

Tape 10, Side 1. 1015 to end
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COMMITTEE ON JUDICIARY

Subcommittee on Revision

April 22, 1974

Minutes

Members Present: Sen. Elizabeth W. Browne, Chairman
Representative Stan Bunn
Senator Wallace P. Carson, Jr.
Representative Robert Marx

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

Also Present: Mr. Tom Bessonette, Oregon Mutual Insurance Co.
Lt. Andy Crabtree, Portland Police Bureau
Mr. James Dutoit, Automobile Club of Oregon
Mr. L. E. George, Engineer, Highway Division
Ms. Vinita Howard, Motor Vehicles Division
Mr. Ralph Sipprell, Department of Transportation
Mr. Jack Sperr, Pupil Transportation Coordinator,
Department of Education
Mr. Lon Topaz, Assistant Public Utility Commissioner,
Rail-Air-Marine

Agenda: Turning and Moving; Signals on Stopping and Turning;
Reference Paper
Special Stops Required; Reference Paper
Special Rules for Animals on Highway; Reference Paper
Stopping, Standing and Parking; Reference Paper

Senator Elizabeth W. Browne, Chairman, called the meeting to order at 9:30 a.m. in Room 14, State Capitol.

Approval of Minutes of Meeting of March 22, 1974

Senator Carson moved the approval of the minutes of March 22, 1974. There being no objections, the minutes were approved as submitted.

TURNING AND MOVING; SIGNALS ON STOPPING AND TURNING (Reference Paper)

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

Pending before the committee was the motion made by Representative Bunn at the meeting of March 22 to amend subsection (2), line 2, to delete "roadway" and substitute "highway."

Voting for the motion: Bunn, Carson, Chairman Browne. Delayed: Marx. Motion carried.

UVC s 11-606. Method of giving hand-and-arm signals.
ORS 483.126 (5). Signals for starting, stopping, changing lanes or turning on highway.

Mrs. Embick explained that at the meeting of March 22, UVC s 11-606 had been adopted and that upon further examination of the laws of other states, the Alaska code, in subsection (b), 13 AAC 02.225, attached to these minutes as Appendix A, directs how the turn signals should be made. She believed this to be appropriate wording as no provisions are contained in existing law describing how the signal is given by using the signal lamp.

Senator Carson moved subsection (b), 13 AAC 02.225 be incorporated into UVC s 11-606.

Voting for the motion: Bunn, Carson, Chairman Browne. Delayed: Marx. Motion carried.

Mrs. Embick called attention to subsection (5), ORS 483.126, which contains an exception for vehicles required to have mechanical or electrical signal devices, and which excepts trailers, semitrailers and pole trailers of 3,000 pounds gross weight or less, except when being drawn between sunset and sunrise.

Mr. George indicated that in his discussions with others there was found to be no reason for retaining this subsection. He stated that there seemed to be no rationale for the 3,000 pound limitation. Senator Carson observed that it could be because of the multitude of homemade trailers which have reflectors and are used to haul motorcycles, etc. Mrs. Embick indicated that the exception would apply to this. The 1955 amendment was taken from the UVC, she said.

Senator Carson asked Captain Williams if he believed there was a need for removing the exception and was told that the rationale for the 1955 amendment was due to the influx of boat trailers traveling during daylight hours. The hand and arm signal or the signal of the towing vehicle can be seen and had not created any problem, although he stated he advocated lighted signal devices on all vehicles. From a traffic safety standpoint there was a need for the lighted turn signals at night, he said. Ms. Howard agreed with this statement and said her preference would be to have a signal requirement on all vehicles and did not agree with the exclusion of such even in the daylight hours, to which Mr. George concurred.

Mr. Paillette asked if it were Capt. Williams' opinion that there should be no type of exclusion, even for transporting motorcycles and was told that from a realistic viewpoint, the exception

during the daytime of some of the light trailers would not be a great problem. Ms. Howard indicated that the registration requirement for a trailer is 1,800 pounds. This weight would exclude the very small trailers as was referred to by Mr. Paillette and if the exception were desired to be retained, this would be consistent with what was required by statute to be registered with the Department of Motor Vehicles.

Representative Bunn stated that unless there was strong traffic safety evidence to support the deletion of the exceptions, he believed it would cause inconvenience to the public and could not support the deletion. Senator Carson suggested Mrs. Embick examine the equipment section relating to small trailers and present a breakdown and recommendations on combining these to the committee. The exception could then be made for the small trailer during the daytime hours.

The Chairman was of the opinion the 1,800 pound exception would be desirable and asked that the matter be placed on the agenda again for the committee's consideration.

SPECIAL STOPS REQUIRED (Reference Paper)

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 that s 11-701 had been redrafted as requested by the committee at its last meeting, a copy of which is attached to these minutes as Appendix B, and that paragraph (d) of the proposed draft section deletes the 1,500 feet requirement and provides for an audible signal.

Senator Carson was of the opinion both the UVC section as well as the proposed draft section could be easily misinterpreted. He asked, with respect to subsection (1) whereby the driver must stop his vehicle within 50 feet but not less than 15 feet, if the driver would have violated the law if his vehicle were parked in a train line, for example, where there were approximately five or six cars in front and which could place him approximately 60 feet back. Mrs. Embick explained the problem would be considered in another Article relating to the provisions on parking or standing in the roadway.

Mr. Topaz explained that during the 1973 session, the PUC attempted in Senate Bill 246 to pull together the responsibility and jurisdiction for safety at crossings, and in order to accomplish this some provisions of the Oregon Vehicle Code were repealed, such as the provision which allowed local authorities to erect stop signs. This was done, he said, primarily because stop signs were being placed at inappropriate locations and without much thought being given. Another reason for the repeal of the statute was that

under Oregon's tort liability law, the cities and counties were required to declare it to be a hazardous crossing before the sign could be erected and by doing so they opened themselves, as well as others, to court action. Also deleted from the Vehicle Code were the requirements for advance warning signs at grade crossings and which were inserted in Chapter 615, Oregon Laws 1973, which gave the Commissioner the right to prescribe advance warning signs, provided that they met the standards adopted by the Highway Department. He mentioned that it had been attempted to retain in the code all matters which affected how the driver was to respond at railroad crossings.

