COMMITTEE ON JUDICIARY Room 14, State Capitol Salem, Oregon

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## PART I. RULES OF THE ROAD

ARTICLE 13. OPERATION OF BICYCLES AND PLAY VEHICLES

Preliminary Draft No. 1; September 1974

Reporter: Marion Embick Subcommittee on Revision

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

## OREGON VEHICLE CODE

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## PART I. RULES OF THE ROAD

ARTICLE . OPERATION OF BICYCLES AND PLAY VEHICLES

Preliminary Draft No. 1; September 1974

# # #

Section 1. (Parent or guardian prohibited from permitting child
to violate bicycle equipment laws.) (1) A parent or guardian commits
the offense of permitting the operation of an unlawfully equipped
bicycle if he authorizes or knowingly permits his child or ward to
operate a bicycle equipped in violation of sections, or
(2) Permitting the operation of an unlawfully equipped bicycle

#### COMMENTARY

## A. Summary

Subsection (1) prohibits a parent or guardian from permitting his child or ward to operate a bicycle which is not equipped as required by ORS 483.840, Permanent seat required; ORS 483.404, Headlights required; lighting and braking equipment on bicycles; ORS 483.446 (5), Horns and other sound equipment.

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

## B. Derivation

This section is based on the rule of subsection (b), UVC s 11-1201, but is sharply limited in scope compared to the UVC rule which holds the parent or guardian responsible for a violation of any bicycle rule if he authorizes or knows of the violation.

# C. Relationship to Existing Law

ORS 483.830 states the same rule as UVC s 11-1201, placing responsibility on parent or guardian for any

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authorization or knowing permission given a child or ward to violate bicycle law. ORS 483.830 would be repealed. Responsibility of the parent or guardian would be limited to a bicycle equipment violation.

ORS 483.835 provides that the rules of the road applicable to bicycles apply on a highway, bicycle lane or path. This rule is stated in subsection (c), UVC s 11-1201. ORS 483.835 would be retained.

- Section 2. (Lamps and other equipment on bicycles.) (1) When a person operates a bicycle upon a highway at any time from a half-hour after sunset to a half-hour before sunrise or at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles are not clearly discernible at a distance of 500 feet ahead, the bicycle or its rider shall be equipped with a lamp showing a white light visible from a distance of at least 500 feet to the front of the bicycle, and a red reflector, of such size or characteristics and so mounted as to be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A red light visible from a distance of 500 feet to the rear may be used in addition to the rear reflector.
- (2) Every bicycle shall be equipped with a brake that enables the operator to make the braked wheels skid on dry, level, clean pavement.
- (3) No person shall install or use any siren or whistle upon a bicycle.
- (4) A person who operates an unlawfully equipped bicycle commits

#### COMMENTARY

#### A. Summary

Subsection (1) provides that a person operating a bicycle during the times or under the visibility conditions described in ORS 483.402 must have the bicycle equipped with a lamp emitting a white light visible to the front and a red reflector visible to the rear.

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Subsection (2) provides that a person operating a bicycle must not operate it unless it has a brake of a prescribed quality.

Subsection (3) forbids installation or use upon a bicycle of a whistle or siren.

Subsection (4) classifies a violation of subsection (1), (2) or (3).

## B. Derivation

The rules of subsections (1) and (2) are identical to those stated in subsections (a) and (c) of UVC s 11-1207. The rule of subsection (b), UVC s 11-1207, requires a bicycle to be equipped with a bell or other audible device but forbids use of a siren or whistle.

## C. Relationship to Existing Law

The provisions of this draft section generally restate those of existing law. There are two deviations from the UVC; first, is the omission requiring a bicycle to be equipped with a bell or other device giving an audible signal. Second, under the UVC, the bicycle itself must be equipped with front and rear lights. Under Oregon law the rider may carry the lights.

Landis v. Wick, 154 Or 199, 57 P2d 759, 59 P2d 403 (1936), held that a person riding a bicycle not equipped with proper lights is not thereby a trespasser on the highway nor has his failure to display the required reflector converted him to a nuisance so as to preclude recovery for injuries he sustains. The purpose of requiring head lamps and reflectors on bicycles is to make the presence of the bicycle known to drivers whereas head lamps on motor vehicles are mandatory for the purpose of affording good visibility to the driver. Accord, Spence v. Rasmussen, 190 Or 662, 226 P2d 819 (1951).

ORS 483.870, which requires a person operating a bicycle on a sidewalk to give an audible signal before overtaking a pedestrian and to operate a bicycle carefully, would be retained.

