Tape 13 - Side 2 - 765 to 1660 (Morning session)
Tape 17 - Side 2 - 295 to end (Afternoon session)
Tape 19 - Side 1 - 1 to 229

COMMITTEE ON JUDICIARY

Subcommittee on Revision

July 2, 1974

Minutes

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

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

Others Present: Mr. James Dutoit, Automobile Club of Oregon
Mr. Howard Fujii, Oregon Farm Bureau Federation
Mr. L. E. George, Traffic Engineer, Highway Division, Department of Transportation
Miss Vinita Howard, Public Information and Publications, Motor Vehicles Division
Mr. Ralph Sipprell, Liaison Engineer, Highway Division, Department of Transportation
Capt. John Williams, Traffic Division, Oregon Department of State Police

Agenda:

Senator Elizabeth W. Browne, Chairman, called the meeting to order at 10:15 a.m. in Room 14, State Capitol.

Approval of Minutes of Meeting of May 22, 1974

There being no objection, the minutes of the meeting of the Subcommittee on Revision on May 22, 1974, were approved as submitted.

POWERS OF STATE AND LOCAL AUTHORITIES; Preliminary Draft No. 1; May 1974

Section 1. Provisions uniform throughout state. Mrs. Embick explained that section 1 was a restatement of ORS 483.036 (1) which would be repealed.

Chairman Browne referred to a letter she had received from Judge Alderson in which he stated that statutes covering reckless driving and driving while under the influence should apply to areas such as shopping center parking lots and not merely to public streets and highways. She asked if such a provision would be appropriate to this draft. Mrs. Embick advised that the committee would discuss that subject again in connection with the Article on General Provisions. Mr. Paillette recalled that the committee had also discussed the possibility of adding applicability provisions to specific offenses rather than adopting a blanket provision. The Article on Serious Traffic Offenses which was before the Adjudication Subcommittee might be the place to do that, he said.

Senator Carson referred to the ordinances enacted by cities and counties where the penalties were in conflict with penalties for the same offense in the state law. With cities and counties adopting their own ordinances, he thought there was a serious question as to whether the ordinances were "in conflict" with state law when the penalties differed, but the cities seemed disinterested or incapable of attacking the problem. Mr. Paillette said he had occasion to do some research on the definition of "conflict" in connection with a bill on obscenity. He had found a number of cases on the subject, none of which were of much help. Most of them opted in favor of the police power of the municipality, saying that the ordinances were not contradictory unless "in clear conflict," or similar language. It might be possible, he said, to define more specifically what conflict referred to, whether it be penalties, policy or whatever.

Senator Carson said he had been totally unsuccessful in convincing cities and counties to adopt state law, primarily because of the fine system and the requirement for reimbursement to the state. The issue, however, might be resolved by the Supreme Court before too long in connection with some of the gambling laws adopted by local authorities.

Mr. Paillette remarked that if the state law said an act was illegal, there was no way a city could legalize that act unless the state law specifically granted local option.

Mrs. Embick reported that she had discussed this problem with Mr. Jim Mattis and he had suggested that the commentary go into more detail with respect to the meaning of "in conflict." He had mentioned this problem in a limited way in the Suggested Uniform Traffic Ordinances for Oregon, and she read a portion of that report.

One possibility, Mr. Paillette said, would be to draft a statute whereby the state would preempt the field as far as the definitions of offenses and penalties were concerned. Mrs. Embick noted that the UVC recommended that course in s 15-101 which read, "no local authority shall enact or enforce anyordinance on a matter covered by the provisions of such chapter unless expressly authorized."

In reply to a question by the Chairman, Mrs. Embick said she had not discussed this matter with representatives of the cities or counties but had merely retained the language of the present law inasmuch as it had been interpreted many times. She believed the cities and counties would not be in favor of a change because it would detract from their ordinance-making authority.

Senator Carson said he would prefer to leave the control with the cities but they should be encouraged to cite a violation of ORS rather than an ordinance. As the situation now stands, he said, violation of gambling laws in Marion County will be cited as a violation of the county ordinance rather than the state law and he believed that was wrong. He suggested that a meeting be held with representatives of the League of Oregon Cities and the Association of Oregon Counties at which time they should be shown a draft similar to the UVC section to demonstrate one of the ways the legislature could go to bring local authorities into conformity with state law. He said he would like to hear their reactions to such a proposal.

Mr. Paillette recalled that this subject was considered in conjunction with the draft on Classification of Offenses and he had written a tentative provision which did not appear in the draft:

> "The provisions of the Oregon Vehicle Code relating to the definition or classification of traffic offenses, and the penalties therefor, shall be applicable and uniform throughout this state and no political subdivision or municipality shall enact or enforce any ordinance, rule or regulation in conflict with these provisions."

Senator Carson asked if "conflict" meant "less than" as well as "greater than" and Mr. Paillette replied that when read with the phrase, "definition or classification of traffic offenses, and the penalties therefor," the intent was that they could not be different.

Chairman Browne asked how the moneys would be reserved to the cities and Mr. Paillette said he would have to give that point some thought.

Senator Carson was of the opinion that cities and counties should be encouraged to charge violations of ORS by being assured that they would not be penalized financially by doing so. The cases could be tried in municipal court and the money would go to the cities. He recalled a bill before the last session of the legislature which made

a start in this direction, but it did not pass. Mrs. Embick indicated she could make copies of that bill available to the subcommittee at its next meeting. Mr. Paillette recommended that Mr. Mattis also be invited to attend inasmuch as he had been involved with that piece of legislation.

After further discussion, it was the consensus of the committee that the staff should draft a substitute section 1 modeled after the UVC proposal (s 15-101) which could be used as a discussion point at the next meeting. Mr. Mattis and representatives of the cities and counties would be invited to attend.

Senator Carson moved adoption of section 1. Motion carried unanimously with all four members voting.

Section 2. Transportation Commission to adopt sign manual. Mrs. Embick said she had been informed by Mr. George and Mr. Sipprell that the draft version of section 2 needed some revision. Mr. George explained this was necessary because the national signing standards had been changed since revision of UVC s 15-104 in 1971. At the present time, he said, the Federal Highway Administrator dictates signing standards for all federal highways in the United States. The manual setting out the standards was published infrequently but between publications new standards were adopted by the Federal Highway Administrator. In order to keep abreast of those standards, he suggested amending section 2 to read:

"The Transportation Commission shall adopt a manual and specifications [for a] of uniform [system of] standards for traffic control devices consistent with . . . . The uniform system shall [correlate with and so] as far as possible conform to the [system set forth in the most recent edition of the Manual on Uniform Traffic Control Devices for Streets and Highways and other] standards [issued] adopted or endorsed by the Federal Highway Administrator."

Rep. Marx proposed to delete the second sentence completely. The Transportation Commission could then use whatever standards it chose and it would avoid the possibility that they might in the future be forced to adopt standards they would rather not adopt. Mr. George stated he could see no harm in deleting the second sentence; his proposal to amend was based on the assumption that the subcommittee would want to relate the language as closely as possible to the UVC version.

Chairman Browne inquired as to the possibility of bringing cities and counties under section 2 to require their signs to comply with state signing standards. The committee had been told, she said, that there was a complete lack of uniformity in school zone signs. Mrs. Embick called attention to subsection (3) of ORS 483.044 which gave the

commission general supervision over signs erected by local authorities. This provision appeared in section 5 of this draft. In reply to a further question by the Chairman, Mr. George said that by and large school zone signs were uniform throughout the state and where they were not, it was usually because the authorities were not aware that standards existed.

Rep. Marx moved to delete the last sentence of section 2. Motion carried unanimously with all members present.

Rep. Marx moved the adoption of section 2 as amended and this motion also carried without opposition.

Section 3. Authority of Transportation Commission to mark highways and control traffic. At the suggestion of Mr. George, Mrs. Embick proposed to substitute "Administrator of Highways" for "Transportation Commission" in subsection (2) of section 3 and to amend the third line of subsection (1) to read: " . . . and shall have authority to place and maintain . . . . " This addition, she explained, would make the provision discretionary rather than mandatory.