In answer to the Chairman's question, Mr. Topaz commented that the 1973 Legislature enacted a Grade Crossing Protection Fund which gave them the moneys to upgrade signals at existing crossings and laid out by law who assumed the responsibility, in a monetary sense, for placing signs and signals or other devices at a new crossing. With respect to the priority policies, Mr. Topaz stated that a formula approach was developed to evaluate hazards and the determination had been made that before spending the moneys allocated by the 1973 Federal Aid Highway Act for grade crossing protection, the first order of business would be to identify those projects which would be 100% federally financed. A priority list was then developed.

Topaz mentioned that federal aid roads are 100% financed but that another part of the Act allocated a rather significant amount of dollars to the states to be used on non-federal aid roads for several types of safety improvements such as protective grade crossings. There is a policy decision necessary by the Transportation Commission as to how much of those funds are going to be spent. It is expected that very shortly the moneys will be allocated for both federal and state. The Transportation Commission, Mr. Topaz continued, receives the federal moneys but because of the statute is not permitted to spend it on grade crossings without the permission of the Commissioner. With respect to the federal funds being available on non-federal highways he said these can be spent for grade crossings, high hazard intersections and a number of safety-related projects.

Mr. George indicated that the Title II portion of the 1973 Federal Act, s 230, has been funded by Congress and Oregon will receive approximately \$960,000 the first year and \$1.2 million for the next two successive years. A part of all of these sections of the Title II safety portion of the Act require inventory and priority lists for the entire state and they are in the process of making this determination, anticipating it will be accomplished within a month. The types of signs are rated according to their safety features with gates having the highest priority, followed by flashing lights, stop signs, etc. After the Transportation Commission has made the decision as to where the federal moneys will be applied, the state moneys will then be applied to the balance of the crossings, primarily on a voluntary basis whereby the cities and counties would be able to apply for those crossings higher up on the priority list. Oregon

pays 30%, the railroads 50% and the local authorities contribute up to 20% of the costs.

Mr. Topaz referred to the proposed draft section whereby the vehicle must stop not less than 15 feet from the nearest rail of the crossing and stated that the Oregon code, as it relates to special stops for school busses, uses a 10 foot requirement. He was of the opinion that 15 feet creates a problem inasmuch as there are some crossings where there is not 15 feet of space in which to stop. There is also the problem as to where the device has been erected, and it could be more than 15 feet from the track because of the angle of the road. In urban areas where the grade crossing is controlled by automatic gates which are back 11 feet, the driver could be at the 11 foot distance.

It was the opinion of the Chairman that the draft section should be rewritten to contain more precise language as to where the stop shall be made.

In response to the Chairman's query, Mr. Topaz stated that the PUC has jurisdiction over forest roads which cross railroad tracks. Mr. Topaz expressed support of the section of the draft which makes it an offense to drive around a railroad crossing, which he said is not presently an offense under existing law. He called attention to ORS 483.364 (13) which speaks to prohibited parking and said the language is outdated, and if the subsection were to be retained it should be related to a 40 or 50 foot radius, because of the type of today's road design.

Ms. Howard spoke to the UVC proposal and thought there was a need for guidance to the drivers and proposed that language be inserted to state that the person shall "stop his vehicle at a clearly marked stop line painted on the pavement or, if none, no closer than _____ feet." In this manner he would not be in violation of the law where there was not 15 feet. Mr. George commented that most of the paved crossings are marked with stop lines and expressed favor to this proposal.

Mr. Topaz remarked that the actions and authority of the State Speed Control Board should be examined. The PUC has complete authority over train speeds at crossings but the Speed Control Board has the authority over the vehicle approach speeds and he reported that at times the PUC disagrees with the Board's action. Whether this would mean that the PUC should have that authority or the Board be broadened to include representation by other people, he did not know.

Mrs. Embick referred to Chapter 717, Oregon Laws 1973 (HB 2339), and explained that subsection (4) of section 1 defines "protective device" to mean a sign, signal, gate or other device to warn or protect the public, installed at a railroad-highway crossing. She wondered if this term might be ambiguous and that perhaps it should

be prefaced by "railroad," as it is not used necessarily to the exclusion of stop signs which might be placed by the Highway Commission at a highway-railroad grade crossing. Subsection (4) of section 2 of the bill states that the commissioner shall determine and prescribe the manner of construction, maintenance, etc., of the protective devices and stop signs, and it appeared to her that the protective device would not include a stop sign. She recalled that at the March 22 meeting it had been discussed whether or not the repeal of ORS 483.226, which authorized erecting a stop sign at a dangerous crossing, should be confirmed or whether any consideration should be given to changing it. She believed that if the PUC has jurisdiction over the placing of the protective devices, it may wish to change the language to state that it shall include the stop signs, if they are, in fact, included in the protective device. Mr. Topaz recalled that the term was to be all inclusive.

Mrs. Embick next referred to subsection (3) of section 7 of the bill and stated there were ambiguities created with respect to the jurisdiction of the State Highway Commission and the PUC. Mr. Topaz agreed with Mrs. Embick as to the bill's ambiguities and remarked that it should be revised in the next legislature to alleviate these problems. He noted that the Attorney General's office has furnished the PUC with a list containing these ambiguities, a copy of which he will submit to Mrs. Embick, as well as a copy of the Attorney General's opinion relating to the protective devices.

Mrs. Embick was then directed by the committee to redraft UVC s 11-701 to make more precise the language in subsection (1) with respect to the 50 and 15 foot distances.

UVC s 11-703. Certain vehicles must stop at all railroad grade crossings.

ORS 483.228. Busses, and trucks carry inflammables or explosives, required to stop at railroad crossings.

Mrs. Embick explained the exceptions in existing law are more numerous than what is contained in the UVC section and that paragraph (c), subsection (2) as well as subsection (3) would need to be changed to substitute the PUC for "commission."