- Section 3. (Unlawful bicycle operation.) (1) A person propelling a bicycle commits the offense of unlawful bicycle operation if he:
- (a) Rides other than upon or astride a permanent and regular seat attached to the bicycle; or
- (b) Carries more persons on the bicycle than the number for which it is designed and equipped; or
- (c) Carries a package, bundle or article which prevents him from keeping at least one hand upon the handlebar and having full control at all times.
  - (2) Unlawful bicycle operation is a \_\_\_\_\_

## COMMENTARY

## A. Summary

Subsection (1) provides that a bicyclist must not ride a bicycle other than astride or upon a permanent and regular seat, carry no more persons on the bicycle than it is designed for, carry any package that prevents him from keeping one hand on the handlebar and from having constant, full control.

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

#### B. Derivation

The provisions of UVC ss 11-1203 and 11-1206 are combined in this draft section.

## C. Relationship to Existing Law

Subsection (1) combines the provisions of ORS 483.840 and 483.855. As stated in paragraph B above, these rules are also derived from UVC ss 11-1203 and 11-1206.

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- Section 4. (Clinging by persons on bicycles and toy vehicles.)
- (1) A person riding upon a bicycle, coaster, roller skates, sled or toy vehicle commits the offense of clinging to another vehicle if he attaches himself or the bicycle to any other vehicle upon a roadway.
  - (2) Clinging to another vehicle is a \_\_\_\_\_.

## COMMENTARY

This draft section restates the provisions of ORS 483.845 in a form and style consistent with the draft chapter. The rule is the same as UVC s 11-1204.

Section 5. (Riding on roadways and bicycle paths.) (1) A person operating a bicycle upon a roadway shall:

- (a) Ride in single file;
- (b) Exercise due care when passing a standing vehicle or one proceeding in the same direction; and
- (c) Except on a one-way roadway within a city, ride as near to the right side of the roadway as practicable.
- (2) On a one-way roadway within the incorporated limits of a city, a person operating a bicycle shall ride as near to either the right or the left side of the roadway as practicable.
- (3) When a bicycle lane has been provided adjacent to a roadway, bicycle riders shall use that lane and shall not use the roadway.
- (4) A person who violates subsection (1), (2) or (3) of this section commits a \_\_\_\_\_\_.

#### COMMENTARY

## A. Summary

Subsection (1) provides that a bicyclist must ride single file on a roadway, exercise care when passing a standing vehicle and ride as near the right side of the roadway as possible except on a one-way urban roadway.

Subsection (2) provides that on a one-way roadway in a city a bicyclist shall ride as near to either the right or left side as practicable.

Subsection (3) provides that a bicyclist must use a bicycle lane when there is one.

Subsection (4) classifies a violation of subsection (1), (2) or (3).

## B. Derivation

This section is based on UVC s 11-1205, Cal Vehicle Code s 21202 (b) (1972), and restates ORS 483.850.

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## C. Relationship to Existing Law

ORS 483.850 provides that bicyclists may not ride more than two abreast on a roadway and, if the speed limit exceeds 25 miles per hour, only in single file. This draft section requires bicyclists on a roadway to proceed single file regardless of speed limit.

ORS 483.850 provides that a bicyclist on a roadway must proceed as near the right side as practicable except when on a one-way highway but makes no rule for the one-way highway. This draft section requires the bicyclist to proceed on the right except on a one-way roadway within a city limits when he may proceed on either side.

Both the UVC and ORS 483.850 require a bicyclist to use a bicycle lane when one has been provided. The UVC utilizes the term, "usable path for bicycles adjacent to a roadway." ORS 483.850 uses the term, "bicycle lane," which is defined by subsection (6) of ORS 483.002 as "that part of the highway, adjacent to the roadway, designated by official markings for use by persons riding bicycles."

Section 6. (Bicyclists required to use right side of roadway; single file; right of way on bicycle lane.) (1) A driver commits the offense of unlawful driving upon a bicycle lane if he drives upon a bicycle lane except when:

- (a) Making the approach for a right turn;
- (b) Making a right turn; or
- (c) Entering or leaving an alley or private road or driveway.
- (2) A driver shall yield the right of way to a person operating a bicycle upon a bicycle lane.
- (3) Unlawful driving upon a bicycle lane or failure to yield the right of way to a bicyclist upon a bicycle lane is a \_\_\_\_\_.

#### COMMENTARY

#### A. Summary

Subsection (1) establishes the driver offense of unlawful driving on a bicycle lane, subject to the exceptions of making a right turn and entering or leaving an alley or private road or driveway.

Subsection (2) provides that a driver yield the right of way to a bicyclist on a bicycle lane.

Subsection (3) classifies a violation of subsections (1) and (2).