Senator Carson noted that section 3 contained a double excuse to place signs where the commission decided they should be by means of the two phrases, "shall have authority" and "where the commission considers it necessary." Mrs. Embick advised that the existing statute contained the same duplicative language.

Sen. Carson questioned the necessity of "indicate" as it appeared in the next to last line of subsection (1). Mrs. Embick advised that this was UVC language, but "to indicate and" could be deleted.

Mr. George said that with respect to the mandatory versus discretionary question in subsection (1), it might raise a question as to legal and financial liability if the provision were mandatory. If the Highway Division believed a signal was necessary following a traffic study, they usually negotiated its placement in a joint venture between, for example, the city and the state.

Sen. Carson said he had recently been angered by a situation in Salem where the city had failed to repair a traffic signal at a busy intersection. When he had asked the city manager why it was not repaired, he was told that the city had no maintenance people to fix the signal and the state refused to repair it unless the city agreed to fully release the state from liability for negligence. If that was correct, he said it was an example of the state stepping on local government. Mr. George confirmed that the facts as stated by Sen. Carson were correct and the state had adopted this position because of the increasing amount of litigation they were faced with involving accident cases in which traffic signals were a point at issue. In the Salem area alone, he said, three lawsuits were filed in the last 90

days and it had reached the point where the Highway Division had to take some kind of evasive action to protect themselves. This was the course recommended by their lawyers.

Sen. Carson said his concern was that when the individual working for the Highway Division was in fact negligent, it was not proper to require the city to pay the litigation costs incurred because of him. When there was negligence on the part of the state, he believed it should be held liable. Under the proposed language in section 3, he said, the commission was given the authority to place and maintain the devices and if they determined that the devices were necessary, they could require the city to place the signs. Mr. George responded that the commission had joint responsibility over state highways but they had sole responsibility on the freeways and did not require cities to enter into any of that cost.

Sen. Carson maintained that the proposed language would give the Highway Division toobroad an authority. He said he would be willing to give them total authority over all highways and then write in a specific provision where joint authority would apply. Rep. Marx thought joint authority might cause even more problems because no one would have direct responsibility for maintenance.

Mr. George advised that recently the Highway Division had negotiated a joint policy involving traffic signal installations, traffic signal maintenance and power consumption costs with the League of Oregon Cities and the Association of Oregon Counties. The agreement was based on population with the breaking point set at 50,000. In cities with a population of less than that number, the division agreed to assume all maintenance costs with the original installation cost to be on a cooperative basis. The same was true with respect to counties having a population of less than 50,000. On the older installations, prior state-city agreements remained in effect and stipulated that the entire maintenance of those systems was the responsibility of the local jurisdiction. In the smaller areas, he said, there was no one to assume responsibility for maintenance and qualified technicians were not available. Although the state still leaves the responsibility for maintenance with the city, each year it pays a negotiated amount of the maintenance costs which average approximately 50%.

The Chairman asked Mr. George if it would meet with his approval to ask the staff to draft a proposal along the lines discussed by Sen. Carson which would specify where the Highway Division would have sole control and where it would have joint control and received an affirmative reply.

Sen. Carson disapproved of using population count as a criterion for determining responsibility. He wanted to avoid a collective bargaining situation on every street corner while government decided who was responsible for fixing the signals. It was his opinion that the Department of Transportation, the League of Oregon Cities and the

Association of Oregon Counties should give some serious consideration to this problem. One way to resolve it, he said, might be for the Highway Division to do all the maintenance and bill the counties and cities for a proportionate share or vice versa. In view of the liability problem discussed earlier by Mr. George, there should be one responsible source rather than leaving the situation so that the accident upon which the street occurred would determine who the defendant would be.

Rep. Marx moved to delete "to indicate and" on the next to last line of subsection (1). There was no objection and the motion was adopted.

The committee unanimously agreed to substitute "Administrator of Highways" for "Transportation Commission" in subsection (2).

Section 3 was discussed further in connection with the committee's consideration of section 5 beginning on page 9 of these minutes.

Votes for members who are absent. Chairman Browne was given permission by the committee members to cast votes for them in their absence with the understanding that they would be given an opportunity to review the vote upon their return to the meeting and either confirm or reverse it.

Section 4. Authority of Public Utility Commissioner over railroad-highway crossings. Mrs. Embick said there was some question about the meaning of "at railroad-highway grade crossings" in terms of jurisdiction. She said the Transportation Commission was of the opinion that some authority still existed for them to place signs on highways in advance of railroad crossings but there was no specific delineation as to where the authority of one agency ended and the other began.

Mr. George agreed there was confusion on this point. The commission, he said, placed advance warning signs at railroad crossings sometimes 500 to 1,000 feet in advance of a crossing. The problem centered on the preposition "at railroad-highway grade crossings." In answer to a question by Sen. Carson, Mr. George said he thought the PUC should have jurisdiction over all devices within the railroad right of way and the Transportation Commission should have the authority outside the right of way limits.

Chairman Browne moved to amend section 4 to give the PUC the exclusive jurisdiction over all protective devices within the railroad right of way.

Sen. Carson believed the proposed amendment was appropriate so long as the Transportation Commission wanted to be responsible for advance signing, and he felt sure the subcommittee would hear from the Public Utility Commissioner if he disagreed with this approach.

Mrs. Embick asked if the subcommittee wanted the provision to be applicable to county highways as well as state highways.

Mr. George explained that the reason for the change in the statute made by the 1973 legislature giving the PUC jurisdiction of railroad-highway grade crossings was because the commissioner had no authority to order the installation of stop signs on county roads and city streets. Mr. George's opinion, in answer to Mrs. Embick's question, was that the provision should be applicable only to state highways and the jurisdiction over county roads and city streets should be left to the PUC. Rep. Bunn asked if Mr. George was recommending that the PUC be given jurisdiction over the territory outside the railroad right of way on city and county streets and, if so, there could be some confusion as to the agency responsible for advance warning signs.

Mrs. Embick indicated that in researching the legislative history on the 1973 bill, she found that much testimony was given on fatal accidents at crossings, attributable to the fact that counties were not placing warning signs where they were needed. However, in the testimony she read no one had recommended drawing a distinction between state and county highways. Chairman Browne concurred that it would cause confusion to make section 4 applicable only to state highways.

Sen. Carson said the proposed amendment to the section would in effect define "at" and he did not see how "at" could be stretched out to include a sign a quarter of a mile from the crossing. His recommendation was that the provision should apply to all highways and perhaps another statute could be drafted to provide that if there were not sufficient advance warning signs, they could be erected by the PUC and the cost billed to the city or county. Rep. Marx was of the opinion that one agency should be responsible for posting signs right up to the railroad right of way.

Rep. Bunn asked if the railroad right of way would give the PUC sufficient distance in every instance to install the type of protective devices that were needed. Mr. George advised that the right of way width varied from crossing to crossing but there would be enough space for the physical installation of gates, signals, etc. right at the crossing itself. As a practical matter, he said, the Highway Division controlled the approaches.

Sen. Carson moved to amend section 4 by defining "at" to mean the railroad right of way, with the understanding that if a potential problem was called to the subcommittee's attention as a result of that action, the definition would be broadened. His motion also included the direction that Mrs. Embick, together with Mr. George and Mr. Topaz of the PUC, would draw a companion bill to be introduced at the 1975 session which would give more authority to the PUC to install or order installation of advance warning signs.

Interested parties could then be invited to testify on the proposal. The motion was adopted unanimously with all four members present and voting.

Sen. Carson moved the adoption of section 4 as amended. Motion carried without opposition.

Section 5. Local traffic control devices. Mrs. Embick explained that section 5 was a rewording of ORS 483.044. Here again the same language appeared that the subcommittee deleted in section 3, i.e., " . . . consider necessary [to indicate and] to carry out . . . . "

There being no objection, the above amendment deleting "to indicate and" from subsection (1) of section 5 was adopted.

Chairman Browne asked if it was clear under section 3 who had the responsibility for state highways that passed through city limits. Mrs. Embick replied that under section 3 the Transportation Commission had jurisdiction over traffic control devices on state highways, and the local authorities appeared to have jurisdiction only with the written approval of the Administrator of Highways.

