public highway of this state, within any stock restricted area. It shall be unlawful for any person to herd or move any livestock over, along or across the right-of-way of any public highway, or portion thereof, within any stock restricted area, without having in attendance a sufficient number of persons to control the movement of such livestock and to warn or otherwise protect vehicles traveling upon such public highway from any danger by reason of such livestock being herded or moved thereon.

In the event that any livestock is allowed to stray or graze upon the right-of-way of any public highway, or portion thereof, within any stock restricted area, unattended, the same may be impounded for safekeeping and, if the owner be not known, complaint may be instituted against such stock in a court of competent jurisdiction. Notice shall be published as close as possible to the location where the livestock were found, describing as nearly as possible the stock, where found, and that the same are to be sold. In the event that the owner appears and convinces the court of his right thereto, the stock may be delivered upon payment by him of all costs of court, advertising and caring for the stock. In the event no person claiming the right thereto shall appear by the close of business on the tenth day following and exclusive of the date of publication of notice, the stock may be sold at public or private sale, all costs of court, advertising and caring therefor paid from the proceeds thereof and the balance certified by the judge of the court ordering such sale, to the treasurer of the county in which located, to be credited to the county school fund. [1937 c 189 § 127, RRS § 6360-127, part.]

Section C.—Fences and Livestock Crossings

§ 107. Authority of County Commissioners to Erect on Roads. The

Board of County Commissioners may authorize the erection of a lawful fence upon the right of way of any public road at the expense of the petitioners for the establishment of such roads, or as may be agreed upon between petitioners and the Board of County Commissioners, or at the expense of the owners of lands to be benefited by such fencing or at the expense of the county, as the Board of County Commissioners may determine; provided, the said board shall locate and cause to be constructed gates and cattle guards at such intervals as it may deem necessary for the convenience of the public. Such gates and cattle guards shall be marked "county gates and cattle guards" and with further notice of the penalty for any damage or leaving open, prescribed by Section 3079 [§ 11-539]. Such cattle guards shall be constructed according to specification prescribed by the State Highway Department, under the supervision of the county surveyor or county commissioners at the expense of the petitioners, or of the land owners who may be benefited, or of the county, as the Board of County Commissioners may determine.

(W. S. 1957, § 11-537.)

§ 108. Construction and Repair of Fences to be Performed by Highway Department. (a) In the event that fences paralleling state highways, or built on the highway right-of-way need repair or reconstruction to meet legal fence requirements, as set forth in Section 11-532, Wyoming Statutes 1957, the actual work of repair and reconstruction of the fence, including all labor costs in connection therewith, shall be performed by the state highway department.

(b) Where any state highway is reconstructed the new right-of-way fence will be constructed and maintained by the state highway department.

(W. S. 1957, C. 1967, § 24-12.)

§ 109. Livestock Crossings—Generally. The State Highway Department may provide suitable livestock crossings on all State highways, having an oil surface, in the State of Wyoming, at places where necessity and convenience requires [require]. Ranchmen, farmers and livestock raisers and producers may file with the Board of County Commissioners of their county a request for livestock crossings, and the various Boards of County Commissioners shall recommend from time to time to the State Highway Department such crossings as they believe will best suit the necessities and convenience of ranchmen, farmers and livestock raisers and producers in their county.

(W. S. 1957, C. 1967, § 24-24.)

§ 110. Same—Construction and Width. Such livestock crossings shall be constructed of such material that livestock will readily cross over the same and shall not be less than sixty (60) feet in length and the full width of the highway.

(W. S. 1957, C. 1967, § 24-25.)

§ 111. Same—Signs Required. Livestock crossings shall be indicated by conspicuous signs placed on each side of the highway.

(W. S. 1957, C. 1967, § 24-26.)

WYOMING §§ 260, 262 and 290

§ 260. Highways Subject to Injury from Cattle, etc.—Designation—Entry of Order—Notice to Be Posted. The board of county commissioners of every county, wherein is situated any mountain road or highway or portion thereof, which would be liable to receive unusual injury and damage by driving over the same herds of cattle, horses or flocks of sheep, shall have the power, by order entered in the records of such board of commissioners, to designate so much of such road or highway as would be so liable to receive unusual injury and damage, as, not a highway for herds of horses, cattle or flocks of sheep, a notice of which designation shall be posted at convenient and conspicuous places along, and in the vicinity of the portion of such road or highway so designated, which notices shall likewise reasonably point out the lieu road or highway laid out as hereinafter provided.

(W. S. 1957, C. 1967, § 24-21.)

§ 262. Drover's Liability. Any person who shall drive any herd of horses, cattle or flock of sheep over any portion of any road or highway, so designated as not for horses, cattle or sheep as aforesaid, after such designation and the posting of notices as aforesaid, and after the provision of another reasonable highway for cattle, horses and sheep in lieu thereof as aforesaid, shall be liable to the county in which is situated such mountain road or highway, for any and all damage done thereto, by driving over the same, such flocks or herds of cattle, horses or sheep.

(W. S. 1957, C. 1967, § 24-23.)

§ 290.

(§ 290.) Stock at Large in Roads or Lanes. It shall be unlawful for any person, persons, company or corporation being the owner of live stock of any kind or having custody or charge thereof to permit said livestock to run at large in any fenced public lanes or fenced roads in the State of Wyoming. Any person, persons, company or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) and in addition shall pay all damage done by such stock unlawfully permitted to run at large in such lanes or roads; provided that the provisions of this section shall not apply to range cattle drifting into lanes or fenced roads going to, or returning from their accustomed ranges.

Any sheriff, deputy sheriff, livestock inspector, or officer or patrolman of the Wyoming highway patrol, after notification to the owner of such livestock, if known, shall have authority to remove said livestock from said public lane or fenced road, impound the same in the nearest convenient place where feed and water are available and immediately notify the owner, if known, of such action. If ownership is not known, the impounding officer shall report his action to an inspector. The inspector shall make a diligent effort to ascertain ownership of the impounded livestock, and for this purpose, may hold said livestock, not more than ten (10) days. If unable to do so, the inspector shall ship the impounded livestock to the nearest available market to be sold as estrays. Reasonable transportation and sales expenses shall be paid from the proceeds of the sale.

A removal fee of not to exceed ten dollars (\$10.00) per head shall be allowed for the expense incurred in removing livestock from any fenced public lanes or fenced roads and an impounding fee of not to exceed 50 cents per day per head shall be allowed the person or persons responsible for feed and care of the livestock so removed. The inspector shall be responsible for collection and payment to the rightful claimants of removal and impounding fees due when impounded livestock is surrendered to the owner or owners. Upon shipment to a market, the total amount of removal and impounding fees due shall be made known to the selling agency at the market by the inspector and shall constitute a first claim on the net proceeds of the livestock after shipping and sales expenses have been paid, and shall be forwarded by the selling agency to the claimant or claimants.

Should the proceeds of sale of any impounded animal or animals be insufficient to pay all legitimate shipping and sales expenses and the removal and impounding fees approved by the inspector, the deficit shall be paid by the agency.

The net proceeds, if any, of sale of the impounded livestock, after deduction of removal, impounding, trucking and sale expenses, shall be forwarded to the estray fund of the agency. Said agency shall hold such proceeds until the same are paid to the rightful owner of the livestock or otherwise disposed of according to law.

The carcasses of any domestic animals killed on state highways shall be disposed of by highway maintenance crews, and such crews shall make notations of all brands, marks, tags, or other means of identification and turn the same over to the inspector who shall endeavor to establish ownership of said animal and notify the owner in writing.