

COMMITTEE ON JUDICIARY

Subcommittee on Revision

March 22, 1974

Minutes

Members Present: Senator Elizabeth W. Browne
Representative Stan Bunn
Representative Bob Marx

Delayed: Senator Wallace P. Carson, Jr.

Staff Present: Mrs. Marion Embick, Research Assistant
Mr. Donald L. Paillette, Project Director

Also Present: Captain Larry Brown, Portland Police Bureau
Hon. Keith Burbidge, State Senator
Lt. Andy Crabtree, Portland Police Bureau
Sgt. Al Dean, Portland Police Bureau
Mr. L. E. George, Engineer, Highway Division
Ms. Vinita Howard, Motor Vehicles Division
Mr. Jack Sperr, Pupil Transportation Coordinator,
Department of Education
Sgt. H. S. Swenk, Multnomah County Sheriff's Office
Captain John Williams, State Department of Police

Agenda: Pedestrians' Rights and Duties, Reference Paper
Speed Restrictions; P.D.No. 2, ss 5 and 6
Right of Way; P.D.No. 2, s 3
Special Stops Required, Reference Paper
Turning and Starting and Signals on Stopping
and Turning, Reference Paper

Senator Elizabeth W. Browne, Chairman, called the meeting to order at 10 a.m. in Room 14, State Capitol.

PEDESTRIANS' RIGHTS AND DUTIES

UVC s 11-507. Pedestrians soliciting rides or business.
ORS 483.218. Standing in roadway to solicit ride.

Mrs. Embick explained the Oregon provision is more limited as it deals strictly with persons soliciting rides from the driver of any private vehicle. The UVC provision concerns itself not only with the solicitation of rides but also, under subsection (b) the person may not solicit employment, business or contributions and under (c) the person shall not stand on or in proximity to the street or highway for the purpose of soliciting the watching or guarding of any vehicle while

parked or about to be parked. She called attention to the word "roadway" in existing law and stated that the UVC definition of roadway excludes the shoulder or berm. As indicated in earlier meetings, Mrs. Embick said that under 35 Atty Gen Op 833 (1971), "roadway" was defined as meaning the portion of the street or highway on which vehicles travel, including the adjacent shoulder area. Under existing law, a person who is soliciting a ride may not do so from both the main traveled section and the shoulder. With respect to "private vehicle" as contained in existing law, Mrs. Embick said this has not been defined in any part of the traffic code.

The Chairman asked if persons were being prosecuted by the State Police for being on the emergency parking area and Capt. Williams explained they have followed the Attorney General's opinion in this matter and the hitchhikers are either being issued a citation or warning and advised they are in violation of the law.

In answer to the Chairman's question, Ms. Howard stated the Motor Vehicles Division did not have statistics as to accidents involved relating to hitchhikers and that they have a category of pedestrians standing in the road, but whether they were actually hitchhiking at the time of being injured she would have no knowledge.

Representative Bunn asked if existing law were deleted, would there be any other law which would prohibit the persons from standing in the highways and Capt. Williams stated that the Highway Division has authority to restrict pedestrians from the freeway after posting proper signs. Representative Bunn expressed dissatisfaction with the statute but was concerned that if it were deleted a person could stand on the highway. He wondered if there was any way to prohibit this and Capt. Williams stated that to his knowledge there was no such prohibition.

Captain Brown stressed that by deleting the statute, it could be anticipated there would be an increase in rapes inasmuch as 31.9% of rapes or attempted rapes had hitchhikers involved. Mr. Paillette stated that there is a provision in one of the drafts which would prohibit obstructing traffic and this could also be covered under ORS 166.025, Disorderly Conduct.

Captain Brown noted that the Attorney General's opinion does not prohibit hitchhiking unless it interferes with the flow of traffic and stated that it is a totally ineffective statute in preventing hitchhiking.

Mr. George expressed agreement with Representative Bunn's contention that existing law fails to do anything as far as either prohibiting or being permissive. Subsection (b) of s 11-507 would permit hitchhiking on the shoulder and he did not believe it wrong to do so if properly done, although he realized the problems involved with hitchhiking.

Mr. George commented that if subsection (a) were adopted by the subcommittee, there should be some approach required for the individual to be a safe distance back from the edge of the roadway, such as eight or ten feet, and which would then make it a permissive type statute.

In response to Mr. Paillette's question, Capt. Brown stated that he would urge the strict prohibition of hitchhiking. Arrests cannot be made by the Portland Police, he said, because of the fact that, according to the Attorney General's opinion, they must be interfering with traffic and this is the way the judges have been interpreting it. Mr. Paillette's interpretation of the opinion was that the pedestrian could not hitchhike from the shoulder or the road. Sgt. Dean stated that the curb is used as the dividing line, and if off the curb, the person can be cited.

The Chairman asked that if existing law were to be retained, certain provisions should be taken from the UVC. She wondered if subsections (b) and (c) should be incorporated. Mrs. Embick stated that those subsections could be considered appropriate to Oregon and Mr. George reported problems arising from trucks and motor vehicles which are parked and selling items from the shoulder area, and on occasions it has been done in unsafe places, both for the seller and buyer. In order to control the safe operation of traffic in these areas he thought it would be beneficial to include these provisions. Subsection (c) would take into account the situation where people are standing in the road soliciting and directing traffic into the private parking lots, such as at the State Fair. Capt. Brown indicated it is also aimed at newspaper vendors going into the streets and soliciting persons stopped at red lights.