Senator Carson moved the deletion of the last sentence of subsection (c), UVC s 11-703.

Mr. Topaz commented that the Commissioner has adopted these regulations and continuously re-adopts them when changed and in essence it is being done.

Mr. Topaz referred to the exception in paragraph (3), subsection (b), "Any railroad grade crossing protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train." He stated the original draft of

Chapter 615 attempted to deal with this problem and problems arose with the Department of Education inasmuch as school busses were placed into the same statute. He suggested that the language end with "crossing gate" inasmuch as he did not place much confidence in the flashing lights as some are too old and inadequately circuited.

Mrs. Embick next called attention to ORS 767.035, amended by section 2, Chapter 396, Oregon Laws 1973, to provide an exception for vehicles used by a non-profit corporation to transport persons. She wondered if these should be included with the provisions for stopping at every railroad grade crossing. Ms. Howard indicated these vehicles would be brought under the safety code which applies to worker transportation vehicles and by regulation they are required to make the stop.

It was the consensus of the committee that the UVC s 11-703 be redrafted to delete the words "or an alternately flashing light signal intended to give warning of the approach of a railroad train" in paragraph (3) and the last sentence in subsection (c).

Mr. Topaz recommended incorporating paragraph (f), subsection (2) of ORS 483.228 in UVC s 11-703 in lieu of paragraphs (1) and (2) of s 11-703. The Chairman asked that Mr. Topaz assist Mrs. Embick with the redrafting of this proposal and bring it before the committee at its next meeting.

UVC s 11-704. Moving heavy equipment at railroad grade crossings.
ORS 483.230. Moving heavy equipment over railroad tracks.

The provisions of the UVC are similar to that of existing law. Mr. Topaz remarked that there has been no problem implementing existing law. Subsection (b) of UVC s 11-704 provides that the notice of the crossing shall be given to a station agent and he remarked that as there are few station agents in Oregon it would seem advisable to delete such reference and use the language in existing law which states that notification of the crossing shall be given to a responsible officer of such railway.

With respect to the operating speed of 10 or less miles per hour as stated in the UVC as opposed to the four miles per hour provision in existing law, Mr. George was of the opinion the difference in the speeds was immaterial.

Representative Bunn moved UVC s 11-704 be amended to delete subsection (b) and insert language of ORS 483.230 relating to the notice being given to a responsible officer of the railway.

Voting for the motion: Bunn, Marx, Chairman Browne. Not voting: Carson. Motion carried.

Representative Bunn moved the adoption of UVC
s 11-704 as amended.

Voting for the motion: Bunn, Marx, Chairman Browne. Not voting:
Carson. Motion carried.

ORS 483.236. Stopping vehicles carrying logs, poles or piling at
railroad crossings.

The section has no analogous section in the UVC but relates directly to the Public Utility Commissioner, Mrs. Embick explained. Mr. George indicated that at the time the statute was enforced, the logging trucks traveled at a slow speed and he questioned the validity of the statute at the present time, inasmuch as they now operate at speeds traveled by commercial trucks. Mr. Topaz mentioned that throughout the past several years, there have been no requests from railroads to institute such stops although there have been requests to eliminate such requirements. The statute is not being used, he said.

Representative Bunn moved to repeal ORS 483.236 in its entirety.

Motion carried unanimously.

UVC s 11-706. Overtaking and passing school bus.
ORS 485.020. Duty to stop when bus loading or unloading.

At the meeting of March 22, Mr. Sperr of the Department of Education had appeared to voice his concerns to the adoption of certain provisions of the UVC section. He had been asked by the members to advise in writing his views and which letter is attached to these minutes as Appendix C. Mr. Sperr's letter states what part of the UVC the Department of Education would consider appropriate to incorporate into existing law. Mr. Sperr stated that with respect to his objections outlined under No. 1 of his letter, he had not been aware that the shoulder would be a part of the highway and withdrew his objections on this point.

Mr. Sperr again reiterated his concerns of March 22 with respect to paragraph (1), subsection (b), UVC s 11-706, and said that it is seldom that the busses stop to load or unload children in commercial areas although there is this need in business districts. The paragraph referred to by Mr. Sperr was deleted at the meeting of March 22.

Mr. Sperr next referred to paragraph (2), subsection (b), and stated his approval of the provision inasmuch as there is a problem in the area of heavy congestion and if the busses can unload prior to coming to the traffic control signal it would be of benefit to the driver and passengers as well. The provision in paragraph (3) is contained in existing law.

Mr. George referred to "designated" in paragraph (3) and asked if it would be defined and was informed that presently there is no such definition. Mr. George stated that the loading area could be designated by the school district or signing. Senator Carson recommended deleting "designated" as what is important, he said, is that the bus be off the highway. Mr. Sperr noted that another problem exists inasmuch as the school bus drivers are asked not to activate their lights when loading or unloading at a school as long as they are not in the right-hand traveled portion of the roadway, and which situation exists at certain schools. Because of this factor, he said there could be a problem in the definition of "roadway" and "highway" which may be of concern to them in their regulations.

Ms. Howard called attention to the worker transport bus which means a motor vehicle which is equipped with flashing red warning lights and stated that in the redraft of the 1971 law the department had attempted to be consistent with the school bus requirement on the worker transport vehicles and suggested that the language be not so specific as to state "any school bus" as the motorist should comply in the same manner with the worker transport bus.

Representative Bunn wondered if it were more feasible to retain existing law which refers to any bus with flashing red lights. It appeared to him that existing law could be amended to substitute UVC (d) for ORS 485.020 (2) as had been discussed at the meeting of March 22. Ms. Howard agreed that existing law could be amended and rewritten into the UVC format.

Representative Marx expressed concern in that by requiring the driver to stop on the four-lane roadways it is not going to be communicated to the driver for some period of time that this requirement exists and the bus driver may have a degree of security which does not exist. Senator Carson agreed there was a problem but was of the opinion that most drivers would stop because they were not certain what they should do.