Mr. Paillette asked if section 5 conformed to section 3. Mrs. Embick's opinion was that section 3 needed to be reconsidered in light of the subcommittee's decision with respect to section 4. She suggested that subsection (2) of section 3 should perhaps be restated in a positive manner to give local authorities the power to place the devices and to give the Public Utility Commissioner jurisdiction over state highways where they crossed a railroad at grade. Her proposal was to allow the PUC to prescribe standards for the devices and to require the local authority to place them. If they failed to do so, the PUC could erect them and charge the cost to the local authority.

Sen. Carson pointed out that section 3 had not been adopted and he saw no need to reexamine it until a meeting was held with the League of Oregon Cities and the Association of Oregon Counties to discuss policies on maintenance and erection of signs on state highways that traverse cities and counties. After those recommendations were received, the section could be reevaluated by the subcommittee.

Mr. Paillette suggested drafting a separate section to fit in between sections 3 and 4 which would deal with the questions raised regarding subsection (2) of section 3 and the proposed amendment to section 4.

Mr. Paillette then asked if the subcommittee wanted to leave subsection (1) of section 5 mandatory or to revise it as the Highway Division had suggested with respect to the same language in section 3, i.e., " . . . shall have authority to place and maintain . . . . " Sen. Carson's understanding was that the subcommittee had decided not

to adopt the amendment suggested by the Highway Division but rather to leave the provision mandatory. His position was, and Rep. Marx concurred, that section 5 should also be mandatory.

Mrs. Embick noted that ORS 483.044 (3) contained an exception for cities of more than 50,000 inhabitants to the provision giving general supervision to the Transportation Commission for erection of traffic control devices. She advised that she had communicated with the cities of Portland, Eugene and Salem and was informed by Eugene and Portland that in their opinion there was no reason to continue that exception. They believed that all cities, regardless of size, should be required to install the devices and recommended removal of the exclusion. The City Engineer in Salem thought that removal might result in loading the Transportation Commission with additional paper work.

Mr. George suggested inserting "or maintained" after "hereafter erected" in the last sentence of subsection (1) of section 5. He remarked that yellow stop signs had been maintained on county roads for many years after the red stop signs became standard and there were still some in existence. He believed that the addition of "or maintained" would bring about more rapid uniformity.

In reply to a question by Rep. Marx, Mr. George said signing in the smaller towns was now fairly uniform and there would not be too much cost involved in changing the signs. Normally, he said, when the commission adopted new standards, the old signs were permitted to remain in full force and effect until replaced on a maintenance basis. Sen. Carson commented that the same effect could be achieved by deleting "hereafter erected" in subsection (1). Rep. Marx asked if the old signs would be in violation immediately were that phrase deleted and received an affirmative reply from Mr. George. Rep. Marx expressed some concern about a provision that would require cities and counties to replace all their out-dated signs and was of the opinion that the committee should acquire information on the number of signs that would be involved and the approximate cost of replacement before making such a recommendation.

Mrs. Embick called attention to subsection (2) of the draft and ORS 483.044, both of which required the devices to be of a type conforming to specifications approved by the commission. It would not be a departure from current policy, she said, to require local authorities to conform to the state standard.

Mr. George agreed with Rep. Marx that no jurisdiction should be required to make a mass change in signs nor was that the intent of the commission. It was for that reason the Transportation Commission permitted the old signs to remain in full force and effect until brought up to standard when replaced on a maintenance basis. If that was the effect of the proposed amendment, he said he would be opposed to it.

Chairman Browne suggested that the committee adopt the proposed amendment by deleting "hereafter erected" and if Mrs. Embick discovered any adverse reaction in discussing the provision with the affected agencies, it could be reconsidered. Mrs. Embick indicated that the last sentence of subsection (1) could be deleted in its entirety inasmuch as the last sentence of subsection (2) repeated the same provision which in turn was identical to the language of existing law, ORS 483.044 (3).

Sen. Carson said that without a grandfather clause, he did not see how the provision could be anything but retroactive. If specifications require all stop signs to be red, there is no provision permitting a change-over to red stop signs over a period of months or years. Rep. Bunn pointed out that subsection (2) said "shall place" but nowhere did it say the change had to be made immediately.

Mrs. Embick observed that representatives of the cities and counties had been furnished with copies of all drafts but she had received no response from them. Sen. Carson stated that it was incumbent upon the committee not only to inform local authorities of proposed legislation but also to actively solicit their response by telling them what the committee proposed to do and asking for specific suggestions or objections.

Vote was then taken on the motion to delete "hereafter erected" in the last sentence of subsection (1) of section 5 with the caveat that representatives of cities and counties would be contacted and informed of the effect of the amendment. Motion carried unanimously with all members present.

Mr. George said that when the cities and counties are contacted, it should be made clear to them that the proposed wording would immediately make obsolete all signs presently in place that do not conform to state specifications. Chairman Browne pointed out that the existing statute requires local authorities to place signs in conformance with state specifications, and, theoretically at least, there should be no signs in place at the present time that do not conform.

Mr. George asked if an order by the Transportation Commission, declaring that all existing signing shall remain in full force and effect until replaced on a maintenance basis, would have the effect of setting the standard that the local authorities would not have to replace existing signs until their replacement became necessary on a maintenance basis.

Chairman Browne suggested that Mrs. Embick draft language to incorporate the concept of maintenance replacement within the statute should the city or county signs be in nonconformance. This proposal was approved unanimously.

Sen. Carson believed it would be advisable for the Transportation Commission to set a target date for adapting to changes in sign specifications after which date all signs not in conformity would be unlawful. This would give local authorities time to make the necessary replacements but would also get around the possibility that signs not in conformity might be left in place for years before being replaced. The Chairman suggested that Sen. Carson's proposal be placed in the commentary to this section.

Vote was then taken on a motion to add a grandfather clause to section 5 based on a maintenance schedule. Motion carried unanimously with all four members present.

Sen. Carson moved the adoption of section 5 as amended. This motion also carried without opposition.

With respect to the maintenance schedule, Mr. George pointed out that in Tillamook County, for example, a stop sign might last four years while in eastern Oregon it could last ten. Sen. Carson remarked that after section 5 is redrafted, he would like to have the opportunity to speak to this question again. If the theory was to allow local authorities a time for implementation, he was in favor of it, but if the concept would allow them to leave an old sign in place until it fell down before they were required to comply, he would disagree with it.

The committee recessed for lunch and reconvened at 1:30 p.m. with the same persons in attendance as were present for the morning session with the exception of Rep. Bunn who returned following the afternoon recess.

IMPLEMENTS OF HUSBANDRY; EQUIPMENT REQUIREMENTS; Reference Paper; July 1974

Mrs. Embick recalled that when the subcommittee discussed the General Provisions Article, one of the sections of existing law that was discussed was ORS 483.032. That section has three subsections, the third of which excludes implements of husbandry, antique vehicles and certain types of road construction equipment from the requirements for equipment of vehicles as set out in the Rules of the Road. Her first inclination, she said, was that this provision was not applicable to the Rules of the Road. Upon further study, however, she found that it appeared in most state vehicle codes in a separate chapter on equipment of vehicles and for this reason it was being brought before the subcommittee in the form of a reference paper. She called attention to the definitions of "implement of husbandry" set out on page 3 of the reference paper. The Oregon code also contains two other provisions relating to implements of husbandry which appear in this reference paper -- ORS 483.222, citing minimal requirements for lamps

on all vehicles, including animal-drawn vehicles, and ORS 483.457 which in subsection (2) requires a slow-moving vehicle emblem on implements of husbandry and the other types of vehicles set out in the subsection. The comparable Uniform Vehicle Code provisions were set out on page 1 of the reference paper, one of which was UVC s 12-101 (c) (comparable to ORS 483.032 (3)). It appeared in the equipment chapter of the UVC and the subcommittee might decide that the Oregon provision likewise belonged in the equipment section. UVC s 12-216 was essentially the same as ORS 483.422 except that it suggested an additional provision requiring slow-moving vehicle emblems on animal-drawn vehicles after a given date.

In addition to the UVC provisions in the reference paper, the UVC in s 12-215 set out some very specific lighting requirements for implements of husbandry and suggested that each state consider adopting these requirements after an appropriate date. She then introduced Mr. Howard Fujii who was present to speak on lighting requirements for farm vehicles as proposed in UVC s 12-215.