Representative Bunn asked if the UVC section were to be adopted, would it contain the definition of "roadway." Mrs. Embick reported the definition of roadway had not been adopted.

Representative Bunn moved the adoption of UVC s 11-507 with the definition of roadway as defined by UVC.

Representative Marx asked if there was another section in Oregon law which would permit those individuals selling wares to continue to operate and Capt. Williams explained there was a law in the Motor Vehicle Code which would address this section. Mr. George explained this was a regulating statute and stipulates the conditions under which it can occur. Mrs. Embick called attention to ORS 483.347 which states:

"No person shall park a vehicle on the right of way described in ORS 483.346 for the purpose of advertising, selling or offering merchandise for sale."

ORS 483.346 gives the authority to the State Highway Commission to control parking on state highways.

Mrs. Embick reported that if the UVC section were to be adopted, it would take into account the UVC definition of roadway and allow a person to stand on the shoulder to hitchhike.

Representative Bunn asked if language could be inserted in subsection (a) which would note the distance from where the hitchhiker would stand and Mr. George expressed the view that eight feet would be a safe distance for the hitchhiker to stand. Using any closer distance would create a traffic hazard, he said.

Representative Marx remarked that if the hitchhiker were on the shoulder he would stay far enough away to eliminate getting too close to the oncoming vehicle although Mr. George responded that on occasions some of them come too close, creating a hazard to both the vehicle and themselves.

Sgt. Dean was of the opinion that it was not the hitchhiker who always creates the problem, but the driver making the violent change of direction when picking him up. By going across a lane, the maneuver can and does cause accidents to those behind him, or to himself. If the hitchhiker were allowed to be a distance of two feet, for example, from the roadway, as suggested by Representative Marx, the driver would have nowhere to go and for this reason he would recommend that hitchhiking be either totally prohibited or allowed only in specific areas set aside for it.

Representative Bunn asked that if hitchhiking were to be permitted on the shoulder there was any method by legislation of effectively preventing the situation described by Sgt. Dean and received a negative reply. Sgt. Dean stated that if the person were required to stay back some distance, there would at least be some ground for the car to position itself.

Vote was taken on Representative Bunn's motion to adopt UVC s 11-507, with the understanding that it contain the UVC definition of roadway in order to allow hitchhiking on the shoulder.

Motion carried. Delayed: Carson.

UVC s 11-508. Driving through safety zone prohibited.
ORS 483.334. Driving through or over safety zones.

Mrs. Embick explained that "safety zone" is defined in ORS 483.020 (5) and identical to the UVC definition.

In answer to Representative Marx's inquiry as to the description of a safety zone, Capt. Brown stated this originated when street-cars loaded and unloaded in the center of the streets. The provision should be retained because of the possibility of light rail service coming into use and the safety island would be used in these instances, he said.

Representative Marx moved the adoption of UVC s 11-508.

Motion carried. Delayed: Carson.

UVC s 11-509. Pedestrians' right of way on sidewalks.
ORS 483.222. Stopping before driving onto sidewalk from alley,
driveway or building.

The UVC section gives the pedestrian the right of way on a sidewalk over the driver of a vehicle. Existing law requires the driver to stop prior to driving onto a sidewalk, when emerging from an alley, driveway or building but there is no provision requiring a driver to yield the right of way to a pedestrian on a sidewalk. The requirement to stop when emerging from the alley, etc., would be retained in another section.

Representative Bunn moved the adoption of UVC s 11-509.

Motion carried. Delayed: Carson.

UVC s 11-510. Pedestrians yield to authorized emergency vehicles.

The section requires the pedestrian to yield the right of way to an emergency vehicle when using the audible and visual signal and although there is no comparable provision in Oregon law, there are provisions concerning the audible and visual signals.

Section 9 of the Article on General Provisions defines emergency vehicle and which is not in conformance with the UVC definition but would be retained in the draft.

Representative Bunn thought that the UVC section, as written, could create confusion and possibly end up in litigation as he was of the opinion it would be difficult to determine who has the priority rights. Mrs. Embick stated that Oregon has provisions whereby the driver must yield to emergency vehicles and also there is this same duty of due care as to the driver of the emergency vehicle. Mr. Paillette stated that there would be no more difficulty for the courts to determine who is at fault under this statute than a situation involving two vehicles.

Representative Bunn moved the adoption of UVC s 11-510.
The motion incorporates the present definition of emergency vehicle, and the signal and sign requirements.

Motion carried. Delayed: Carson.

Mr. Paillette remarked that the commentary would indicate the changes to be made from the UVC section.

UVC s 11-511. Blind pedestrian right of way.
ORS 483.214. Rights of blind pedestrian with white cane or dog guide;
use of white canes restricted.

Oregon law provides in detail the requirements for yielding to the blind person, and includes definitions of "blind person," "dog guide" and "white cane." Subsection (2) makes the distinction that the driver shall come to a full stop, rather than simply yielding to the pedestrian while he is carrying a white cane or accompanied by a dog guide. UVC does not contain the above definitions and Mrs. Embick indicated she believed this was unnecessary.

Capt. Brown reported that existing law works well and expressed concern over the adoption of the UVC section because of the lack of prohibition with respect to persons other than blind persons carrying white canes.

Representative Bunn moved the retention of ORS 483.214.