The Chairman directed Mrs. Embick to draft the section according to the above discussion and incorporate the worker transport busses into the section.

Mr. Sperr spoke to subsection (a), which, as amended, would require the driver of the vehicle to stop when the bus is "stopping or is stopped" and noted that this will place the drivers in violation because, during heavy traffic, some of the drivers will pass the bus before it has come to a complete stop. Representative Bunn expressed the view that it would create further confusion by allowing the driver the right to pass the flashing red lights.

Captain Williams reported that the term "stopping" would create an enforcement problem. The federal requirements relating to the

amber light warning will correct this, but until the time this is activated, he said he would prefer that the drivers did not pass when the bus was stopping. Another problem would exist, he said, if the bus driver activates the flashers for some distance, thereby stopping traffic for long intervals. He thought that to alleviate this situation the requirement should be that the drivers may not pass when the lights are activated. Ms. Howard supported the amendment made to subsection (a) and stated that with the bus reducing the visibility of the following vehicle, accidents would occur when the driver goes around the bus and passes.

With respect to the term "school bus," Representative Bunn commented that the word "school" should be deleted and which would thereby include the worker transport busses. As mentioned by Ms. Howard, these busses are already required by statute to have the flashing red lights and other busses are prohibited from using them.

Mr. Paillette expressed the view that school busses should remain separate in the statute. He did not believe that the requirements as to what kinds of vehicles must use certain lights should be a part of the rules of the road revision. He disagreed with the UVC which incorporates equipment provision requirements with respect to specialized vehicles and makes them a part of the rules of the road. Although this is now codified in Chapter 485, Mr. Paillette was of the opinion the rules of the road revision would be eventually recodified into Chapter 483 and the specialized items such as school busses and worker transport busses would remain in a separate chapter. Ms. Howard agreed with this statement and remarked that it was difficult to comprehend why the duties of the driver to react to what the school bus did would even appear in Chapter 485.

Senator Carson proposed that the school busses could be placed in one section and another section could speak to the busses used in other situations. It could be stated in that section that under certain circumstances, such as berry picking, for example, the school bus could be used and the requirements relating to it would apply.

Representative Bunn moved subsection (a) be amended in line 5 to delete "such school bus resumes motion or he is signaled by the school bus driver to proceed or" following "until".

Motion carried unanimously.

Senator Carson moved to delete "designated" in paragraph (3), UVC s 11-706.

There being no objections, it was so ordered.

Mr. Paillette suggested that the staff delete items dealing with what the driver does and what the bus shall be equipped with

and draft the section only in terms of the requirements imposed on the driver when approaching the school bus. In this manner, he said, the draft will concern itself with rules of the road as a separate composition and the equipment matters will remain in Chapter 485.

Ms. Howard recommended the deletion of subsection (c) inasmuch as it is included in Chapter 485.

Representative Bunn requested the drafted section be returned to the committee for reconsideration.

The committee recessed for lunch at 12:15 p.m., reconvening at 1:30 p.m.

UVC s 11-705. Emerging from alley, driveway or building.
ORS 483.222. Stopping before driving onto sidewalk from alley, driveway or building.

The UVC section delineates exactly where the driver shall stop as opposed to existing law which states that he shall stop immediately prior to driving on the sidewalk or sidewalk area, and which does not further state, as does UVC, that in the event there is no sidewalk area, he shall stop nearest the street to be entered where he has a view of approaching traffic. Mrs. Embick believed the UVC language would be an improvement over existing law because there are some intersections of alleys or driveways where there are no sidewalk areas and no stopping places delineated.

Senator Carson wondered if there was no sidewalk, for instance, and the driver stops when getting beyond the buildings and several feet of the vehicle are in the area, if this would be the appropriate place to stop. He asked if there was a definition of "sidewalk area" and Mrs. Embick responded there was none in either the UVC or existing law. Mr. Paillette stated the definition of "sidewalk" in the UVC was "that portion of the street between the curb lines or lateral lines of the roadway and the adjacent property lines intended for use by pedestrians." He commented that "area" seemed surplus language. Senator Carson mentioned that it could mean an area where it would be reasonable to presume people would be walking and there is not, in fact, a sidewalk. If this is the connotation, he said he would prefer having the driver stop before entering the sidewalk area rather than driving six feet into the sidewalk area and then stop. Mr. George thought the draft speaks to a driveway situation and the sidewalk area would extend across that driveway.

In answer to Representative Marx's question, Mrs. Embick reported that existing law does not give the pedestrian the right of way, and this has been changed in the Article on Right of Way, which now gives the pedestrian the right of way on the sidewalk.

Representative Marx moved the adoption of UVC s 11-705.

Motion carried unanimously.

SPECIAL RULES FOR ANIMALS ON HIGHWAY

UVC s 11-104. Persons riding animals or driving animal-drawn vehicles.
ORS 483.034. Application of chapter to bicyclists and to persons riding, driving or leading animal.

Mrs. Embick explained existing law includes both the person on the bicycle and the person riding, driving or leading the animal, and the UVC not only concerns itself with just the animal but provides that not only is the rider subject to the duties applicable to the driver of a vehicle, he is also granted the rights of the driver. Existing law subjects the bicycle and animal rider to the duties but gives none of the rights of the driver. She alluded to an earlier discussion whereby the committee had suggested that existing law be separated into two categories, animal and bicycle. In answer to the Chairman's question, she explained that a separate statute prohibits animals from being on the federal highways, although this is not contained in Chapter 483.

The Chairman asked the meaning of "upon a roadway" and wondered if this would include the shoulder or sidewalk area. Mrs. Embick responded it would mean only the main traveled portion when used in the UVC although she was uncertain what was intended in existing law.

Mr. Paillette stated he had received a letter from District Judge Richard Courson of Umatilla County strongly urging the retention of existing law because of the importance of driving livestock on the roadway in eastern Oregon. With this in mind, the Chairman indicated there should be drafted a particular provision for such as driving livestock, rather than giving the animal, such as a dog, for instance, the right of way.