Mr. Fujii distributed a prepared statement to each member of the committee, a copy of which is attached hereto as Appendix A, explaining the position of the Oregon Farm Bureau Federation with respect to the requirements of UVC s 12-215. In essence, his position was that the small number of highway accidents involving tractors and farm implements could not justify the cost to farmers of purchasing equipment sufficient to meet the requirements proposed by the UVC.

Rep. Marx asked Mr. Fujii if he would object to more stringent requirements for new vehicles and was told that it would be no problem so far as tractors were concerned but it might be for some of the other motorized farm implements. He questioned the desirability of such a statute.

Sen. Carson inquired concerning accident statistics for farm vehicles over a period of several years, but Mr. Fujii did not have that information. Sen. Carson commented that there were probably ten times more people killed by tractors tipping over than were killed because of the lighting problem. Miss Howard agreed that this was not one of the larger problems as far as highway safety was concerned. She indicated her preference, however, for moving the material in ORS 483.032 to the equipment chapter for ease in locating the provision. Miss Howard advised that the federal government was presently working on equipment standards at the point of manufacture so it might well be that the lighting equipment being discussed would soon be a fact by reason of federal dictate to the manufacturer as to what to put on farm vehicles in the way of safety equipment.

Sen. Carson asked Miss Howard if she had any meaningful statistics on farm accidents extending back farther than one year and was told that she did not have them with her. She did not believe, however, that the involvement of tractors had ever been a pronounced problem on the highways, and most of the accidents probably occurred in daylight hours. She added that the present law governing slow-moving vehicle

emblems related to highways under the jurisdiction of the Department of Transportation which were hard surfaced highways. Problems probably occurred more frequently on county roads which were often narrow or where the crest of a hill might cause a visual obstruction. From a safety standpoint, she said she would like to see county roads as well as highways included in the provision.

Sen. Carson said it would be interesting to see statistics as to whether accidents were occurring more frequently on county roads than on state highways, and Miss Howard indicated that information could be made available. Rep. Marx said it would also be interesting to know whether accidents had decreased following passage of the statute requiring slow-moving vehicle emblems.

Subsequent to this meeting, Mr. George furnished the committee with statistics concerning the accident history of motorized farm vehicles over a four year period. A copy of this tabulation is attached as Appendix B.

With respect to the 1,000 foot requirement for light visibility in the UVC as opposed to the 500 foot requirement in the Oregon code, Capt. Williams recommended that the 1,000 foot criterion be adopted. Most lighting equipment placed on vehicles today, he said, could be seen for 1,000 feet and with the greater speeds at which present-day traffic moved, 500 feet was too short a distance to constitute sufficient warning to an oncoming vehicle. The 1,000 foot requirement would encourage people not to place a small light that was wholly inadequate on their equipment. Miss Howard concurred with Capt. Williams' recommendation.

Capt. Williams' second comment had to do with the slow-moving vehicle emblem. After the law was passed in 1967, he said, some people used the reflectorized emblem promiscuously by placing it, for example, on a mailbox. This prompted the 1969 legislative session to add subsection (4) to ORS 483.457. He recommended the inclusion of that provision in any statute on this subject adopted by the committee.

Mr. Paillette remarked that when talking about lights on equipment, he assumed the statute had reference to a standard headlight such as a sealed beam headlight. He asked Capt. Williams if it was correct that such a light would normally be visible for 1,000 feet and it would therefore not impose any great hardship on anyone if the requirement were changed to 1,000 feet. Capt. Williams confirmed the accuracy of Mr. Paillette's statement.

Mr. George pointed out that the UVC did not say that the driver had to be able to see 1,000 feet ahead by the light, but instead that that the light had to be visible for 1,000 feet. A flashlight, he said, could be seen for 1,000 feet but it wouldn't be of much help to the driver. Mr. Paillette noted that the existing statute used the same visibility concept. Mr. George said the red tail light requirement for visibility made sense to him, but the white headlight did not.

Mr. Fujii pointed out that because of the nature of the work performed by tractors, dust worked its way behind the light lens which impeded its efficiency. This was one of the reasons the Farm Bureau recommended staying with the lower limit. Most of the lights, when clean, would probably meet the 1,000 foot requirement, but their power was cut when dust collected over the face of the light.

Chairman Browne moved to retain the present law (ORS 483.032 (3)) and place it under the equipment chapter of the vehicle code. Motion carried unanimously. Carson, Marx and Chairman Browne voted aye and the Chairman cast an aye vote for Rep. Bunn.

Sen. Carson asked if any studies had been conducted on the type of lights that were visible from a distance of 1,000 feet and the differences in terms of safety between a 500 and 1,000 foot requirement. Mr. George said he had seen the results of surveys conducted by the automotive industry on the differences with respect to the size of the light bulb. He did not know that there was a source of information that would go to the differences in safety in comparison to various visibility distances. Sen. Carson said he was most concerned about the tail light because presumably the tractor would be on the right side of the road and the most critical problems probably occurred when drivers suddenly came upon a tractor from behind.

Capt. Williams agreed that vehicles approaching a tractor from the rear needed adequate warning, but visibility of the headlight was also important from the standpoint of one car passing another and meeting a tractor head-on. He expressed agreement with the concern expressed by Mr. George that the statute did not require lights sufficient for the driver to see -- only lights so he could be seen. A tractor, he said, could conceivably be going down the left side of a highway at night simply because the driver couldn't see where he was going.

Mr. Fujii commented that as a practical matter, most of the equipment traveling at night had regular headlights in the interests of self-protection. Rep. Marx asked if visibility could be increased from 500 to 1,000 feet simply by using a more powerful bulb, and Mr. Fujii replied that the cleanliness of the lens would have more to do with visibility than the power of the light bulb.

The subcommittee decided to leave ORS 483.422 and 483.457 as they appeared in present law, at least for the time being, and directed that they be moved to their proper location in the vehicle code.

POWERS OF STATE AND LOCAL AUTHORITIES; Preliminary Draft No. 1; May 1974

Section 6. Placement of official traffic control device an administrative act. Mrs. Embick indicated that she had been advised by Mr. Sipprell and Mr. George that the reference in section 6 should be to the "Highway Division" rather than to the "Transportation Commission." With respect to the reference at the end of the section to "traffic law enforcement," she advised that Mr. George had suggested it would not be appropriate in many communities for the placing and maintaining of traffic control devices to be done by traffic law enforcement personnel. Question had also been raised, she said, as to whether placing these devices should be an administrative act or whether a ministerial act would be a more appropriate description.

Sen. Carson asked Mr. George why section 6 could not be eliminated in its entirety. Neither Mr. George nor Mr. Sipprell knew why the section was necessary nor did they know the purpose behind its original enactment.

> Following some speculation as to the reasons for the enactment of section 6, Sen. Carson moved to delete it with the understanding that the Highway Division could study the matter further and if they believed it was needed, the committee would reinstate it. Motion carried unanimously. Sen. Carson, Rep. Marx and Chairman Browne voted aye and the Chairman cast an aye vote for Rep. Bunn.

Section 7. Regulating use of freeway by parades, pedestrians. Mrs. Embick explained section 7 and noted that a definition of "freeway" would be incorporated in the general definitions either in the form of the definition of "controlled-access highway" in UVC s 1-110 or as "freeway" was defined in subsection (3) of ORS 483.041. She also noted that the reference to "department" in subsection (1) should be changed to "commission," and the subcommittee concurred.

Mr. George said his only question was whether it was proper to retain the reference to local authorities in section 7, but in view of the fact that there was a freeway in Lane County that traversed city limits, it probably was advisable to leave it in.

> Following further discussion, Rep. Marx moved the adoption of section 7. Motion carried unanimously. Sen. Carson, Rep. Marx and Chairman Browne voted for the motion and the Chairman cast an aye vote for Rep. Bunn.

