

Tape 12 - Side 2 - 295 to end
Tape 14 - Side 1 - 1 to end
Side 2 - 53 to 517

COMMITTEE ON JUDICIARY

Third Meeting, May 7 and 8, 1974

Minutes

May 7, 1974

Senate Members Present: Senator Elizabeth W. Browne, Chairman
Senator Wallace P. Carson, Jr.
Senator George Eivers

Absent: Senator John D. Burns

House Members Present: Representative George F. Cole, Chairman
Representative Lewis B. Hampton
Representative Norma Paulus

Excused: Representative Stan Bunn
Representative Robert P. Marx

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

Others Present for All or Part of the Day: Mr. Gil Bellamy, Administrator Traffic Safety Commission
Mr. James Dutoit, Automobile Club of Oregon
Mr. L. E. George, Traffic Engineer, Department of Transportation
Miss Vinita Howard, Public Information and Publications, Motor Vehicles Division
Mr. Douglas Moore, Deputy Legislative Counsel
Hon. Wayne Thompson, Municipal Judge, Salem
Capt. John Williams, Traffic Division, Oregon Department of State Police

Agenda: TRAFFIC SIGNS, SIGNALS AND MARKINGS;
Preliminary Draft No. 2; March 1974:

Amendment to Section 7 (Unlawful display of signs, signals or markings)

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The meeting was called to order at 10:00 a.m. in Room 14, State Capitol, by Senator Elizabeth W. Browne, Presiding Chairman.

Approval of Minutes of Meeting of April 9 and 10, 1974

There being no objection, the minutes of the meeting of the full committee on April 9 and 10, 1974, were approved as submitted.

TRAFFIC SIGNS, SIGNALS AND MARKINGS; Preliminary Draft No. 2; March 1974

Section 7. (Unlawful display of signs, signals or markings.)
Mrs. Embick explained that the committee at its last meeting had requested a redraft of section 7 to refer specifically to the agencies authorized to place signs and signals on highways. [Note: See Minutes, Committee on Judiciary, 4/9/74, pp. 23 and 24.] Subsection (1) of the amended section, therefore, cited the ORS sections allowing the Transportation Commission and local authorities to place particular types of signs and signals. These ORS sections, she said, will appear in the Article on General Provisions, and some of them may be augmented when the committee considers that portion of the Rules of the Road.

Senator Carson moved adoption of section 7 of the Article on Traffic Signs, Signals and Markings as redrafted. Motion carried unanimously. Voting: Sens. Carson, Eivers, Chairman Browne. Reps. Hampton, Paulus, Chairman Cole.

DRIVING ON RIGHT SIDE OF ROADWAY; OVERTAKING AND PASSING; USE OF ROADWAY; Preliminary Draft No. 2; March 1974

Section 5. (Duty of driver of certain vehicles to drive to right.) Mrs. Embick reported that section 5 had been referred to the staff for redrafting with instructions to eliminate the "no trespass" feature as it applied to heavy vehicles in the third lane of a three lane highway with traffic proceeding in one direction. [Note: See Minutes, Committee on Judiciary, 4/10/74, pp. 31 and 32.] Under legislation passed by the last session, she said, those vehicles were prohibited from being in the far left lane at any time. As redrafted, it required the driver of this type of vehicle to drive in the right curb lane except under the conditions described in paragraphs (a), (b) and (c).

Mr. George made two comments concerning the redraft of section 5. The first was a recommendation to delete "curb" from the phrase "right curb lane" as used in subsection (1) for the reason that most freeways do not have curbs. His second point was that during peak periods of traffic on a freeway, there were times when a camper pulled into the left lane to pass another vehicle and then found that because of congestion he could not get back into the right lane for an extended period. In that situation he would technically be in violation of the law and subject to citation. He thought this might cause enforcement problems. Sen. Carson replied that if the camper were overtaking and passing, he would not be subject to citation if he were moving faster than the vehicle in the right lane. If he were moving slower than the right lane, he should not be out in the left lane. He said he would prefer to place the burden on the driver of the camper to keep to the right and at least make an effort to get back into the right lane after passing rather than to permit him to move along at less than 55 mph in the left lane.