Ms. Howard pointed out that the MVD receives complaints quite frequently from youth groups because the drivers are not complying with the law with respect to stopping for the animal. She noted that it was not merely the case in eastern Oregon inasmuch as these letters are also received from the western part of the state.

It was Senator Carson's contention that bicycles, horses and cattle should be prohibited on certain highways. With existing law including all animals, he said, it has placed the burden on the driver to interpret the meaning of the hand signal and which has and will cause further chaos.

Mrs. Embick presented maps from the Department of Agriculture which indicated what is open range and livestock district. She called attention to Turrini v. Gullick, 98 Adv Sh 735, ____ Or App ____ (1974), dealing with responsibilities of the Highway Division and the property owner, and stated there is no requirement for any signing. As much of Oregon is open range area, she said, the animal has the right of way, although there is no signing, and the driver has the burden.

Mr. Bessonette expressed concern with driving the animals upon the highway. He alluded to the discussion concerning the animal having the right of way and was of the opinion this was not Oregon law. The animal, as well as the driver of a vehicle, he said, has rights to the highway and he believed this would enter the area of common law and common law negligence. Realizing that riding horses is on the increase, he thought the provision of the animal-drawn vehicle as stated in s 11-104 is a good feature. Existing law does not relate to this and Mr. Bessonette pointed out that animal-drawn vehicles are on the increase.

Representative Bunn asked Mr. Bessonette's opinion of placing the burden on the driver, requiring him to use caution and slow his vehicle once he comes to the animal. The requirements for signaling would be deleted. Mr. Bessonette commented that the rider, upon realizing the animal is distressed, must have some way of communicating this to the driver of the vehicle and he thought this should be in the law.

Mrs. Embick called attention to Wisconsin Motor Vehicles Laws, s 346.11 which states:

"Whenever a person riding, driving or leading an animal which is frightened gives a signal of distress to the operator of a motor vehicle by a raising of the hand or otherwise, the operator of the motor vehicle shall promptly stop his vehicle unless a movement forward is necessary to avoid an accident or injury and shall, upon request, stop all motive power until such animal is under control."

Senator Carson expressed the view the Wisconsin law was far superior to both the UVC and existing law and that it would come closer to the distressed animal situation.

Mrs. Embick commented the proposed drafts relating to ORS 483.314 could be altered to conform to the Wisconsin section and perhaps be more suitable.

Mr. George thought the Wisconsin statute would still not be appropriate as he said it could conceivably mean that the person could lead his pet down the highway and stop traffic. He believed that the animals which are the main concern to the public would be the horse and its rider, and the cattle and sheep on drives. He spoke to the situation in the John Day area where the only place to drive the livestock is on the highway.

Representative Marx stated that under these circumstances the term "livestock" could be substituted for "animal" and asked if there was a definition for such. Mrs. Embick reported "livestock" is defined in ORS 607.005 and means animals of bovine species, horses, mules, asses, sheep, goats and swine.

Representative Marx moved to delete "animal" and insert "livestock" in the two proposed draft sections on page 3, Special Rules for Animals on Highway.

Senator Carson alluded to Mr. George's comments relating to the cattle and sheep drives and proposed that a special statute be written treating the herding of livestock as one separate issue and place the burden on the driver. Representative Marx referred to the problem which arises because the cattle are continuously being moved from pastures onto the roads for distances of one or two blocks and which would not be considered a drive. Senator Carson thought this would place the duty on the driver to stop but the situation relating to a person riding or leading the horse should speak to distressed animals. Representative Bunn stressed that when speaking to bicycles and horses, there should be some requirement of caution beyond the normal due care and Senator Carson concurred with this view.

The question before the committee was whether to divide riding or leading an animal from one class of possible violations and place herding as a separate and different situation. Mrs. Embick expressed concern over the definition of "herd." Senator Carson stated that it could be termed as "driving" and that he would not wish to apply the term "leading," as it could entail the use of a leash or halter.

The Chairman asked whether open range is posted and Mr. George stated it is not because of the vast majority of the areas being open range.

Captain Williams spoke to the definition of "herding" and stated there should be some responsibility placed upon the person who is doing the herding although the herd laws in eastern Oregon give the animal the right to the highway as opposed to the right of way and would apply to one head of livestock as well as a vast number.

The Chairman asked where the burden was placed when driving or riding an animal. Representative Bunn's contention was that when the horse is being ridden, the driver should have some responsibility for slowing, even though no distress signal has been given. He was of the opinion the rider should have a substantial responsibility as well, although he was uncertain this could be drafted. Where cattle are being driven, he believed there should be a greater responsibility placed on the driver than in the former situation.

Chairman Browne stated that when herding the cattle, it could be required that a person ride in front such as is done when traveling with wide loads.

Mrs. Embick stated that neither the UVC nor existing law speaks to driving an animal. It relates to a person riding or driving an animal-drawn vehicle rather than herding them down the road and she

believed nothing in the section was intended to be herd law. Mr. Paillette agreed and said to his knowledge herd law was not in the present code.

In response to the Chairman's objections that open range is not posted, Mr. Bessonette remarked that once the animals are under the control of an individual they are no longer in the open range, and are subject to herding laws. With respect to signing, he said that half of the highway can be in open range and the other half closed as the division line may be the center of the highway.

Representative Bunn alluded to the Chairman's suggestion that a driver be required to be in front of the herd and voiced agreement to this proposal. He suggested that there be further input as to the practicality of this proposal and that it might be feasible to solicit the views of legislators from the eastern Oregon area as well as those of the Oregon Cattleman's Association. Mr. George stated that a leader had been in front of the herds on the three occasions he had encountered but whether this was common practice he did not know.

It was the consensus of the members that the draft should concern itself with the person riding or leading the animal, placing the burden of caution on the driver but placing a heavier burden on the person owning the animal. When herding or driving the animal down or across the highway the burden shall be placed on the driver. Included in the provision is the concept that a leader be required to proceed in front of the herd as a prewarning and a heavy burden placed on him. Bicycles shall be placed in another Article.