Upon Rep. Bunn's return at a later point in the meeting, he said that of the sections on which the Chairman had cast a vote for him, the only one about which he had a question was section 7. He wanted to be certain that the provision would not grant the commission or local authorities power to prohibit hitchhiking in places where the

committee had authorized it. Mrs. Embick advised that under present law pedestrian travel could be prohibited on freeways, and section 7 made no change in that respect. Chairman Browne asked if the section would restrict hitchhikers to freeway exits and on-ramps and was told by Mrs. Embick that on-ramps were considered a part of the freeway.

Mr. George commented that his understanding of the committee's decision concerning hitchhikers was that hitchhiking would be permitted on the right of way as that term was to be defined. However, another section made it permissive to prohibit the movement of hitchhikers completely on certain sections of the freeway.

Chairman Browne said it was not her intention to prevent hitchhiking on the freeway. Rep. Bunn shared the Chairman's view and said that the committee, when discussing hitchhiking, had decided to permit it from the shoulder and it was his intent that this be allowed to continue. He suggested making clear the point that section 7 was not intended to limit hitchhiking but was intended to permit the commission to ban pedestrian traffic for the purpose of avoiding situations such as Mr. George had described where Portland State College students were using a portion of the Stadium Freeway as a shortcut and in doing so were climbing over the guardrail and causing hazards to themselves as well as to other traffic. Mr. Paillette indicated that this could be accomplished by placing a cross reference to the hitchhiking statutes in this section.

Sen. Carson said he did not feel as strongly about hitchhiking as did Rep. Bunn and he was concerned about bicycles and Cub Scout tropps using the freeways for hiking trips. It was his hope that the freeways would not be turned into a common path for bicycles, hiking, walking, etc.

At the Chairman's suggestion, the committee decided that the gist of this discussion should be included in the commentary to section 7.

Section 8. Regulation of pedestrian traffic by cities. Mrs. Embick noted that "local authority" should be substituted for "city" in section 8 to permit counties as well as cities to regulate pedestrian traffic. Section 8, she said, attempted to draw together all provisions regarding the authority to regulate pedestrian traffic which had been discussed in connection with other Articles.

Rep. Marx asked if other provisions existed giving local authorities this power. Mrs. Embick replied that they would perhaps have the authority under section 5. The greater part of this Article, however, was devoted to statements granting a specific type of authority, and there was some educational value in this approach.

Sen. Carson said that if this section were not enacted and subsection (6) of ORS 483.210 were repealed, there would then be

serious question whether this authority existed. Mr. Paillette added that if this type of statute, containing a specific grant of authority, were repealed and not replaced, someone would be sure to question whether the fact of its deletion meant that local authorities no longer had this power. Sen. Carson said he was inclined to agree with Rep. Marx that it should be deleted if section 5 covered the same area of authority, and the problem posed by Mr. Paillette could be settled by a statement in the commentary explaining the subcommittee's intent in deleting it.

Mr. George advised that this specific authority had been used a number of times in the past in regulating pedestrian traffic at intersections where, because of traffic flowing through at all times, it was advisable to close the crossing to pedestrians. By this authority cities had physically barricaded crosswalks and posted signs to prohibit pedestrian movement. Rep. Marx explained that he was not advocating revocation of this authority but rather that cities and counties had it by virtue of other provisions.

Sen. Carson said he doubted that section 5 took care of everything covered by section 8, and Mr. Paillette concurred. If this section were deleted, the provisions of section 5 would have to be supplemented to make clear that it applied to pedestrians. Sen. Carson suggested that section 8 be made a part of section 5 or that it be positioned in front of section 7 so it would be clear that local authorities had authority to place traffic control devices to guide both automobile traffic and pedestrian traffic.

Mrs. Embick commented that both sections 8 and 9 could logically follow or precede section 5 because all three related to local authorities.

> The Chair moved to strike "city" and substitute "local authority" in section 8. There was no objection and the amendment was adopted.

Mrs. Embick suggested that section 8 be further amended by adding language parallel to section 7, i.e., " . . . local authority by order, ordinance or resolution . . . . " in order to take into account other possible types of action by local authorities.

Sen. Carson was of the opinion that section 8 needed to refer only to ordinances in view of the law enacted by the 1973 legislature (ORS 203.035) giving ordinance-making authority to county governing bodies. Mr. George pointed out that resolutions were sometimes issued by the courts. Sen. Carson suggested that Mrs. Embick check this point and if local authorities sometimes issued orders or resolutions, that language could be inserted.

> The Chair moved adoption of section 8 as amended with license to Mrs. Embick to insert the language just discussed by the subcommittee if it appeared necessary and also to

move the section to a more appropriate place in the Article. Motion carried unanimously. Sen. Carson, Rep. Marx and Chairman Browne voted for the motion and the Chair cast an aye vote for Rep. Bunn.

Section 9. Speed regulation in public parks by cities. Following a recess, Mrs. Embick advised that again in section 9 "local authority" should be substituted for "city" as was done in section 8.

Mr. George questioned the need for section 9 in view of section 2 of the Speed Restrictions Article. Mrs. Embick explained that section 2 of that Article imposed a 25 mph speed limit in public parks unless a different speed was authorized and posted, but no place was authority given to a local authority to establish a different speed.

The Chair moved that section 9 be amended by striking "city" and substituting "local authority." There was no objection and the amendment was adopted.

Chairman Browne asked who would have authority to regulate speeds in federal parks. Mrs. Embick advised that under section 6 of the Speed Restrictions Article the State Speed Control Board was granted authority to set speeds at the request of a federal agency, and section 9 was an exception to that pattern.

Mr. Paillette noted that the commentary to Preliminary Draft No. 2 of section 6 of the Speed Restrictions Article said:

> "Since the Department of Transportation's authority for setting speeds is limited to state highways exclusive of those within the corporate limits of a city, the board's authority for setting speeds, which under existing law applies to all city and county highways, is increased in this draft section to give the board the right to set speeds on the state highways in city limits, as well as city and county highways, and to include highways under the jurisdiction of an agency of the federal government such as the Bureau of Land Management logging roads."

In view of that statement, he believed jurisdiction over federal parks was covered.

Rep. Bunn moved the adoption of section 9 as amended. Motion carried unanimously with all four members present and voting.

Section 10. Authority to designate through highways and stop intersections.

Following Mrs. Embick's explanation of section 10 as set out in the commentary to that section, Sen. Carson moved its adoption. Motion carried unanimously with all four members present.

Section 11. Authority to designate no-passing zones. Mrs. Embick advised that according to Mr. Sipprell and Mr. George, section 11 should refer to the "Highway Division" rather than to the "Department of Transportation." Mr. George explained that the substitution was requested to avoid the necessity of requiring the Transportation Commission to make a decision on whether or not a no-passing zone should be established in every instance.

Rep. Bunn moved to substitute "Highway Division" for "Department of Transportation" in section 11. Motion carried without opposition.

Rep. Bunn then moved the adoption of section 11 as amended. Motion carried unanimously. Voting: Bunn, Carson, Marx, Chairman Browne.

Section 12. Authority to designate one-way highways, safety zones, turns and lanes. Mrs. Embick indicated that here again she had been advised by Mr. George and Mr. Sipprell that the references in subsections (1) and (2) of section 12 should be to the "Transportation Commission" rather than to the "Department of Transportation."

Mr. George called attention to paragraph (b) of subsection (1) which referred to "safety zones and islands of safety." In his opinion a "safety zone" was an "island of safety" and vice versa. He proposed to use a terminology that would cover both terms or, in the alternative, use "safety zone" alone. Mrs. Embick suggested defining "safety zone" in the general definition section to include both terms, in which case the reference to "islands of safety" could be omitted.

Mr. Paillette said to him the paragraph seemed to refer to safety zones as a part of the roadway designated by painted lines whereas islands of safety referred to areas built or erected in the middle of the road.

Mr. George called attention to the definition of "safety zone" in ORS 483.020 (5) and indicated he would be comfortable with that definition as being all-inclusive of both zones and islands.

Following further discussion, Rep. Marx moved that "safety zone" be defined in the general definitions section as set forth in subsection (5) of ORS 483.020 and that paragraph (b) of subsection (1) of section 12 be amended to read:

"(b) Designate by official traffic control devices certain places on highways as safety zones and regulate and control traffic with respect to such safety zones;".