Capt. Williams expressed agreement with Mr. George on both points. "Curb," he said, should be deleted. Speaking to the other point, he said that particularly on a freeway with two lanes going in one direction, when two vehicles over 8,000 pounds were proceeding side by side, it caused a bad situation and under section 5 as redrafted this would be permitted. He preferred the language enacted by the '73 session which permitted vehicles to pass so long as they did not interfere with other traffic, thereby preventing two trucks from going down the road side by side.

Sen. Carson said he would be inclined to leave the decision to the judgment of the State Police as to whether the vehicle was making a

reasonable attempt to get back into the right lane after passing. If two trucks were blocking all traffic by driving side by side at 40 mph for a considerable distance and the one on the left was making no attempt to get back on the right, he should be cited.

Capt. Williams reiterated his preference for the language in the original section 5 of Preliminary Draft No. 2 which said that heavy vehicles could use the left lane only when they would not interfere with other traffic. This same provision, he said, could also be extended to the third lane. He added that the "no trespass" feature of the present law was causing some congestion and was particularly troublesome to Greyhound busses when they encountered two vehicles going at less than 55 mph on the two right lanes, yet they were forbidden to use the third lane to pass.

Sen. Carson said he had no disagreement with the statement that heavy vehicles should be on the right but advocated deletion of the "no trespass" aspect in the third lane. He was also in favor of restoring the good points of ORS 483.305 passed by the '73 session as Capt. Williams suggested.

Sen. Carson then moved to amend subsection (1) (a) of section 5 by adding after "movement": "when such movement can be made without interfering with the passage of other vehicles;". Vote on an expanded version of this motion appears on page 5.

Sen. Carson explained that the motion would in effect relegate authority to the police to make a judgment call as to whether drivers were in fact interfering with other traffic. If a driver went into the left lane and interfered, he would potentially be in violation of the statute. Capt. Williams remarked that the word "passage" in the amendment was the key to preventing a driver from staying in the left lane too long and not letting other vehicles pass. Under a good judgment call, he said, a driver of a camper who was making a reasonable attempt to get back into the right lane would not be cited.

Sen. Eivers said he was reluctant to abandon the no trespass in the third lane until enough time had elapsed to give it a fair trial.

Rep. Hampton said he would support section 5 with Sen. Carson's amendment so long as the record was clear that the committee did not intend that a driver should be cited who pulled to the left for the purpose of passing another vehicle and then found himself locked into the left lane by other traffic, so long as he made a reasonable attempt to get back into the right lane.

After further discussion, vote was taken on Sen. Carson's motion to amend section 5 as follows:

(1) Delete "curb" in the phrase "right curb lane" in subsection (1).

(2) Amend paragraph (a) of subsection (1) to read:

"When overtaking and passing another vehicle proceeding in the same direction under the rules governing this movement when such movement can be made without interfering with the passage of other vehicles;"

(3) Add "or" at the end of paragraph (b) of subsection (1).

Motion carried unanimously. Voting: Sens. Carson, Eivers, Chairman Browne. Reps. Hampton, Paulus, Chairman Cole.

Rep. Paulus said she was inclined to agree with Sen. Eivers that the no trespass in the third lane should be retained. Sen. Eivers did not believe campers or busses would be hurt by being required to drive in the two right lanes and it would expedite other traffic. Sen. Carson believed the '73 law was harsh and he was in favor of softening it.

After further discussion, Sen. Carson moved to adopt section 5 as amended. Motion carried. Voting for the motion: Sens. Carson, Chairman Browne. Reps. Hampton, Paulus, Chairman Cole. Voting no: Sen. Eivers.