#### B. Derivation

There is no counterpart in the UVC for the rules of this draft section. Proposals by the National Committee on Uniform Traffic Laws and Ordinances of November 15, 1973, suggest several alternatives for use of bicycle lane, roadway and when a driver may traverse a bicycle lane.

#### C. Relationship to Existing Law

Under ORS 483.860, a driver is prohibited from using a bicycle lane except when passing on the right of another

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vehicle. ORS 483.860 would be repealed. Passing on the right by driving on a bicycle lane would be prohibited by (section 8, Article on Driving on Right Side of Roadway; Overtaking and Passing; Use of Roadway), which prohibits passing on the right by driving off the roadway.

Under ORS 483.865 a driver is prohibited from driving or parking on a bicycle path. This section would be retained. It is consistent with the provisions of draft section 6.

- Section 7. (Bicyclists to yield right of way at intersections except to left turning and stopped vehicles; driver right of way to bicyclist.) (1) A person riding a bicycle commits the offense of failure to yield the right of way if upon approaching or moving across an intersection he does not yield the right of way to all vehicles within or closely approaching the intersection except:
- (a) Oncoming vehicles closely approaching from the opposite direction which are intending to, or starting to, make a left turn at the intersection; or
- (b) In the event the bicyclist is not required by an official traffic control device to stop or yield to vehicles approaching the intersection which must stop before entering it because of a stop sign.
  - (2) Failure by bicyclist to yield the right of way is a

- (a) He proceeds into an intersection and makes a left turn without first yielding the right of way to all oncoming persons riding bicycles within or approaching the intersection from the opposite direction so closely as to constitute an immediate hazard; or
- (b) After stopping at a stop intersection or through highway as required by (section 3, Article on Right of Way), he fails to yield the right of way to any person on a bicycle in the intersection or approaching on a through highway so closely as to constitute an immediate hazard.
- (4) Failure by driver to yield the right of way to bicyclist is a

<sup>(3)</sup> A driver commits the offense of failure to yield the right of way to bicyclist if:

#### COMMENTARY

## A. Summary

Subsection (1) provides that a bicyclist must yield the right of way at intersections to all vehicles except those turning left or required to stop.

Subsection (2) classifies the offense of failure by bicyclist to yield right of way.

Subsection (3) establishes the offense of failure to yield by driver when he doesn't yield the right of way to a bicyclist in the circumstance that he, the driver, is turning left or has stopped at a through highway and a bicyclist is in the intersection or approaching so closely as to constitute a hazard.

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

#### B. Derivation

This section has no counterpart in the UVC. Section 5-24 of the city ordinance for Santa Maria, California, states a similar provision.

## C. Relationship to Existing Law

There is no counterpart for this proposed section in existing Oregon law or the UVC. The 1973 Agenda for the Subcommittee on Operations of the NCUTLO quotes a regulation of Davis, California, similar to this draft section. Santa Maria, California, also has a similar rule.

Section 8. (Application of chapter to bicyclists.) Every person riding a bicycle upon a roadway 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.

#### COMMENTARY

## A. Summary

This draft section restates the rule of ORS 483.034 but excludes from it persons riding, driving or leading any animal. Persons riding bicycles on a roadway are subject to the provisions of the chapter applicable to drivers, except those which don't apply.

#### B. Derivation

This section is based on ORS 483.034.

## C. Relationship to Existing Law

Under UVC s 11-1202 a bicyclist on a roadway has the rights and is subject to the duties of a driver except those which are not applicable. The draft section does not grant the rights.

Copenhaver v. Tripp, 187 Or 662, 213 P2d 450 (1950), interpreted the provision of ORS 483.034, formerly OCLA 115-305, to make applicable to bicyclists the rules of the road except those which by their very nature cannot apply. Under Spence v. Rasmussen, 190 Or 662, 226 P2d 819 (1951), the applicable provisions of the statute governing the overtaking and passing of vehicles were held to apply to a bicycle being overtaken and passed in the same manner as if the overtaken bicycle were a vehicle by virtue of the rule of ORS 483.034.

Under ORS 483.034 and this draft section, the bicyclist has no right of way comparable to a driver's, but only that specifically granted in this Article.

# UVC CHAPTER I. (In Part) WORDS AND PHRASES DEFINED (General Definitions)

§ 1-105—Bicycle. — Every device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than 14 inches in diameter. (REVISED AND RENUMBERED, 1968.)

#### OREGON LAW

ORS 483.002(5)

(5) "Bicycle" means every device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than 14 inches in diameter, or having three wheels, all of which are more than 14 inches in diameter.