Motion carried. Delayed: Carson.

Mr. Paillette advised that along with other statutes which may be retained, editing would be done by the staff with respect to statutory references in the retained statute.

UVC s 11-512. Pedestrians under influence of alcohol or drugs.

Captain Brown asked if the section was an attempt to return the old drunkenness law as he believed this is what it amounts to. Mr. Paillette explained that it would be classified as a noncriminal offense in the revised code although the person could be fined. As to whether the person could be taken into custody he said would depend on the policy decision made by the committee - if it were handled as a violation, the person could be arrested even though the ultimate penalty would be a fine only. Capt. Brown spoke against adoption of the UVC section in view of the direction the police have taken since 1971 with the detoxification centers.

It was the consensus of the members not to adopt UVC s 11-512.

UVC s 11-513. Bridge and railroad signals.

Representative Bunn moved the adoption of UVC s 11-513.

Motion carried. Delayed: Carson.

TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING
UVC s 11-601. Required position and method of turning;
ORS 483.316. Turns at intersections.

ORS 483.316 relates only to the driver turning at an intersection whereas the UVC rules relate to a driver who is turning, whether on

private property, alley, parking lot, etc. The language in paragraph (a), subsection (1) appears to be inappropriate because, as Mrs. Embick explained, the turn is to be made as close as practicable to the edge of the highway, and the highway includes the right of way from edge to edge. She believed it desirable to change the language to the "right-hand curb" or "edge of the roadway" and which is contained in the UVC. There is a major difference with respect to the provisions of the left turn. Existing law directs the driver to proceed to the midpoint of the intersection before making the left turn whereas under UVC the driver makes his turn on the near side of the midpoint of the intersection.

Mr. George expressed satisfaction to the UVC approach to which Capt. Brown concurred, and explained that under existing law two drivers attempting to make a left turn would be in conflict and would not be so under the UVC approach.

Captain Williams spoke to the area which is set aside for parking and which he said creates problems when the driver is attempting to make a right turn. Capt. Brown reported that traffic congestion has caused the city to eliminate the parking areas in certain places and make the curb lane the right turn lane but it causes confusion to the drivers as they turn in places where it has not been designated a turn lane. Ms. Howard reported problems exist under the present language when driver testing, although these same problems would undoubtedly exist under the UVC language. She thought there was no easy answer as to how the driver will position the car before making the right turn.

Lt. Crabtree reported frequent accidents where the driver is traveling fairly close to the right hand lane and planning to make the right turn and another driver, noticing extra room on the right, will pass.

Mr. George asked if paragraph (a) would make it legal to turn from a parking lane and Mr. Paillette responded that the term "as close as practicable" would make it legal. If it were a parking lane with no cars parked, the driver could get as close to the edge of the curb as possible in making the turn.

Ms. Howard expressed support of the language in the UVC inasmuch as existing law specifically states that the "approach for a right turn shall be made in the lane for traffic nearest to the right-hand side." UVC language states "Both the approach for a right turn and a right turn shall be made as close as practicable" and would require the driver to swing over sooner and cut off the driver who may be coming up attempting to make the turn at the same time.

Sgt. Swenk spoke in favor of the UVC definition. Oregon law states the driver may pass on the right if it can be done safely.

If the person believes it can be done safely he will come up from the right and make the turn although if there is an accident, the problem arises as to whose fault it was. He believed that in the metropolitan area the driver should be allowed to make the turn in order to expedite traffic.

Representative Marx moved the adoption of UVC s 11-601.

Mrs. Embick referred to subsection (c) and recalled the determination made by the subcommittee at earlier meetings that with respect to some of the authorization provisions it is better to place them in the general provisions section and was of the opinion this subsection belonged in another Article.

Representative Marx moved to amend his motion to adopt UVC s 11-601 with the exception of subsection (c) which shall be placed in the Article relating to power granting authority.

Mr. Paillette remarked that the commentary will note in which Article subsection (c) has been placed.

Mrs. Embick next called attention to the last paragraph of paragraph (b) of subsection (1) of existing law. She noted that the paragraph does not have a counterpart in the UVC but that perhaps it should be retained because of the busses in the metropolitan area, although it could also include private vehicles. Sgt. Dean voiced objection to the proposal. Going down a one way street and a car in traveling in the right lane, for example, the driver will turn left to cross three lanes and it would be completely legal, he said. Capt. Brown stated that in the Portland area signs have been placed allowing the busses to make these turns and did not see any need for retaining the language.

Mr. Paillette reported that if the committee were to adopt UVC s 11-601 (a) and (b) with the understanding that (c) would be incorporated in a section relating to special authorization provisions, this would give authority to the city of Portland to enact local ordinances to deal with special turns.

Vote was taken on Representative Marx's motion to adopt UVC s 11-601 (a) and (b) with the caveat that (c) would be moved to a different portion of the code.

Motion carried. Delayed: Carson.

UVC s 11-602. Limitations on turning around.
ORS 483.318. U-turns prohibited.

The UVC provision in subsection (b) allows U-turns to be made where there is a 500 foot visibility on any curve, or upon the approach

to or near the crest of a grade. Existing law prohibits a U-turn upon the curve or near the crest of a grade and also between intersections of any street or highway within a city, and is a major difference with respect to the UVC. Existing law prohibits making a U-turn where it is prohibited by the placement of various markers, buttons and signs and under the UVC these are called "official traffic control devices."