Section 8. (Overtaking on right.) Mrs. Embick advised that section 8 had been redrafted in conformance with the committee's discussion at its last meeting. [Note: See Minutes, Committee on Judiciary, 4/10/74, pp. 34 - 36.] To correct the earlier version drafted in a form that was apparently the result of a misreading of the Uniform Vehicle Code provision, the committee had decided to combine the paragraphs stated in the disjunctive in Preliminary Draft No. 2 and to add the provisions of ORS 483.310 (3) (b) which appeared in the redraft as subsection (2). As amended, a driver would be permitted to pass on the right of another vehicle under the circumstances enumerated in paragraphs (a), (b) and (c) of subsection (1) and under subsection (2) he could also pass on the right when the overtaken vehicle was proceeding in the left lane of a roadway with two or more lanes for traffic moving in the same direction.

Mrs. Embick outlined that in transferring subsection (2) from the present code (ORS 483.310 (3) (b)) she had inadvertently omitted the provision that a vehicle may only pass on the right when such movement does not require driving off the roadway. To correct this oversight, she proposed to add a new subsection (3) to read:

"(3) A driver shall not overtake and pass upon the right by driving off the roadway."

Subsection (3) classifying the offense would then be renumbered as subsection (4).

Mrs. Embick explained that the proposed amendment would mean that, because of the definition of "roadway," a driver would have to stay on the main traveled portion of the road when passing and could not pass by going out onto the shoulder or beyond the fog line. This was the gist of the discussion at the April 10 meeting.

Rep. Paulus moved to adopt the amendment to section 8 as proposed by Mrs. Embick and as set forth above. Motion carried unanimously. Voting: Sens. Carson, Eivers, Chairman Browne. Reps. Hampton, Paulus, Chairman Cole.

Judge Thompson asked for a clarification of the committee's intent with respect to paragraph (1) (a). To illustrate the question he posed, he cited a hypothetical situation where four cars are in a line. Cars #1 and #4 have stopped and are signaling their intention to turn left while cars #2 and #3 are boxed in by the cars at the front and rear of the line but do not intend to turn. A driver approaching from the rear sees the left turn signal in operation on the vehicle at the end of the line and passes to the right. Judge Thompson asked if it was the committee's intent to permit the overtaking vehicle to pass all four cars in the line even though some of them were not intending to make a left turn.

Sen. Carson conceded this was a problem which was further complicated by the fact that car #3 might become impatient and pull out of the line to pass at the same time the driver approaching from the rear was passing the line. Rep. Hampton outlined situations in his area where cars would be stacked up for many miles during peak traffic periods if cars were not permitted to pass to the right of left turning drivers. Admittedly, he said, it constituted a danger when someone turned out of the line to pass, but on balance he believed it worthwhile to permit that practice to avoid even worse traffic jams.

Sen. Carson commented that the problem boiled down to a question of traffic safety versus dollars. Intersections of this kind could be made safer by adding a passing lane and the problems were essentially engineering ones that could be corrected by spending enough money. The question was whether the committee should force the issue by saying those who passed in the circumstance outlined by Judge Thompson would have to face fines until such time as the roadway was widened or something done to correct the problems at these intersections.

Mr. George recalled that the subcommittee had at one time discussed changing "lines" to "lanes" in paragraph (1) (b) and asked if the committee meant to incorporate that revision. Mr. Paillette said it was his understanding that the decision was to use "marked lanes" in subsection (2) but paragraph (1) (b) was intended to refer to "lines." Sen. Carson confirmed Mr. Paillette's recollection and added that it was the intent in paragraph (b) to say that a car could pass a left-turning vehicle on the right so long as there was sufficient room on the roadway for him to do so, even though there was just one marked lane. The reasoning was that traffic should continue to flow beyond the car that stopped for a left turn.

Sen. Carson moved to amend paragraph (1) (b) of section 8 by deleting "lines of vehicles" and substituting "clearly marked lanes allocated exclusively to vehicular traffic moving in the same direction as the overtaking driver".
Vote on this motion is set out below.

Rep. Cole commented that in view of the statement in subsection (2), the same purpose would be accomplished by deleting paragraph (1) (b). Mr. Paillette pointed out that with the deletion of (1) (b), there was not much left in subsection (1) and suggested that the entire subsection be deleted if that was the approach the committee chose.