#### Analysis:

Until enactment of Chapter 580, Oregon Laws 1973, there has been no statutory definition of "bicycle."

The Oregon definition includes devices with three wheels whereas the UVC definition is restricted to two wheels. It should be noted that a bicycle is not within the definition of a vehicle. ORS 483.030 (4). Haynes v. Sprague, 137 Or 23, 295 P 964 (1931). Under the UVC, an adult riding a tricycle on a highway is not required to comply with the rules of the road. An infant riding a tricycle in Oregon is so required under ORS 483.034. Since an infant cannot ordinarily be held criminally and civilly liable for a negligent failure to comply with the rules of the road, the UVC staff recommendation of the addition of the following subsection to UVC § 11-1201 should be considered:

"(d) The provisions of this article shall apply to any person at least 14 years of age propelling any conveyance by feet acting upon pedals." National Committee on Uniform Traffic Laws and Ordinances, Agenda for the Subcommittee on Operations, November 15, 1973, pp 68-69.

UVC § 1-105; ORS 483.002(5) (Cont'd.)

The Wisconsin definition of bicycle:

"'Bicycle' means every device propelled by the feet acting upon pedals and having wheels any two of which are more than 20 inches in diameter." Wis. Stat § 340.01 (5) (1967).

The New York definition is identical to Wisconsin's. N.Y. Vehicular Traffic Law § 102 (1960).

The California definition:

"A bicycle is a device upon which any person may ride, propelled by human power through a belt, chain or gears, and having either two or three wheels in a tandem or tricycle arrangement."

Cal. Vehicle Code § 21200 (Supp 1969).

#### § 11-1201—Effect of regulations

- (a) It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this article.
- (b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this act.
- (c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

#### OREGON LAW

483.830 Parent or guardian prohibited from permitting child or ward to violate bleeyele laws. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate the provisions of ORS 483.404 or 483.830 to 483.870.

[1973 c.580 §4]

483.835 Applicability of chapter to bicycle operation. The regulations in this chapter applicable to bicycles shall apply whenever a bicycle is operated upon any highway, bicycle lane or bicycle path.
[1973 c.580 §5]

#### Cases:

No Oregon cases interpreting these provisions which were enacted as part of Chapter 580, Oregon Laws 1973.

#### § 11-1202—Traffic laws apply to persons riding bicycles

Every person riding a bicycle 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 act, except as to special regulations in this article and except as to those provisions of this act which by their 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:

Copenhaver v. Tripp, 187 Or 662, 213 P2d 450 (1950), interpreted the provision of ORS 483.034, formerly OCLA 115-305, to make applicable to bicyclists the rules of the road except those which by their very nature cannot apply. Under Spence v. Rasmussen, 190 Or 662, 226 P2d 819 (1951), the applicable provisions of the statute governing the overtaking and passing of vehicles were held to apply to a bicycle being overtaken and passed in the same manner as if the overtaken bicycle were a vehicle by virtue of the rule of ORS 483.034.

#### § 11-1203—Riding on bicycles

- (a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.
- (b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

#### OREGON LAW

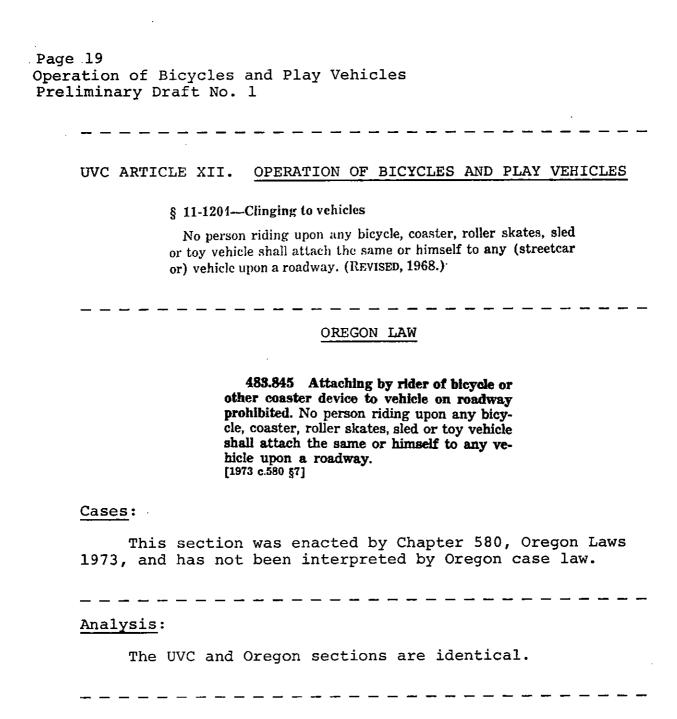
483.840 Bicyclists required to use permanent seat; prohibition against transporting more persons than bicycle is designed and equipped for. (1) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(2) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
[1973 c.580 §6]

#### Cases:

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The UVC and Oregon sections are identical.