Captain Williams referred to the 500 foot requirement in subsection (b) of UVC s 11-602 and indicated that existing law requires 1,000 feet and which was because of the number of accidents occurring particularly along the coast highway. He believed that the 500 foot requirement in the city (ORS 483.318 (4)) was placed in the law in order not to interfere with intersections.

Captain Brown reported there would be no conflict having the 500 foot requirement as stated in subsection (b) of the UVC provision and that although he would not favor making U-turns on W. Burnside, for example, he did not believe they could be legally made under subsection (a).

Lt. Crabtree was of the opinion there should be some restrictions on any signalized intersection. Mrs. Embick reported that subsection (2) of existing law prohibits the U-turn between intersections within the city and also where prohibited by local authority. Lt. Crabtree stated that by city ordinance it is prohibited at any stop sign or signalized intersection which is not authorized by law, although Mr. Paillette noted that it is covered under subsection (3).

Representative Marx moved subsection (b) of UVC s 11-602 be amended to substitute 1,000 feet for 500 feet.

Mr. Paillette asked if it were appropriate to retain 500 feet for the cities and 1,000 feet for outside the cities, which is existing law. Sgt. Dean reported disfavor of changing the number of feet to 1,000 and stated that there are areas in Portland which are identical to the coastal problem.

Representative Bunn voiced objection to the change to place 1,000 feet in the city and agreed with Mr. Paillette that the provisions of ORS 483.318 (4) were more feasible.

Vote was taken on Representative Marx's motion to delete 500 feet and insert 1,000 in UVC s 11-602 (b).

Voting for the motion: Marx, Chairman Browne. Voting no: Bunn; Delayed: Carson. Motion carried.

The subcommittee next discussed the policy question relating to U-turns at other than intersections. Representative Marx was of the opinion the turns should be prohibited at intersections unless authorized

by local authorities whereas under existing law it is permitted unless prohibited by the local authorities.

It was Representative Bunn's contention that existing law was more appropriate than the UVC section and he wondered if there were any problems existing in the current statute. The Chairman stated there were three items under discussion: prohibiting all U-turns except where permitted; U-turn only at an intersection, and a U-turn anywhere if it can be safely accomplished. Representative Bunn stated existing law allows the local authority to prohibit a U-turn at an intersection and prohibits U-turns where it would be unsafe. Representative Marx agreed but stressed that the turns should be prohibited at intersections unless authorized by the local authorities.

Representative Bunn moved the retention of ORS 483.318 in its present form.

Motion carried. Delayed: Carson.

UVC s 11-603. Starting parked vehicle.

ORS 483.126 (1). Signals for starting, stopping, changing lanes or turning on highway.

Mrs. Embick reported the UVC has a separate provision relating to starting a parked vehicle. Existing law sets out in the same paragraph the rules for starting a car as well as stopping or changing lanes. There is no requirement that a signal be given by a person starting a vehicle under UVC and existing law requires the driver to see that the movement can be made in safety, which is comparable to the UVC provision although he must also use an audible signal when a pedestrian may be affected by such movement and give a signal of such movement to the driver of another vehicle. Mrs. Embick was unaware of any provision whereby the driver, properly parked, must yield to the pedestrian where there is no crosswalk.

It was Representative Bunn's interpretation of existing law that the driver must only signal when changing lanes if he believed another vehicle would be affected and wondered if this should be made mandatory in all instances. Capt. Williams responded that UVC s 11-604 responds to this question and that if the present law were retained it would be in conflict with UVC s 11-604.

Representative Marx expressed satisfaction with existing law with the exception of requiring the audible signal.

Representative Bunn moved the adoption of ORS 483.126 (1) amended as follows:

Delete "If any pedestrian may be affected by such movement the driver shall give a clearly audible signal by sounding the horn" and delete "Whenever the operation of any other vehicle may be affected by such movement".

In response to Representative Bunn's question, Capt. Williams stated that both UVC ss 11-604 and 11-604 should be considered together. He thought that UVC s 11-603 would clarify some of the problems existing in current law and the s 11-604 would consider the balance of the statute, which he believed was better than ORS 483.126.

Representative Bunn withdrew his motion.

See page 13 of these minutes for further discussion of s 11-603.

The subcommittee recessed for lunch at 12:15 p.m. reconvening at 1:30 p.m. with all members present at that time.

UVC s 11-604. Turning movements and required signals.
ORS 483.126.

Mrs. Embick reported that both UVC ss 11-603 and 11-604 are comparable to existing law. Subsection (b) requires the signal to be given continuously the last 100 feet traveled by the vehicle and which provision is contained in subsection (4) of ORS 483.126, although the signal is required to be given only on a turn rather than when moving from one lane to the other, unless necessary for safety. Subsection (c) of UVC states that both a stop and a sudden decrease of speed require an appropriate signal with the proviso that there is an opportunity to give such signal. Existing law does not require any signal to be given by the driver who is suddenly decreasing the speed. There is no similar provision in existing law to subsection (d) of UVC s 11-604.

Captain Williams called attention to subsection (d) and was of the opinion the subsection could conflict with ORS 483.423 (Warning lights) inasmuch as flashing lights are permitted under that statute. It was Mrs. Embick's interpretation that the subsection did not refer to a prohibition of flashing lights but the use of them on one side only. With respect to subsection (b) she stated that to her knowledge there was no prohibition for using the signals for more than 100 feet and it was the recommendation of Captain Williams' staff that there be this restriction.