Rep. Hampton asked what the intent of subsection (1) was with respect to the question posed by Judge Thompson. Sen. Carson replied that it was clear to him that it said a car could pass a line of 30 cars if in fact each one of them was signaling his intention to turn left. However, if one of those cars was not intending to turn left, the overtaking vehicle would be in violation of the statute. Although it would create violent educational and enforcement problems, his position was that if the statute said a car could not pass on the right unless there was a marked lane for that purpose, it would enhance traffic safety for both drivers and pedestrians. Sen. Eivers held the opposing view that if there was room to pass, vehicles should be allowed to do so.

Rep. Hampton asked if there were any statistics available to demonstrate the scope of the problem that would be solved by the amendment proposed by Sen. Carson. Miss Howard advised that the 1973 statistical summary of driver errors under "passing maneuvers" indicated that passing on the wrong side caused 223 accidents. The driver errors were not necessarily this precise situation but some of them might be.

Vote was then taken on Sen. Carson's motion to amend paragraph (1) (b) of section 8 to refer to "lanes" rather than "lines" as stated above. Motion failed. Voting for the motion: Sen. Carson. Voting no: Sen. Eivers, Chairman Browne. Reps. Hampton, Paulus, Chairman Cole.

Rep. Hampton asked if there was a distinction between "lines" and "lanes" and was told that "lines" as used in paragraph (1) (b) referred to a street where there were no clearly marked lanes whereas "lanes" as used in subsection (2) meant streets where there were two or more painted lanes. Rep. Hampton said that in view of that explanation, it was his understanding that lanes could be of varying widths and, therefore, under paragraph (1) (b) an overtaking vehicle could pass on the right of a left-turning vehicle so long as there was sufficient width for him to do so. The committee concurred.

Rep. Cole moved to adopt section 8 as amended. Motion carried unanimously. Voting: Sens. Carson, Eivers, Chairman Browne. Reps. Hampton, Paulus, Chairman Cole.

Sen. Carson noted that the question raised by Judge Thompson should be answered and asked if the statement he had made earlier was the position the committee wanted to adopt, i.e., that a car could legally pass on the right only those cars that were stopped preparatory to making a left-hand turn. If some of the cars in a line were not intending to turn left, the passing driver would be in violation of the statute when he passed them.

Rep. Hampton said one possible way out of the dilemma would be to permit passage on the right when all intervening cars were stopped. Sen. Carson said he would oppose that suggestion. Should one of the cars pull out of the line, it created a very dangerous situation. After further discussion, Rep. Hampton agreed with Sen. Carson that it was better to leave the section as approved.

Mrs. Embick noted that one of the first drafts of section 8 contained language from the UVC which said: "The driver may overtake and pass another vehicle on the right only under conditions permitting such movement in safety. Such movement shall not be made by driving off the roadway." This provision had been replaced by subsection (2) as it now appeared in section 8. If the committee wished to do so, she said, the requirement for making the movement only when it could be made in safety could be added to section 8. The committee again decided to leave the section as approved. It was their intent that if someone were passing on the right, he would have to assume the risk that no one would pull out of the line in front of him and if someone did pull out of the left-turning line, the car on the right would be liable for any resulting collision.

Section 9. (Further limitations on left of center of roadway.)
Mrs. Embick explained that section 9 had been redrafted at the direction of the committee in an attempt at greater clarity. [Note: See Minutes, Committee on Judiciary, 4/10/74, pp. 36 - 38.] Other sections of the Article on Driving on Right Side of Roadway, she said, set out situations in which a driver could not drive on the left, and section 9 set out the additional conditions precluding a driver from driving to the left of the center of a roadway.

Sen. Carson asked if "center of the roadway" meant something other than the physical center. He observed that many times the center line was displaced from the true center. Rep. Hampton said he assumed it meant either the marked center or the physical center if unmarked. Mrs. Embick said that when the term was defined, it would conform to the statement just made by Rep. Hampton.

Rep. Hampton recalled that at the last meeting the statement was made that the subcommittee had made every attempt to avoid stating specific distances in the statute. In view of the replacement of specific distances in section 9, he asked if it was implicit in the draft that a driver who crossed the center line to make a left turn would not be liable for a resulting collision when he could have made his turn in safety had it not been for the excessive speed of the oncoming vehicle.