His motion also included revising "Department of Transportation" to read "Transportation Commission" in subsections (1)

and (2) of section 12. Motion carried unanimously. Voting: Bunn, Carson, Marx, Chairman Browne.

Rep. Marx moved the adoption of section 12 as amended. Motion carried unanimously with the same four members voting.

ORS 483.038. Effect of chapter on permissive use of private roadway. Mrs. Embick called attention to page 17 of the draft setting out existing Oregon statutes dealing with powers of state and local authorities which the committee might or might not wish to amend.

Rep. Marx asked if ORS 483.038 would be in conflict should the committee later decide to make serious traffic offenses, such as drunk driving, apply to parking lots. Mrs. Embick replied that this exact provision appeared in the UVC. If serious traffic offenses applied on other than highways, she believed the two provisions would be compatible.

Chairman Browne asked if ORS 483.038 was, for example, intended to permit a trailer park owner to designate a 5 mph speed limit on his property and received an affirmative reply from Mrs. Embick. Chairman Browne pointed out that there was no penalty provision in the section. Mr. Paillette advised that the landowner had the power to specify the way in which a licensee could use his property and if he exceeded his authority, he would become a trespasser under the Criminal Code.

The committee decided there was no need to amend ORS 483.038.

ORS 483.045. Restricting of animal traffic to bridle paths.

No changes were made in this section.

ORS 483.542. Designation of streets, roads or highways as truck routes.

At Mr. George's suggestion, Chairman Browne moved to substitute "Transportation Commission" for "State Highway Commission" in ORS 483.542. There was no objection and the motion was adopted.

Mr. George commented that this section was used constantly and it had been operating satisfactorily for all concerned, both state and local jurisdictions.

ORS 483.544. Truck route designation to be by order, resolution or ordinance; erecting appropriate signs; when prohibitions are effective; violation prohibited.

Again at Mr. George's suggestion, the Chairman moved to substitute "Transportation Commission" for "State Highway Commission" in ORS 483.544. The motion was adopted without opposition.

ORS 483.755. Regulation of snowmobiles by cities, counties, political subdivisions and state agencies. Mrs. Embick explained that ORS 483.755 granted authority to the state and local authorities to regulate snowmobiles so long as those regulations were consistent with the rather extensive provisions of the Oregon statutes governing snowmobile operation. Miss Howard outlined the provisions of the law passed by the 1971 legislature regulating snowmobiles. The subcommittee made no revision in ORS 483.755.

Proposed Additional Sections to POWERS OF STATE AND LOCAL AUTHORITIES

Section 13. Authority of municipalities and counties to control parking on city, county and state highways. Section 14. ORS 483.346. Authority of Transportation Commission to control parking on state highways. Mrs. Embick advised that three more provisions having to do with parking had been drafted as an adjunct to the Article on Powers of State and Local Authorities. She explained the purpose of section 13 as set out in the commentary to that section.

Mr. George asked if subsection (3) of section 13 appeared in present law and was told that it did not but came from the UVC. At the last meeting, she said, the committee had decided the UVC provision was clearer than the existing code and furthermore that there was a conflict in the present code concerning parking authority. Mr. George asked if subsection (3) would require the Transportation Commission to make a determination regarding angle parking in every instance. Both Mr. Paillette and Sen. Carson believed it would.

Mrs. Embick called attention to the language of ORS 483.350 wherein it appeared that authorization by the Transportation Commission for angle parking was already required.

Rep. Bunn raised a question as to the efficiency of parking meters in preventing all-day parking in certain areas and asked if their chief purpose was to raise revenue for the city. Mr. Dutoit indicated he had worked with parking meter problems in Salem for 13 years and discussed the success of a city ordinance forbidding meter feeding. The purpose of parking meters, he said, was not to collect revenue but to guarantee a turn-over in parking. Rep. Bunn inquired as to the effectiveness of a time limit on each parking space in place of a parking meter. Mr. Dutoit outlined the problems inherent in that system and said a meter was more efficient because it was in effect self-policing. His suggestion was that revenue from parking meters should be used for traffic safety in the area rather than going into the General Fund. At the present time, he said, only one-fourth of that revenue in Salem was designated for traffic safety.

Mrs. Embick suggested it might be appropriate to consider section 14 in conjunction with section 13. Section 14 stated the authority of the Transportation Commission to control parking, and the Highway Division had made some suggestions for revision of that section.

Mr. Sipprell advised that the assistant counsel to the Highway Division had suggested a second subsection be added to section 14. The language of the existing statute spoke to freeways or restricted access highways if the access was acquired before the section of the highway came within the city limits. The proposed subsection would grant the commission authority to control parking on all state highways within the corporate limits of a city except where such highways were routed over a city street. Under that amendment, the commission would control, for example, the Stadium Freeway in Portland which would not be covered by the language in section 14 in its present form. The specific language of the amendment he proposed was:

> "(2) The commission shall also have authority to control parking on all state highways within the corporate limits of a city except where such highway is routed over a city street pursuant to ORS 373.010."

Chairman Browne asked if the amendment was consistent with subsection (3) of section 13 and Mrs. Embick's opinion was that it would not conflict with either subsection (1) or subsection (3).

> Rep. Bunn moved the approval of the amendment to section 14 as set forth above. Motion carried unanimously. Voting: Bunn, Carson, Marx, Chairman Browne.

Question was raised as to whether the amendment just adopted would apply to state secondary highways. Mrs. Embick called attention to ORS 366.290 which contained the only reference she could find to secondary state highways. She said she had discussed with Mr. Sipprell the question of a definition of both primary and secondary state highways but neither of them could find definitions anywhere in the code.

Mr. George said two types of secondary highways existed. One was the state secondary highway system such as the North Santiam Highway and the other was Federal Aid Secondary County Highways such as South River Road and North River Road in Salem. He said the state secondary system a majority of the time bore no relationship to the county jurisdiction whatever.

> Chairman Browne directed that the Highway Division representatives consult with their counsel and advise Mrs. Embick if, in his opinion, another ORS section number should be added to subsection (2) of section 14 to include the secondary highway systems.
>
> With that caveat the Chair moved the adoption of section 13 and section 14 as amended. Motion carried unanimously. Voting: Bunn, Carson, Marx, Chairman Browne.

Section 15. ORS 483.348. Entry of commission's parking regulations in official records; erecting appropriate signs; regulations as having force of law. Mrs. Embick explained that section 15 was a housekeeping amendment to the section designating the proper authority to maintain the regulations imposed by the commission.

Mr. Paillette said he hoped there existed a master plan stating when "Transportation Commission," "Department of Transportation" or "Highway Division" was to be used in each statute. Sen. Carson recommended that such a plan be drawn because he had the uneasy feeling that the committee may not have been consistent in every instance. There should be something to set out the matters to be handled by the department, those to be handled by the commission and the reason for delegating duties to each, he said. Mr. Sipprell stated the committee had in effect been delegating duties as they went through the code.

Chairman Browne questioned the provision of subsection (2) of section 15 which gave regulations of the commission the force of law. Mr. Paillette explained that the subsection was intended to say that the regulations did not have the force of law until the signs were posted.

Mrs. Embick said the language was probably redundant. Regulations might not have the force of a statute, but they were a type of law. She suggested it might be appropriate to revise the subsection to state that the signs were effective when notice thereof was placed in an appropriately visible position. Chairman Browne was opposed to a provision which could be construed to delegate power to an agency to impose regulations having penalties.

> The Chair moved adoption of section 15 as proposed in the draft. Motion carried unanimously with all four members present.

SPECIAL RULES FOR MOTORCYCLES; Reference Paper; June 1974

Mrs. Embick explained that the reference paper on Special Rules for Motorcycles compared the Uniform Vehicle Code sections to those in the Oregon code, and in most instances the Oregon code was silent on the subject.

UVC s 11-1301. Traffic laws apply to persons operating motorcycles. In response to the Chairman's request for her opinion on this section, Miss Howard said she could see no need for it. Sen. Carson noted the section said that a motorcycle operator had all the rights and duties of any other vehicle operator unless the rights and duties did not apply, which appeared to him to be a totally unnecessary statement to place in the statutes. Capt. Williams agreed the section was not needed.

> The committee unanimously agreed not to include UVC s 11-1301 in the code.