Mr. Paillette referred to the courtesy flashing prohibition in subsection (d) and asked if it is enforceable and Capt. Williams responded that although it is difficult to enforce he believed it to be a good provision. Capt. Brown concurred with this statement and further stated that a left turn signal should mean in fact that the car is going to make the left turn - if this is not what it means, the other drivers cannot react properly when they see the signal. He agreed that this would be difficult for the driver especially in the metropolitan areas where there are numerous driveways and crosswalks although he would anticipate that his officers would use a certain amount of judgment regarding this.

Mr. George alluded to the statement made by Senator Carson regarding the danger imposed by a disabled vehicle using one turn signal and stated that many of the cars on the road do not have the double turn emergency flashers and although it may be confusing, it does give the other driver adequate warning and he thought it would be a safety factor in permitting one signal to operate.

Sgt. Dean mentioned that the subsection refers to flashing on "one side only" and reported that police cars have alternating tail-lights and that by adopting the subsection these problems would come into view.

Representative Marx moved subsection (d) of UVC s 11-604 be amended to delete in line 2 "flashed on one side only on a disabled vehicle" and in lines 4 and 5 delete the phrase ", nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section".

There being no objection, the motion was adopted.

Representative Bunn moved subsection (a) of UVC s 11-604 be amended to delete lines 1 and 2 and in line 3 "safety nor without giving" and insert "The driver of any vehicle upon a highway before starting, stopping, changing lanes or turning from a direct line shall first see that such movement can be made in safety and shall give an appropriate signal in the manner hereinafter provided" and that the section be further amended to provide the required signal when moving from a stopped position.

Speaking on his motion, Representative Bunn pointed out the original language in s 11-604 uses the term "roadway" which would exclude the shoulders and that "highway" would include the shoulders.

Lt. Crabtree expressed concern that there is nothing which specifically states "pulling from a parked position" and that "starting" could imply either from a parked position or moving straight ahead after having stopped in a line of traffic. There is nothing which would make it mandatory to require the driver to give a signal when pulling out from the curb, he said. Representative Bunn agreed the problem existed and that it should be clarified that the intent was related to the driver pulling out from the curb.

Representative Bunn moved to amend his earlier motion to include the phrase "from a parked position" following "starting".

In response to Representative Marx's question, Mrs. Embick commented that the commentary could state that starting from a parked

position is intended to include a parked position whether parallel or diagonal.

With respect to the UVC definition of "park or parking" Mr. Paillette indicated this definition would mean that the person could be parked in the lane of traffic:

UVC s 1-141. Park or parking. Means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

Mr. Paillette suggested the definition could be changed to read:

"The standing of a vehicle, whether occupied or not."

Representative Bunn asked the members of the Portland Police Department if they felt there was the need for a signal requirement for a person pulling out from the curb and Capt. Brown thought the signal was already required in s 11-604 (a). Representative Bunn next asked if when parallel parking, the parking strip would be a part of the shoulder or a part of the roadway. Mrs. Embick noted several ambiguities relating to this and could not answer.

Representative Bunn withdrew his motion to amend subsection (a) of UVC s 11-604 and in lieu thereof substitute the word "highway" for "roadway" in line 2.

No vote was taken on the motion.

Mr. Paillette said that by using the definition of "highway" rather than "roadway" he would not anticipate any problem with respect to the definition of "park" as it would include the shoulder.

UVC s 11-603

Senator Carson moved the adoption of UVC s 11-603.

Mr. George suggested "move" be substituted for "start" in the section.

Senator Carson amended his motion to adopt s 11-603 and delete "start" in line 1 and insert "move" in lieu thereof.

Motion carried unanimously.

UVC s 11-604

Rep. Marx moved the adoption of UVC s 11-604 as amended in subsection (d).

Motion carried unanimously.

UVC s 11-605. Signals by hand and arm or signal lamps.
ORS 483.126.

Mrs. Embick explained the UVC section requires stop or turn signals be given by "hand and arm or by signal lamps" whereas existing law uses the term "by hand and arm or by approved mechanical or electrical signal devices." It follows the UVC size requirements for either a vehicle or a combination of vehicles requiring the mechanical or electric signal device, although the UVC uses the term "signal lamp" and is a minor departure.

Captain Williams referred to the hand and arm signal requirements and said this is worthless during nighttime. He recommended that the hand and arm signal be required under certain conditions, particularly in the case where several cars are following one which wishes to turn and are unable to see the signal. Sgt. Dean stated that many states require a signal to be given by the drivers following the turning driver although it was stated that this presents a false impression. Captain Williams suggested that the draft require that signal lamps be required at night which could alleviate part of the problem and would in effect eliminate the antique cars at night, to which Senator Carson concurred.

Senator Carson moved that UVC s 11-605 be amended to require signal lamps during the hours when headlights would be required and that there be an option of hand signals given during the daytime.

Mr. George asked if the term "electrical signal device was more appropriate than "signal lamp." Mrs. Embick stated that existing law states "mechanical or electrical signal device" and that "electrical signal" would be comparable.