Mr. Paillette said he could not see where section 9 was concerned with the speed of the oncoming driver; it set out the limitations on the left-turning driver.

Sen. Carson indicated that it did not seem right to place strict liability on the left-turning driver who was hit by a vehicle going 90 mph just because he had assumed that the car was coming at the maximum legal speed when he made his left turn.

Rep. Hampton said he was not necessarily urging that the section be rewritten but felt there should be some committee discussion on the point that it was implicit in the statute that an approaching driver should be proceeding in a lawful manner and that the committee intended that the section be given a commonsense interpretation.

Sen. Carson commented that comparative negligence would in all probability resolve the tort side of the question raised by Rep. Hampton.

Chairman Browne directed the staff to include this discussion in the commentary to section 9.

Mr. Paillette said that if a person were cited for violating this section, he did not see how it could be argued that the fact that the oncoming driver was exceeding the speed limit should excuse the cited driver when he was, for example, passing on a grade or a curve. He would not have been cited because the speed of the other traffic might be unreasonable but because his view was obstructed and he did not know and could not see whether there was other traffic on the other side of the grade or around the curve.

Rep. Hampton's contention was that at some intersections, curves or grades, a driver could see far enough ahead to know what was coming when the oncoming traffic was traveling at a legal speed, but if someone were bearing down at 120 mph, he could appear so suddenly that the left-turning driver would not have time to complete his turn.

Rep. Cole moved the adoption of section 9. Motion carried unanimously. Voting: Sens. Carson, Eivers, Chairman Browne. Reps. Hampton, Paulus, Chairman Cole.

PEDESTRIANS' RIGHTS AND DUTIES; Preliminary Draft No. 1; April 1974

Section 1. (Pedestrian obedience to traffic control devices and traffic regulations.) Mrs. Embick explained section 1 and advised that it filled a void in existing Oregon law which contained no general statement that traffic signs and signals were to be followed by pedestrians. A 1921 Supreme Court case (cited in the commentary) stated that the Rules of the Road were enacted for the guidance of vehicular traffic and were not applicable to pedestrians. Section 1 would correct that holding.

Sen. Eivers moved adoption of section 1. Motion carried unanimously. Voting: Sens. Carson, Eivers, Chairman Browne. Reps. Hampton, Paulus, Chairman Cole.

Section 2. (Pedestrian's right of way in crosswalk.) Mrs. Embick explained section 2 and noted that it contained a major change from existing law in that it would require all lanes of traffic to stop for pedestrians, regardless of the lane in which the pedestrian was located, when there were no traffic signals operating.

Rep. Hampton said he had mixed feelings about section 2 because if it were applied literally in Portland, it would virtually stop traffic. Mrs. Embick advised that section 2 applied only to a totally uncontrolled intersection with no traffic lights, no stop signs, etc. Sen. Carson added that the crosswalk to which it would apply might or might not be marked but because of the definition of "crosswalk," a crossing at an intersection was a "crosswalk," whether marked or unmarked. However, where there was a pedestrian tunnel or bridge, such as the one at Depoe Bay, this section would not protect the pedestrian who chose to use the street rather than the bridge or tunnel.

Mr. Dutoit said he was a member of the Salem Citizen's Advisory Traffic Commission which had recently been overwhelmed by groups of mothers concerned about crossings leading to schools but not close enough to the school to be designated as school crossings, one example being on Market Street where there were two marked crossings without control signals. The mothers wanted every car to stop in every direction as soon as a child stepped into one of those crosswalks. His second point was directed at the driver's duty to stop when an adult or a school crossing guard was stationed at a crossing of this type. At the present time, he said, there was no law requiring a driver to stop at the direction of a school crossing guard. Although section 2 would probably cover that situation, for educational purposes he urged that the statute be drawn to state specifically that when there was a school crossing guard in a crosswalk, all drivers must stop.

Chairman Browne expressed the view that section 2 was even stronger than the language requested by Mr. Dutoit because it would require vehicles to stop not only when a guard was in the crosswalk but when anyone was there.