Mrs. Embick asked if it were intended to give the rights of the driver to the person as stated in UVC s 11-104. Senator Carson remarked that if they are to be given these rights, he would not desire to have it include equipment matters. Mr. Paillette stated this would be excluded by the phrase "by their very nature can have no application."

The Chairman questioned the possibility of giving the Highway Division the authority to decide on what class of highways the riding or leading can occur. Representative Bunn was of the opinion bicycles were not allowed on I-5 although Captain Williams stated they can be ridden except where it has been posted. They have the authority to post on freeways only.

Senator Carson expressed disfavor over granting every person riding an animal or driving an animal-drawn vehicle the same rights as the driver of a vehicle. Representative Bunn asked if these rights were to be granted, could the bicycle be ridden in the middle of the lane and was told that unless there was a designated path the bicyclist would have the authority to do so. He stated that he thought the bicyclist's rights should be expanded but at the same time specify what the rights would be. The Chairman indicated that this would be accomplished in the Article on Bicycles and Play Vehicles.

Representative Bunn asked whether it had been determined what the rights would be for the horseman. Senator Carson assumed he would be treated similar to a pedestrian although he doubted it would be advisable to allow him to ride in opposition to traffic. Mr. Paillette noted that this is done in some states under the rules of the road.

It was suggested that equestrian groups as well as the eastern Oregon livestock people be invited to express their views and reasons for opposition, if any, to provisions such as riding on the left.

ORS 483.540. Carrying dog or child on external part of motor vehicle.

The Chairman referred to subsection (2) and was of the opinion there was no compliance with this provision. Captain Williams reported that this provision would not apply to children riding in the back of campers but does apply to house trailers being pulled. With respect to pickups, he said the Department has gone by the ruling that the bed is not an external part of the vehicle. He mentioned there has been some problem with the definition of "child," and that when they observe 18 year olds on the external parts of the vehicle they will take action. Representative Marx asked whether there were circumstances where a person would want to be on the external part and it was the consensus of the committee that "child" had been inserted rather than "person" so as to exclude a fireman. It was determined that "child" should be retained in the subsection.

ORS 483.614. Driver's duty to help animals.

Representative Marx questioned the intent of the section and asked what medical assistance was necessary to be given by the driver. Mr. Paillette explained the statute requires "reasonable care" be given to the animal. Captain Williams remarked that the statute is used more in discussions with people to inform them of their duties although there have been citations given. "Reasonable attention," he said, could be construed to mean that the driver notify the police or the owner. Senator Carson proposed that the statute require the driver to stop and make an effort to determine the nature of the injury and give reasonable attention to it, depending on the existing hazards. Ms. Howard stressed that the driver should be obligated to stop and determine the nature of the injury and notify both the owner and police.

Mrs. Embick was directed to draft the section in terms of the above discussion.

STOPPING, STANDING AND PARKING

UVC s 11-1001. Stopping, standing or parking outside business or residence districts.

ORS 483.362. Parking vehicle on highway outside of business or residential district.

Mrs. Embick reported that case law defines "parking" as the voluntary act of leaving a car on the main traveled portion of the highway when not in use. This would appear to exclude leaving the car on the shoulder or driveway, she said. She stressed the importance of including a definition of "parking" in the Oregon code as has been done in the UVC. Oregon law essentially has the provision of subsection (a) although the exceptions have been expanded to more types of vehicles than those which are disabled. There are no exceptions comparable to the reference to s 11-1003 and s 11-1004 in subsection (b), UVC s 11-1001, and which she said were needed.

Ms. Howard asked if the intention of the committee was to include the exception in ORS 483.362 which relates to school bus. Mr. Paillette advised that it would be excluded if the committee adopted the UVC definition of "stand or standing" because it would mean "the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers."

Senator Carson noted that both the UVC and Oregon code speak to "outside a business or residence district" and advised that a grammatical section, rather than geographical section might be advisable and perhaps it should be stated "Except in a business or residence district."

Further discussion of UVC s 11-1001 appears on page 18 of these minutes.

UVC s 11-1003. Stopping, standing or parking prohibited in specified places.

ORS 483.364. Specific places where parking prohibited.

Mrs. Embick advised subsection (13) of existing law refers to the 25 foot radius of the intersection as was alluded to by Mr. Topaz earlier in the meeting. UVC states "within 50 feet of the nearest rail of a railroad crossing." She advised that she would confer with Mr. George with respect to what matters might be obsolete in existing law.

Mrs. Embick reported that under the UVC provision all parking is prohibited under subsection (a) (1). A second category is contained under paragraph (2) where the driver is allowed to stop momentarily to pick up or discharge a passenger and there is a third category whereby the driver may park momentarily for the purpose of loading or unloading property or passengers. ORS 483.364 specifically prohibits parking and does not allow any exceptions for momentarily picking up property and passengers. Mrs. Embick expressed the view that the UVC was more practicable in this respect. She called attention to the statement in the commentary with respect to the prohibitions of UVC s 11-1003 (a) (1), (g), (h), (i) and (j) and remarked that it would be desirable to expand existing law to include these structures.

See page 19 for further discussion of UVC s 11-1003.

UVC s 11-1001

Captain Williams expressed concern over subsection (b) which states that ss 11-1003 and 11-1004 would not apply to the disabled vehicle. This would be the abandoned vehicle which the Department presently has the authority to remove under ORS 483.362, he said.

Senator Carson noted that subsection (b), s 11-1001 states that it is not in violation if it were disabled and agreed with Captain Williams concerns that subsection (a), s 11-1002 would therefore not provide the officer with the authority to remove the vehicle.

Ms. Howard remarked that subsection (b), s 11-1001 could be referring to a temporary situation and that the draft could be extended to allow a time element, thereby giving the officer the authority to remove the car. Mr. George believed there to be a definite distinction between a disabled and an abandoned vehicle although Senator Carson commented that the car could be both disabled and abandoned and there would be no way to judge this. Captain Williams reported that because of this factor, Oregon law provides that the vehicle may be removed in 24 hours if there is reason to believe it is disabled or abandoned and that it shall not remain parked on the highway for more than five days. He remarked that the time element is important in cases where the vehicle has been disabled and if left too long on the highway the danger exists of the car being stripped.