Representative Bunn pointed out that farm equipment, although not required to conform to some of the other requirements, must have headlights and taillights and asked if this would require them to have signals as well and was told that it would. Speaking against the motion, Representative Bunn stated he has always been able to see the hand signals and this would require persons to use an electrical signal which he believed was not necessary for safety. He further stated that it is difficult to keep the headlights and taillights on tractors in operation and keeping a flashing system working effectively on a tractor would create further problems. Financially, he did not believe the safety factors warrant requiring the agriculture community to do this.

Vote was taken on Senator Carson's earlier motion to amend UVC s 11-605.

Voting aye: Carson, Marx, Chairman Browne. Voting no: Bunn.
Motion carried.

Senator Carson moved the adoption of UVC s 11-605 as amended.

Voting aye: Carson, Marx, Chairman Browne. Voting no: Bunn.
Motion carried.

UVC s 11-606. Method of giving hand-and-arm signals.
ORS 483.126 (3).

There is no substantive difference between Oregon code provisions and UVC.

Representative Marx moved the retention of ORS 483.126 (3) and that the staff edit the subsection.

Mr. Paillette stated it would be more feasible to write in the UVC provisions and repeal the existing statute rather than amend ORS 483.126 in order to retain one subsection.

Representative Marx withdrew his former motion and moved the adoption of UVC s 11-606.

Motion carried unanimously.

SPEED RESTRICTIONS, PRELIMINARY DRAFT NO. 2, ss 5 and 6.

Section 5. State Speed Control Board; appointment, vacancy, compensation and expenses of certain members. Pending before the committee was the motion by Representative Bunn at the meeting of March 12 to amend section 5 (1) to state that the Administrator of the Traffic Safety Commission be added to the list of persons designated to serve on the State Speed Control Board. Representative Bunn withdrew this motion.

Representative Bunn moved to adopt section 5 of Speed Restrictions, P.D. #2.

Motion carried unanimously.

Ms. Howard called attention to subsection (1), lines 10 and 11 and the words "Director of the Department of Transportation" which she stated should be changed to "Administrator of the Highway Division." Ms. Embick noted this change would be made.

There being no objections to the name change as stated above, it was so ordered.

Section 6. Powers and duties of State Speed Control Board. Mrs. Embick referred to the proposed amendment, attached to these minutes as Exhibit A, which concerns itself with the problem of a city which does not have jurisdiction of a highway within its limits and which requests an investigation.

Representative Marx moved the adoption of the amendment to subsections (1) and (2) of section 6.

Senator Carson referred to the amendment in the third sentence of subsection (1) and the words "the county governing authority of the relevant county, the city governing authority." He believed this language could be deleted and the sentence read: " . . . is under the jurisdiction of the Transportation Commission or the county, the city may request the board "

Vote was taken on Representative Marx's motion to adopt section 6 as amended with the proviso that the language be narrowed to exclude the terminology as stated by Senator Carson.

Motion carried unanimously.

Senator Carson moved the adoption of section 6, as amended.

Motion carried unanimously.

RIGHT OF WAY; PRELIMINARY DRAFT No. 1, s 3.

Mrs. Embick called attention to section 3 and stated that at the previous meeting it had been decided that the signs were to conform to the specifications approved by the Department of Transportation and which would be included in the section. The section itself had not been adopted by the committee, she said.

Senator Carson moved the adoption of section 3, as amended.

Motion carried unanimously.

SPECIAL STOPS REQUIRED

UVC s 11-706. Overtaking and passing school bus.

ORS 485.020. Duty to stop when bus loading or unloading.

Mr. Sperr expressed concern over the UVC proposal and explained that existing law allows the use of flashing lights on the school bus when stopping and loading or unloading children and which is in conflict with the UVC provisions. UVC s 11-706 states that the flashing red lights are prohibited in certain locations including business districts. Mr. Sperr noted that ORS 485.050 places authority in the Department of Education to adopt standards relating to school bus standards and equipment and that steps have been taken to adopt the eight light system for Oregon school busses. He explained it is being proposed to install four amber lights inboard from the red lights on the school bus and which is for the purpose of prewarning the motorists and which would be in compliance with the UVC. It is contemplated that by September 1, 1976 all school busses will be equipped with this system. The school bus driver presently activates the flashing red lights approximately 300 feet in advance of the stop and is in conflict with the UVC provisions. He mentioned that where it is stated in paragraph (1) of subsection (a) that the driver shall not actuate

the visual signals in business districts and on urban arterial streets and stated that it presents a difficult situation for the driver and the child to determine where he is. Their regulations state that any-time the school bus is stopped in the right hand lane of travel and when loading or unloading children, the lights shall be activated. Mr. Sperr mentioned that it has been found that where states conform to the UVC provisions it has not proved workable because of the difficulty of informing the driver where he can and cannot use the lights on his route. He stated that the drivers are encouraged, if they are able, to pull completely off the roadway and not activate their lights and not interfere with traffic. Mr. Sperr noted that existing law contains a provision that a driver who meets a bus while proceeding in a direction opposite to that of the bus on a highway which has two or more lanes for each direction is not required to stop and in this instance he thought the UVC provision to be better as it states that all traffic must stop unless the roadway is separated. The intent of this existing provision, he said, was to have all school busses routed so no one would cross a four lane road but that it is not an idealistic situation.

In answer to the Chairman's question, Mr. Sperr stated that if ORS 485.020 were retained, he would favor the deletion of subsection (2). He believed the better explanation would be contained in the UVC with respect to subsection (d) and which could be incorporated into ORS 485.020. Mr. Sperr was of the opinion the UVC provisions could be more appropriate with the exception of subsection (b) (1) and the incorporation of ORS 485.020 (3).