UVC s 11-1302. Riding on motorcycles. Mrs. Embick outlined the provisions of s 11-1302, and Miss Howard expressed approval of the entire section, particularly the provision requiring a seat for each passenger.

Rep. Bunn said he had been contacted by Tom Bessonette who had been concerned with motorcycle safety for sometime. Mr. Bessonette's first concern was that he had many times seen three or more persons riding on a single motorcycle. He felt that a limitation on the seat would not effectively put a stop to that practice because many of the seats were long enough for three people. However, the requirement in s 11-1305 requiring a footrest for each passenger should take care of that problem. Mr. Bessonette's second concern was to urge the committee to continue the lighted headlamp requirement in present law.

Mr. George noted that "operate" was used as a general term throughout these UVC sections and asked if that language would make the sections applicable everywhere, including a person's own backyard. Mrs. Embick replied that there was a general provision stating that the Rules of the Road applied on the highway, and that proposal would be before the committee again.

Rep. Bunn moved the adoption of UVC s 11-1302. Motion carried. Voting for the motion: Bunn, Carson, Chairman Browne. Voting no: Marx.

Sen. Carson suggested that after the subcommittee had approved this Article, it should be circulated to all motorcycle organizations for their comment, and the members concurred.

UVC s 11-1303. Operating motorcycles on roadways laned for traffic. Miss Howard commented that the practice of motorcycles going between two lanes of traffic was unsafe and was discouraged in the motorcycle manual published by the Motor Vehicles Division, but it would be a vast improvement to have that provision in the law. Capt. Williams also expressed approval of the section.

Sen. Carson moved the adoption of UVC s 11-1303. Motion carried unanimously with all four members present.

UVC s 11-1304. Clinging to other vehicles. Chairman Browne asked if a sidecar would be a vehicle and, if so, whether this provision would prohibit a sidecar from being attached to a motorcycle. Mrs. Embick replied that it would not because the sidecar attached to the motorcycle; not vice versa.

In response to the Chairman's request for her opinion of this section, Miss Howard stated that she did not believe the problem to which it was directed was a major one, but the section nevertheless stated a common sense rule.

Chairman Browne asked if it was ever necessary to tow a disabled motorcycle and was told by Miss Howard that it was not a good idea to tow them and they were ordinarily loaded into a pick-up or trailer and transported for repair.

Rep. Bunn moved the adoption of UVC s 11-1304. Motion carried unanimously with all four members present.

UVC s 11-1305. Footrests and handlebars. Mrs. Embick outlined the provisions of the UVC section and called attention to s 27801 of the California law which appeared to be even more specific than the UVC.

Rep. Bunn asked if this provision would make "choppers" illegal and was told by Capt. Williams that it would. Rep. Bunn asked if they were dangerous, and Capt. Williams was of the opinion that they were. He told of an accident he had recently witnessed involving two choppers which was the result of one driver getting too close to the other. The large handlebars had bumped the other bike and both riders were dumped. For that reason, he said, he was tempted to recommend that they only be allowed to proceed in single file, but he realized this would be an unpopular provision with the riders. He believed the visibility on choppers had to be affected because of the position of the riders.

Mr. Dutoit said he knew of at least two high risk insurance companies that refused to insure the extended fork bikes and said he would be willing to wager that the majority of them were uninsured.

Rep. Bunn stated his unwillingness to outlaw chopper bikes until the subcommittee was furnished with more specific data showing that they were more dangerous than conventional motorcycles. Sen. Carson said perhaps the answer was to try to obtain statistics on the subject. He said he could appreciate Rep. Bunn's concern that the choppers not be outlawed without good reason, but he was convinced they were dangerous, and statistics would probably show that the accident rate was high. Capt. Williams was doubtful that statistics on motorcycle accidents and fatalities would show what kind of a bike was involved. He also called attention to the statement in the commentary relating that 27 other states had laws comparable to the California statute which outlawed this type of vehicle.

Mr. Paillette indicated that the staff would check with California to determine their legislative history on this subject, and the committee deferred action on the section pending receipt of further information.

UVC s 11-1306. Equipment for motorcycle riders. ORS 483.443. Motorcyclist required to wear protective headgear; exception; approval of headgear by division. Mrs. Embick outlined the differences between UVC s 11-1306 and ORS 483.443 as set out in the commentary.

Chairman Browne asked Mrs. Embick if she had contacted any of the motorcycle groups to solicit their views and was told that she had written to the national association but had not received a response. Representatives of some of the groups were on the committee's mailing list also but they had made no comment concerning the reference paper.

Miss Howard showed the subcommittee a chart illustrating the decrease in fatal motorcycle accident rates following enactment of the Oregon helmet law, despite a dramatic increase in the number of motorcycles on the highway. A copy of the chart is attached hereto as Appendix C.

Miss Howard reported that the National Highway Traffic Safety Administration recommended that eye protection devices be required. She also called attention to a research report prepared by that agency which drew the conclusion that daytime motorcycle accidents could be significantly reduced by the use of motorcycle headlights and tail lights during the day. A copy of this report is on file with committee records.

Chairman Browne moved that the present Oregon law on this subject, ORS 483.443, be augmented by the addition of subsections (b) and (d) of UVC s 11-1306. Motion carried. Voting for the motion: Bunn, Carson, Chairman Browne. Voting no: Marx.

UVC s 12-102. Authority of commissioner. ORS 483.402. When lights are required to be on; application of visibility and height provisions. ORS 483.404. Head lights required; lighting equipment on bicycles. ORS 483.436. Approval of lamps by Motor Vehicles Division. Mrs. Embick outlined the provisions of UVC s 12-202 and noted that it gave the "commissioner" authority to approve or disapprove lighting devices. She suggested the members turn to page 12 of the reference paper which set out the lighting equipment requirements in the Oregon code. In summary, these provisions require a motorcycle to have its lights on at all times when on a highway and require two headlamps of a type approved by the Motor Vehicles Division.

In response to a question by the Chairman, Mrs. Embick said the Oregon law is superior to the UVC in that it requires headlamps to be on while the cycle is in motion and also is superior in its standards for headlamps. However, the UVC sets a specific height for lights in s 12-501 whereas Oregon does not.

Miss Howard recommended that motorcycle equipment requirements be separated from the equipment requirements for other vehicles. In that way they would be easier to find and it would be simpler for the motorcyclist to know what was expected of him. Chairman Browne agreed that this was advisable.

The Chairman next inquired concerning brake requirements and was told by Mrs. Embick that brakes were required by ORS 483.444 which was directed toward all motor vehicles, but there was no differentiation between motor vehicle brakes and motorcycle brakes whereas UVC s 12-509 set out brake specifications for motorcycles. She thought there was probably a difference in the performance level that should be expected of the two types of vehicles and suggested that the subcommittee might want some technical information on this point before making its final decision.

Mr. George stated that the criterion in UVC s 12-509 (b) would be difficult, if not impossible, to measure. Stopping distances in terms of speed would be a simpler measurement, he said.

Miss Howard advised that there were several areas in the equipment sections where it would be advisable to delete some of the detailed specifications because they sometimes precluded taking advantage of new technology in the field. She suggested it would be preferable to adopt standards recommended by organizations such as the American Association of Motor Vehicle Administrators and require those levels of performance to be met thereby relying on the testing laboratories to provide the technical information.

Chairman Browne moved that the present statute setting out brake requirements (ORS 483.444) be retained with a statement in the commentary that it is the committee's intention that subsection (5) of ORS 483.444 shall apply to motorcycles. There was no objection and the motion was adopted.

Next Meeting

The next meeting of the Subcommittee on Revision was scheduled for August 19, 1974.

The meeting was adjourned at 5:15 p.m.

Respectfully submitted,

Mildred E. Carpenter, Clerk
Committee on Judiciary

Appendix A
Committee on Judiciary
Subcommittee on Revision
July 2, 1974

STATEMENT TO

SUBCOMMITTEE ON REVISION

LEGISLATIVE INTERIM COMMITTEE ON JUDICIARY

ON BEHALF OF

OREGON FARM BUREAU FEDERATION

Salem, Oregon July 2, 1974

I am Howard Fujii, representing the Oregon Farm Bureau Federation. We appreciate the opportunity to comment on the proposal for application of Uniform Vehicle Code provisions to farm tractors and implements.