Ms. Howard suggested subsection (b) be amended to include the provision that "no vehicle so disabled shall be left on the roadway for more than 24 hours or if so it shall be subject to being removed." Representative Marx offered that the problem would still exist inasmuch as on Sundays, for instance, the repair shops are not open and it would be necessary for the automobile to remain parked.

Mrs. Embick advised the necessity of defining the abandoned vehicle and which could be in terms of the amount of time it had been left on the road. Wisconsin's definition, in part, states:

"Whenever any vehicle has been left unattended without the permission of the property owner for more than 48 hours . . . the vehicle is deemed abandoned and constitutes a public nuisance." s 342.40.

The Chairman suggested drafting the definition in the alternative and take the approach that if it is left for a certain amount of time it shall be removed, or if the owner contacts the officer and makes certain arrangements, the vehicle could remain where parked for an additional time period. Mrs. Embick reported this concept has been used in the definition in various states.

Captain Williams stated that one of the Department's primary concerns is with persons who leave a vehicle in a spot where it

might not necessarily be an immediate traffic hazard but if left for some period of time, there is the utmost chance that someone will collide with it.

The Chairman asked if there were any objections to adopting UVC s 11-1001 even though it incorporates ss 11-1003 and 11-1004, both of which may be amended.

Representative Marx moved the adoption of UVC s 11-1001.

Voting for the motion: Carson, Marx, Chairman Browne. Voting no: Bunn. Motion carried. See page 21 for further discussion of the section.

UVC s 11-1003.

Mrs. Embick referred to subsection (b) which she stated has no counterpart in the Oregon code.

Lt. Crabtree alluded to Representative Marx's question relating to parking in front of the person's own private driveway and stated that it would be of benefit to the Portland police to make it lawful to park in this type situation.

Mr. George reported that during the 1973 Legislature, Senate Bill 267 amended ORS 483.364 to prohibit cars with heights of more than six feet from parking within 60 feet of stop signs or signaling devices. He reported that one of the reasons the bill failed to pass was the requirement in it which prohibited parking within five feet of a private driveway. He expressed satisfaction with the UVC provision in paragraph (2) (c) whereby the measurement of distance is from the crosswalk at the intersection rather than the intersection of property lines which he said no one really knows where that would be.

Senator Carson called attention to UVC (a) (1) (g), and remarked that although he did not wish the drivers to park on bridges, there were certain bridges where it is lawful to do so and he would hesitate placing this prohibition in the proposed revision.

Mr. Sipprell wondered if, when parking on certain bridges within painted stalls and within the compliance of signs which state that vehicles may be parked for a certain length of time, would be "in compliance with official traffic control devices." In this manner, other bridges without the painted lines and signs would prohibit such parking. Senator Carson stated he would agree with this concept if "in compliance with" would mean that the cars would be allowed to park if they have the authority of the cities and counties. He believed it was feasible to state that it is prohibited to park on a bridge unless the city or county had given authority to do so.

Senator Carson moved the adoption of UVC s 11-1003.

Representative Marx referred to paragraph (2), subsection (a), and proposed the addition of the language that the vehicle is prohibited to park in front of a public or private driveway unless it is with the owner's permission. Lt. Crabtree responded to this proposal and said that in this manner the officer would not have the legal right to write the citation unless he knew whose vehicle it was and whether permission had been given for parking. There would be no problem inasmuch as perhaps only one house would have to be contacted, he said. The assumption would be, Mr. Paillette said, that the vehicle would have permission to be there unless the Police Department hears to the contrary.

Representative Marx moved UVC s 11-1003 (2) (a) be amended to state that with the permission of the owner of the private driveway, the vehicle may be parked.

Voting for the motion: Carson, Marx, Chairman Browne. Not voting: Bunn.
Motion carried.

Lt. Crabtree referred to the prohibition to park the vehicle within 15 feet of a fire hydrant. He commented that it could become a cost factor by having the cities remove their parking meters five feet. He was informed that this would be determined by local ordinances although Mrs. Embick stated that some of the municipalities may not be aware of the rules and it could be simpler to state the 10 foot provision as is contained in existing law.

Representative Marx moved UVC s 11-1003 (a) (2) (b) be amended to delete "15" and insert "10".

There being no objections, it was so ordered.

Representative Marx questioned the rationale of subsection (b), UVC s 11-1003. Senator Carson was of the opinion this would come under the penalties for unauthorized use of a vehicle.

Representative Marx moved to delete subsection (b), UVC s 11-1003.

Voting for the motion: Carson, Marx, Chairman Browne. Not voting: Bunn.
Motion carried.

Vote was taken on Senator Carson's motion to adopt UVC s 11-1003 as amended.

Voting for the motion: Carson, Marx, Chairman Browne. Not voting: Bunn.
Motion carried. Upon his return to the meeting, Bunn voted "aye" to the motion.

UVC s 11-1001
ORS 483.362

Mrs. Embick explained that although s 11-1001 had been adopted by the members, there had been no motion to incorporate any of the exceptions contained in existing law other than the exception to the disabled vehicle. Existing law also excepts emergency vehicles, fire trucks, ambulances, school busses and worker transport busses. It was determined that there was no necessity to include the emergency vehicles inasmuch as these provisions had already been set out elsewhere.

Mr. Paillette noted that it is contemplated to have definitions of "park" and "standing" and if the UVC section were to be adopted, it would contain the UVC definitions. By definition, he reported, the school bus and worker transport bus would be excluded as they are temporarily standing for the purpose of receiving or discharging passengers.

Mr. Dutoit asked if the tow truck provision would be desirable to retain as it does not fall under the definition of emergency vehicle. Mr. Paillette remarked that it may be necessary to include this exception in the draft.

Mr. George spoke to subsection (a) and the term "free passage." He recommended this be changed to "safe passage," as he believed this in the intention of the term.