Representative Marx moved UVC s 11-706 be amended to delete subsection (b) (1).

There being no objections, it was so ordered.

Mrs. Embick reported that ORS 485.020 (3) allows the driver of the bus to operate the flashing red signals when stopping as well as stopped whereas the UVC provides that the driver of another vehicle is only required to stop when the bus is stopped.

The eight light system, Mr. Sperr explained, is on a sequence program and when the driver prepares to stop he activates the ambers and upon making his stop and opening the door, the red lights are activated.

Representative Bunn referred to the UVC provision in line 4 of subsection (b) and suggested the additional words "stopping or is" be inserted following "is."

Mr. Paillette called attention to UVC s 12-228 which considers amber lights for school busses and states that these lights shall be displayed by the driver at least 100 feet, but not more than 500 feet, before every stop at which the alternately flashing red lights will be actuated. He indicated that by incorporating s 12-228, which is referred to in paragraph (b) of s 11-706, amber lights would be picked

up. It appeared to Mrs. Embick that s 11-706 would be the proper place to incorporate s 12-228 although existing law, she said, contained a marked difference in that all the regulations are under the Department of Education and it would be necessary to decide if this basic principle would need to be changed, i.e., having the Department of Education set out the requirements for school bus lights or whether the committee should consider a section which would set out what they should be, and a basic policy change would result in this.

Representative Marx moved line 2, subsection (a) of UVC s 11-706 be amended to insert "is stopping or is" following "bus", and in subsection (b) the words "stopping or is" following "is" in line 4.

There being no objections, it was so ordered.

Mr. Paillette indicated that the amendment would require flashing red lights when stopping as well as stopped and he believed it would create a conflict with s 12-228. Senator Carson agreed and said that when the amber lights are activated on the busses on 9/1/76, the statute would be changed to conform.

Ms. Howard commented that if these lights are changed in 1976, it will be necessary to speak to the changes which must be made by the farmers using busses to transport children to the fields inasmuch as they are subject to the same regulations when stopping on the highway, and that it would be costly to them to implement this program. Mr. Sperr offered that this could be the end result or they might only have the opportunity to use the lights while they are stopped. The Chairman indicated this to be an important policy decision which would have to be resolved and which should be noted. It appeared to her that section 12 would be in the equipment section rather than under Special Stops Required and Mrs. Embick pointed out that under existing law all requirements of school busses are in Chapter 485. She noted that Oregon law defines a school bus in relation to complying with the standards for construction and equipment adopted by the Department of Education and if something were to be done which would be comparable to s 12-228 the definition would have to be changed.

Representative Marx referred to the second sentence in subsection (c) wherein it is stated that the school bus being operated for purposes other than transporting school children all markings indicating "school bus" must be covered. He was of the opinion the language was unnecessary although Ms. Howard reported that contractors have busses for transporting children as well as other purposes on a lease arrangement and the feeling has been that in those cases the name should not appear on the busses as the other drivers would believe they were subject to the rules relating to the school bus.

It was Mr. Paillette's contention that those portions of subsection (b) of s 12-228 which places the duty on the driver with

respect to using the lights should be contained in the rules of the road rather than in the equipment section.

Representative Bunn moved that subsection (b) of s 12-228 be incorporated in UVC s 11-706.

Motion carried unanimously.

The Chairman requested Mr. Sperr to examine the section after it has been drafted and advise the subcommittee in writing of his views.

No vote was taken on the adoption of UVC s 11-706, as amended.

UVC s 11-701. Obedience to signal indicating approach of train.
ORS 483.224. Stopping at railroad crossings upon signal of approach of
train.

Mrs. Embick indicated the Oregon provision is brief and does not cover several situations covered in the UVC provision, which sets out the requirements for the driver to stop. There is no provision in existing law comparable to subsection (b).

Senator Carson moved the adoption of UVC s 11-701.

Ms. Howard questioned the necessity to state in paragraph (3) the requirement to stop when the train is approaching within approximately 1,500 feet of the crossing, as she did not believe this distance could be judged. Mr. Paillette mentioned that elsewhere in the draft drivers are required to judge distances. Capt. Williams thought this would be challenging the driver and that by stating "when the train is approaching" the driver would not have to take into consideration the distance and would know he must stop. Existing law requires he stop although he does not have to remain standing.

Representative Marx remarked that paragraph (3) did not actually limit the distance to 1,500 feet inasmuch as it further states that this is only if "by reason of its speed or nearness to such crossing is an immediate hazard." Mr. Paillette indicated that by deleting subsection (3) there would be nothing which refers to the audible signal and Ms. Howard suggested this reference be added to paragraph (4). Mrs. Embick believed that the audible signal must be related to what distance the train is from the crossing to have any relevance to the driver as to where he must stop and it would be necessary to use the audible signal with respect to the stopping.

Representative Marx moved the deletion of paragraph (3) and that paragraph (4) be amended to insert the words "or emits an audible signal" following "visible" in line 1.

Voting for the motion: Marx, Chairman Browne. Voting no: Bunn, Carson.
Motion failed.

It was the consensus of the members that it would be desirable to examine the section, amended as previously discussed, at a later date.

Vote was taken on Senator Carson's motion to adopt UVC s 11-701.

Motion carried unanimously.