Some farm equipment manufacturers presently provide hazard warning lights on tractors required by 12-215 (a) as standard equipment and some others provide them as optional equipment. Head lamps and red tail lights are generally standard equipment on new tractors and self-propelled implements although lights may be optional on some self-propelled implements. We are not sure if reflectors are furnished as required by 12-225 (b) (3).

We are concerned that 12-215 (c)(1),(2), and (3) would require hazard warning lights on all farm tractors, and other requirements on towed implements operated at night. We supported legislation in 1967 for mandatory use of Slow Moving Vehicle emblems on tractors and implements to warn motorists. It was stated at that time that the SMV emblem should be sufficient warning that vehicles using these emblems were traveling less than 25 miles per hour. Oregon law requires all vehicles on highways at night to display at least one white light in front and a red light on the rear visible from a distance of 500 feet (ORS 483.422). We would not object to this section being amended to require two lights in front. We believe the 500 feet requirement of the present Oregon law is more practical than the 1,000 feet in the UVC.

As previously mentioned, the SMV emblem required by 12-215 (e), (f), (g) and (h) are already in Oregon law (ORS 483.457) for slow moving vehicles operating on hard surfaced highways.

There are a number of practical problems that need to be considered. There are more than 50,000 farm tractors in Oregon. We estimate there are approximately 10,000 self-propelled implements, including combines, balers, windrowers, hay loaders, fruit harvesters, etc. Many of these may use highways occasionally, but relatively a small number of them are on highways at night.

Combinations of tractors and implements would require electrical connections which are not entirely fool proof for occasional use which is generally the case with seasonal use of farm equipment vs. vehicles normally operated on highways. Use of farm equipment varies by season and farm operation, which may create a need for lighting or reflective equipment and connectors on many implements, some of which may or may not be used more than a few days per year. Lights, connectors and reflectors are subject to breakage, vibration damage, corrosion from lack of use, vandalism, etc. The practical application is similar to the situations that exempts logging trailers from the use of mud flaps.

The relatively small number of accidents involving tractors and farm implements does not justify these requirements. The 1973 MVD traffic accident summary reports

33 accidents — 21 in rural areas and 12 in city-urban areas. There was one fatality and 19 injuries. For all motor vehicles, there were 46,482 accidents, 557 fatalities, and 21,597 injuries. The report does not give details on the tractor and implement accidents, when or where, day time or night, etc.

As a percentage of the total number of highway accidents or total number of tractors, self-propelled farm equipment, and towed farm implements, the number of accidents involving farm tractors and implements is very small. For all highway accidents this ratio is .00071 or .071 of 1%. In relationship to approximately 60,000 farm tractors and self-propelled implements, the ratio is .00055 or .055 of 1%. One fatality of the 557 reported is .0018 or .18 of 1%. We do not believe these statistics justifies a change in Oregon laws related to farm tractors and implements on highways. We recommend the provisions of 12-215 not already in Oregon law not be adopted.

In summary, head lamps and red tail lights are generally standard equipment on new tractors; 12-215 (c) would require hazard warning lights on practically all tractor and some implements even when not on the road at night; the number of highway accidents involving farm tractors and implements is very small; use of the SMV emblem is now required, and lights are required at night by Oregon law.

We would not object to amending ORS 483.422 to require two headlamps, but do not believe the number of accidents involving farm tractors and implements justifies the costs that would be involved for over 50,000 tractors, 10,000 self-propelled implements, and an unestimatable number of towed implements to conform to these UVC requirements.

We wish to again express our appreciation for the opportunity to present this statement for consideration by your subcommittee.

Appendix B
Committee on Judiciary
Subcommittee on Revision
July 2, 1974

Accident Analysis

System MV Accidents Involving Farm Equipment

Listing Type	No. of Accidents per Year			*
Listing Order	1970	71	72	73
Portland System Mile point within Hwy #.	0	0	1	1
Rural System Mile point within Hwy #.	14	14	17	13
Urban System Mile point within Hwy #, within city by county	3	11	7	4
Total	17	25	25	18

* No. System MV Accidents Involving Farm Equipment were on record as of 7-3-74.

7-8-74

Appendix C
Committee on Judiciary
Subcommittee on Revision
July 2, 1974

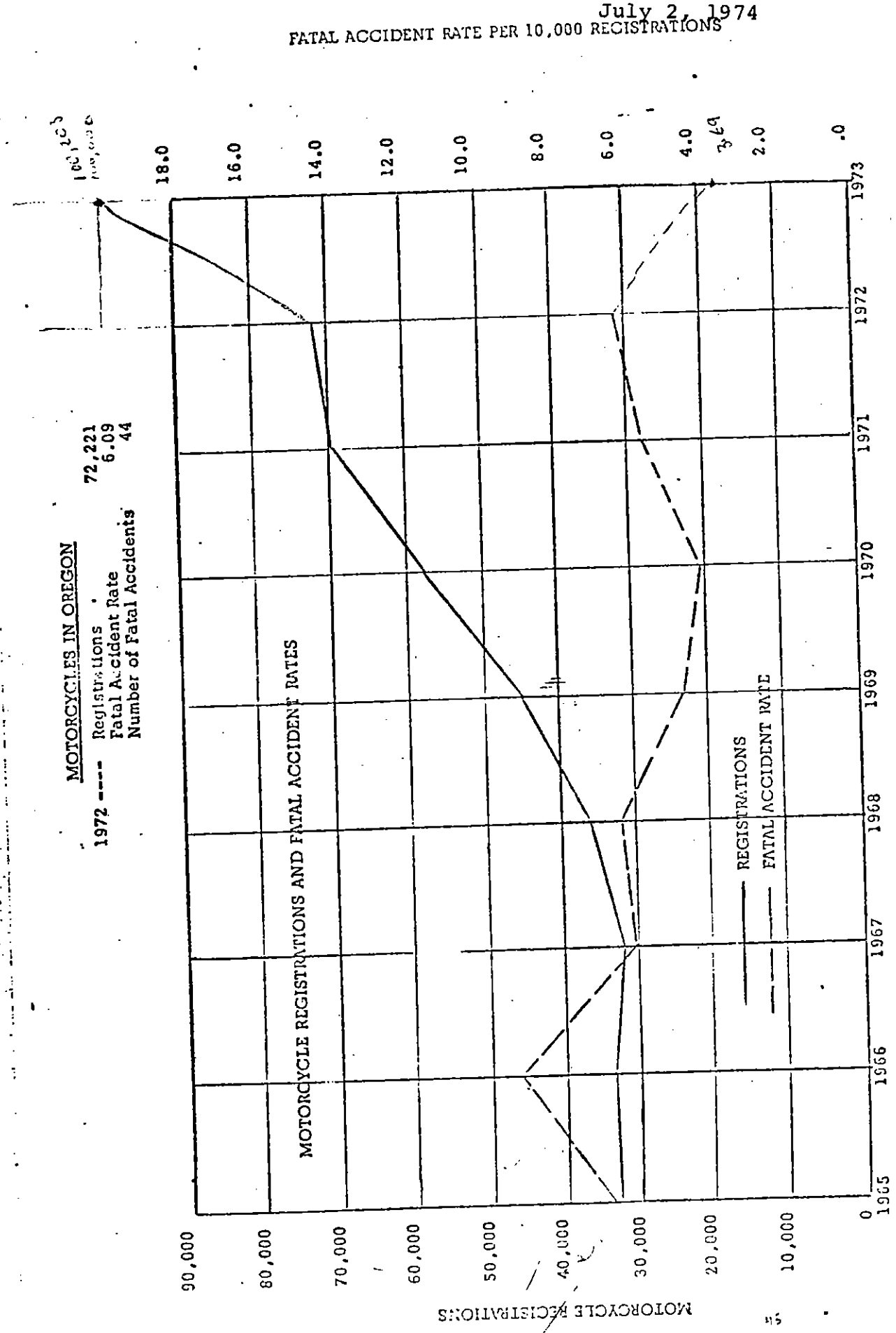

Exhibit 303-1