## § 11-1205—Riding on roadways and bicycle paths

- (a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
- (b) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.
- (c) Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

#### OREGON LAW

- 483.850 Bicyclists required to use right side of roadway; riding abreast or single file; use of bicycle lanes. (1) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, except when the highway is restricted to one-way traffic, and shall exercise due care when passing a standing vehicle or one proceeding in the same direction.
- (2) Except as provided in subsection (3) of this section, persons riding bicycles upon a roadway shall not ride more than two abreast.
- (3) Upon roadways where the designated speed exceeds 25 miles per hour, persons riding bicycles shall ride in single file.
- (4) Wherever a bicycle lane has been provided adjacent to a roadway, bicycle riders shall use that lane and shall not use the roadway.

  [1978 c.580 §8]

#### Cases:

This section was enacted by Chapter 580, Oregon Laws 1973, and has not been interpreted by Oregon case law.

## § 11-1206—Carrying articles

No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars.

#### OREGON LAW

483.855 Bicyclists prohibited from carrying article that interferes with bicycle operation. No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars and having full control at all times.

[1973 c.580 §9]

#### Cases:

The provision of ORS 483.855 was enacted as a part of Chapter 580, Oregon Laws 1973.

## Analysis:

The two provisions are identical except that the Oregon provision further qualifies the prohibition of the UVC against carrying a package that prevents the bicyclist from keeping at least one hand on the handlebars by requiring that the package not prevent the bicyclist from having full control at all times.

## § 11-1207—Lamps and other equipment on bicycles

- (a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the department which shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector. (Revised, 1968.)
- (b) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.
- (c) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

UVC. NO COMPARABLE PROVISION

#### OREGON LAW

483.860 Use of bicycle lane by vehicles restricted; vehicle operators required to yield to bicyclists in bicycle lane. No driver of a vehicle shall drive upon a bicycle lane except when passing another vehicle on the right as provided in paragraph (a) of subsection (3) of ORS 483.310 and until he has first ascertained that such movement can be made with safety. The driver of a vehicle shall give right of way to bicycles being operated upon the bicycle lane.
[1973 c.580 §10]

#### Cases:

No cases interpreting this section.

## Analysis:

This section was enacted as a part of Chapter 580, Oregon Laws 1973. It forbids a driver from driving on a bicycle lane except when passing on the right of a vehicle turning left on a highway that has space for two or more lanes of traffic moving in the direction the vehicles are proceeding. The driver so passing on the right must first make sure he can do so safely, and he must yield the right of way to bicycles operated on the bicycle lane.

Under the draft section replacing ORS 483.310 and stating rules for a driver passing on the right, a driver so passing may not go off the roadway onto the shoulder for this purpose. Under ORS 483.310 (3)(a), a driver passing on the right can use the shoulder when it provides space for a lane of traffic.

The provision of ORS 483.860 appears to prohibit a driver from crossing a bicycle lane to enter an alley, private road or driveway and from parking or stopping or standing on a bicycle lane when disabled.

Both the greatly increased use of bicycles and the establishment of bicycle lanes raise some problems or questions concerning right of way, speed and other rules of the road that may require statutory direction.

#### SAN MATEO BICYCLE ORDINANCES

## Sec. 5-16. Bicyclists--yield right-of-way, emerging.

The driver of a bicycle emerging from an alley, driveway, or building, upon approaching a sidewalk or the sidewalk area, shall yield the right-of-way to any pedestrian approaching on said sidewalk or sidewalk area, and upon entering a bicycle lane shall yield the right-of-way to all bicycles approaching upon said lane, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

## Sec. 5-24. Bicyclists--right-of-way at intersections.

Upon approaching a controlled intersection any person riding or operating a bicycle shall yield the right-of-way to all vehicles within or approaching such intersection except that all vehicles which must stop before entering an intersection because of a stop sign and all vehicles making a lefthand turn at an intersection shall not proceed into said intersection nor make such a turn without first yielding the right-of-way to all bicycles within or approaching said intersection, and shall proceed only when it is safe to do so.

# Sec. 5-26. Bicycle lanes--vehicles crossing or driving upon.

No person shall drive a vehicle upon or across a bicycle lane except to enter or exit a driveway, and except to park such vehicle or leave a parking space. No person shall drive or cross a bicycle lane, as permitted by this section, except after giving the right-of-way to all bicycles within the lane.