UVC s 11-702. All vehicles must stop at certain railroad grade crossings.

ORS 483.226, comparable to s 11-702, which authorized the Highway Commission and local authorities to designate hazardous grade crossings and erect stop signs, was repealed during the 1973 legislative session. ORS 483.040 was amended to give the Public Utility Commissioner jurisdiction over the installation of devices at highway grade crossings. Mrs. Embick reported that Oregon is in the minority with respect to vesting the authority in the Commissioner as opposed to the Highway Commission.

Mr. Paillette asked the rationale for placing this authority with the Public Utility Commissioner and Ms. Howard indicated that part of the reason was the fear that stop signs would be used in lieu of other protection devices because of the cost, especially when considering county roads. She was concerned that until the money for the better traffic devices is allocated, a stop sign is the only immediate answer to the crossing.

Senator Burbidge, sponsor of SB 246, was requested to appear before the meeting to explain the rationale for the repeal of ORS 483.226. (See page 21 of these minutes for further discussion of the section.)

UVC s 11-703. Certain vehicles must stop at all railroad grade crossings.
ORS 483.228. Busses, and trucks carrying inflammables or explosives,
required to stop at railroad crossings.

Mrs. Embick reported that UVC provides for the appropriate agency to adopt regulations to describe which vehicles must comply with the stopping requirements. Existing law sets out which vehicles must comply but has no provision that the driver can stop and then proceed and does not consider the provisions relating to gear changing. The stopping requirement does not apply to crossing of a highway or street railway tracks. She stated that the references to commissions in ORS 483.228 (3) should be changed to reflect the jurisdiction given the Public Utility Commissioner.

Ms. Howard reported that the PUC has adopted the Motor Carrier Regulations of the Federal Motor Carrier and she presumed it was in close conformity with existing law. She advised that consideration should also be given to requiring the drivers of school busses and worker transport busses to make the stop inasmuch as it is not contained in the UVC provision.

Representative Marx spoke to the prohibition of shifting gears when crossing the tracks and thought this would depend upon the vehicle as to whether the driver should shift gears. Capt. Brown responded that it refers specifically to the manual shift which is always in danger of being caught out of gear.

Senator Carson spoke to subsection (c) of s 11-703 and the requirement that the regulations correlate with and conform to the regulation of the U. S. Dept. of Transportation. He expressed disfavor of delegating this to the federal government.

Captain Williams stated that problems have not arisen from existing law and favored the retention of ORS 483.228, with the exception of obsolete language in paragraph (b) of subsection (2), plus the insertion of UVC language with respect to proceeding when safe and that the distances conform with the UVC provision, to which Ms. Howard concurred.

It was the consensus of the members to retain the basic provisions of ORS 483.228 and that it be amended to state the distances as used in the UVC and also the requirement that the driver remain stopped until it is safe to proceed.

UVC s 11-702.

Senator Burbidge explained the rationale for the repeal of ORS 483.226 and placing the authority in the Public Utility Commissioner to install the protective devices at railroad highway grade crossings. Under ORS 483.226, he said, there was inadequate enforcement and by expanding the staff of the PUC it is the intention to more fully enforce railroad crossing safety as well as railroad employee safety. From the standpoint of enforcing the responsibility of the railroads with respect to placement of the traffic devices, he believed the PUC would be in a better position. Representative Marx asked if the railroads had been refusing to help defray the costs of the traffic devices and Senator Burbidge replied this has occurred. He explained that the amendment to ORS 483.040 would also give the Commissioner the flexibility to decide whether this should be gates, flashing lights, or different modes which are erected on roads in other states. He hoped he would eventually be given authority to work with the local authorities in closing crossings if it seemed feasible. The carriers would be required to help defray the costs.

Ms. Howard asked if the PUC, as part of its function, would use a stop sign for a grade crossing. If this were to be the case, she thought that s 11-702 could be modified by adding specific authority in the PUC to designate such placement. Mrs. Embick stated the Commissioner now has the authority and she believed it appropriate to state that when the stop signs are erected by the PUC, the driver shall stop. The distances could then be pointed out.

Senator Carson suggested taking the language from s 11-702 and state that the Dept. of Transportation or the local authorities, with the approval of the Public Utility Commissioner are authorized to designate "

Mr. Paillette thought that one of the problems attempted to be remedied by the repeal of ORS 483.226 was that if a stop sign were erected by the Dept. of Transportation, the railroad could assume it had no responsibility to put up other warning devices. He said that s 11-702 could be adapted to the Department of Transportation with respect to stop signs at railroad crossings with the insertion that nothing contained in the statute was meant to abrogate the authority of the PUC under Chapter 615 to place other kinds of devices. Representative Marx agreed with this approach and added that it could come about that the PUC would not erect any type of device and at least there would be the stop sign.

Mrs. Embick was directed to redraft UVC s. 11-702 to allow the localities to place stop signs with the proviso that if the PUC desires another approach, it has overall authority.

The next meeting of the subcommittee was tentatively scheduled for Monday, April 22 at 9:30 a.m.

The meeting was adjourned at 4:15 p.m..

Respectfully submitted,

Norma Schnider, Clerk
Subcommittee on Revision

COMMITTEE ON JUDICIARY
Room 14, State Capitol
Salem, Oregon

PROPOSED AMENDMENTS TO
SPEED RESTRICTIONS
Preliminary Draft No. 2

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 the county governing authority of the relevant 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.