The meeting was adjourned at 4:45 p.m.

Respectfully submitted,

Norma Schnider, Clerk
Subcommittee on Revision

A L A S K A

13 AAC 02.225. Method of giving signal. (a) A signal, when given by hand and arm, shall be given from the left side of the vehicle in the following manner, and the signals indicate as follows:

- (1) left turn—hand and arm extended horizontally;
- (2) right turn—hand and arm extended upward;
- (3) stop or decrease speed—hand and arm extended downward.

(b) A signal, when given by signal lamps meeting the requirements of 13 AAC 04.105(b), shall be given by activating both the front and rear lamps on that side of the vehicle toward which the turn is being made. (Eff. before 7/28/59; am 12/15/61, reg. 3; am 8/10/66, reg. 22; am 12/31/69, reg. 31)

Authority: AS 28.05.030

PROPOSED DRAFT SECTION

(Per Subcommittee action 3-22-74)

(Stopping at railroad crossings upon signal of approaching train.) (1) A driver approaching a railroad grade crossing commits the offense of failure to stop at a railroad grade crossing if he does not stop his vehicle within 50 feet but not less than 15 feet from the nearest rail of the crossing when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train; or

(b) A crossing gate is lowered; or

(c) A flagman gives a signal of the approach or passage of a railroad train; or

(d) An approaching railroad train gives an audible signal and because of its speed or nearness to the crossing is an immediate hazard; or

(e) An approaching train is clearly visible and because of its nearness to the crossing is an immediate hazard.

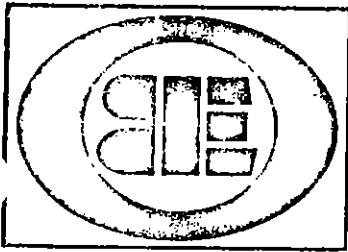
(2) Failure to stop at a railroad grade crossing is a _____.

(3) A driver who has stopped for the passing of a train at a railroad grade crossing in accordance with the provisions of subsection (1) shall not proceed across the railroad tracks until he can do safely.

(4) A driver who proceeds in violation of subsection (3) commits a _____.

(5) A driver commits the offense of unlawful crossing of a railroad crossing gate or barrier if he drives any vehicle through, around or under a crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

(6) Unlawful crossing of railroad crossing gate is a



OREGON STATE DEPARTMENT
OF EDUCATION

Appendix C
Subcommittee on Revision
April 22, 1974

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April 15, 1974

DALE PARNELL
Superintendent Public Instruction
DELOS WILLIAMS
Associate Superintendent
Elementary-Secondary Field
Services

TO: Marion B. Embick, Research Counsel
Committee on Judiciary

RE: Proposed Statutory Revision, Rules of Road for School Bus.

UVC s 11-706 and ORS 485.020 both require a driver meeting or overtaking a school bus which has the flashing red lights operating to stop under certain conditions.

The differences are as follows:

1. UVC s 11-706 designates the flashing red lights may only be operated when the bus is stopped on the highway

ORS 485.020 allows for the use of lights both on the highway and shoulder thereof.

Comment:

School bus driver regulations direct the driver to use the flashing red warning lights only when the bus is stopped or stopping in the right hand traffic lane.

2. UVC s 11-706 requires the driver to remain stopped until the bus resumes motion or he is signaled by the school bus driver to proceed or the flashing red lights are no longer actuated.

ORS 485.020 requires driver to remain stopped so long as the flashing red warning light is operating.

Comment:

The provision of requiring the driver to remain stopped as long as the flashing lights are operating is adequate. Allowing the school bus driver to signal traffic could cause confusion for students crossing the roadway and pose a liability question.

3. UVC s 11-706 red flashing signals may be actuated by the driver of said school bus only when such vehicle is stopped on the highway for the purpose of receiving or discharging school children.

ORS 485.020 Unlawful for the driver of a bus to operate the flashing red warning lights except when the bus is stopping or stopped for the purpose of loading or unloading either school children or any worker as defined in ORS 485.310.

Comment:

Until an alternate method is installed on all school buses for a pre-stop warning, it is necessary to have the wording stopping or stopped. It is felt the pre-stop warning is essential to inform motorists of a pending stop to load or unload students.

4. UVC s 11-706 prohibits use of flashing red signals in business districts and on urban arterial streets; at intersections or other places where traffic is controlled by traffic control signals or police officers; in designated school bus loading areas where bus is entirely off the roadway.

ORS 485.020 does not restrict use of flashing lights to certain areas.

Comment:

This provision would jeopardize the safety of students who must cross streets and highways in urban areas. Uniformity of the stop law is necessary to avoid confusion for drivers, students and the motorists.

5. UVC s 11-706 (c) every school bus shall bear upon the front and rear the words "School Bus" in letters not less than 8 inches in height.

ORS 485.010 Definition of "School Bus" (b) is marked in the front and rear, in letters eight inches high or higher and of proportionate width, with the words "School Bus".

UVC s 11-706 (c) when a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school all markings thereon indicating "School Bus" shall be covered or concealed.

ORS 485.030 "No person shall display the words "School Bus" on a vehicle that is not a school bus as defined in ORS 485.010." Suggested revision: insert between the words school and all, "or an authorized school activity or function or activities or functions under the sponsorship of the State Board of Higher Education."

Comment:

ORS 485.010 includes several other provisions that are necessary for defining a school bus.

Marion B. Embick
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6. UVC s 11-706 (d) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway. (Section Revised, 1954; renumbered, 1968.)

ORS 485.020 (b) (2) A driver who meets a bus while proceeding in a direction opposite to that of the bus on a highway that has two or more lanes for each direction is not required to stop for a bus even though the flashing lights are operating.

Comment:

This UVC provision would eliminate the confusion on a undivided four lane (two lanes each direction) by requiring that all traffic stop. Under the provisions of ORS 485.020 no protection is provided in the oncoming lanes for students who must cross the roadway.



Jack W. Sperr
Coordinator
Pupil Transportation

JWS:rk