In response to a comment by Rep. Hampton, Mrs. Embick explained that the Pedestrian Article did not deal with intersections controlled by traffic signals because the Article on Signs, Signals and Markings contained specific provisions concerning what the pedestrian as well as the driver is to do when traffic is controlled by a traffic control signal.

Rep. Hampton said he was most concerned about left turns onto one-way streets. He asked whether the draft meant to say that when a driver makes a left turn onto a four lane one-way street, he is required to stop for a pedestrian who steps into the crosswalk on the side of the street farthest from the driver. This point was discussed and the committee decided that the driver would have complied with the statute requiring him to yield right of way if he could make his turn in safety without interfering with the movement of the pedestrian.

Chairman Browne asked if a driver would have complied with the requirement to yield right of way when he proceeded once the pedestrian had gone past his car. Mrs. Embick replied that issue had not been raised in subcommittee. Rep. Hampton said the definition of "right of way" would theoretically preclude the driver from moving.

Chairman Browne commented that section 2 dealt primarily not with turns but with instances where the driver was proceeding in a straight line and encountered a crosswalk. Mrs. Embick confirmed the Chairman's statement and called attention to the definition of "right of way" in the UVC:

"The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other."

Sen. Carson explained that yielding right of way did not necessarily mean that a vehicle had to stop. If both the vehicle and the pedestrian were using the same part of the street at the same time, the pedestrian would have the right of way but after he had passed the front of the car, the question was whether "yield" meant letting the person go clear across the street before vehicles could move or whether it meant to give him enough space so that the car would not interfere with his use of the street.

Sen. Eivers said that if drivers were required to wait until the pedestrian reached the opposite curb before proceeding, traffic could be backed up forever because by the time one pedestrian reached the

other side, another may have stepped off the opposite curb to make his way across the street.

At this point the committee recessed for lunch and reconvened at 1:30 p.m. with the same persons present as were in attendance at the morning session. Also present was Mr. Robert G. Booth of Bohl, Inc., 6661 Banning Dr., Oakland, California 94611.

"Stop Alert" -- An Early Warning Vehicular Stop Light System

Chairman Browne indicated that Mr. Booth had requested time to make a brief presentation to the committee concerning an early warning vehicular stop light system. Mr. Booth presented to the committee a file of material concerning "Stop Alert" which included a copy of the California statute passed last year permitting the use of the early warning system on California cars. The explanation of the system is attached as Appendix A. He explained that the system would activate the existing brake lights on a car for a period of approximately two seconds only on quick removal of the foot from the accelerator. It gave the following driver at least three-quarters of a second earlier warning that the brakes were going to be applied and should substantially reduce accidents. The California Highway Patrol had thoroughly tested the system, he said, and found it met all standards of the American Association of Motor Vehicle Administrators.

Mr. Booth explained that "Stop Alert" was a refined vacuum system and on a new vehicle the cost would be less than \$5. On the after market it would cost under \$15 plus about \$5 installation. He offered to install a unit on the car of any member at no cost with an indicator light inside the car rather than on the brake light. Rep. Paulus asked if there was anything in the Oregon law that would preclude her having one, and Mr. Booth said he did not believe there was but he was planning to obtain a legal opinion on that point.

In reply to a further question by Rep. Paulus, Mr. Booth said he was asking only that the committee remove any barrier in the law, assuming there was one, that would prevent an Oregon driver from installing the system on his car.

PEDESTRIAN RIGHTS AND DUTIES; Preliminary Draft No. 1; April 1974

Section 2. (Pedestrian's right of way in crosswalk.) Chairman Browne indicated that the committee needed to make a decision as to whether all cars should stop when a pedestrian stepped into a crosswalk.

Sen. Carson suggested that it might be helpful to make a distinction between a crosswalk with painted lines and what he called a "crossing area" which he defined as an unmarked crosswalk. He thought it might help to differentiate between the driver's responsibility in the two situations. Rep. Cole said he would be opposed to

that distinction because it might cause confusion among drivers as to which set of rules they should operate under in a given situation. Sen. Carson was of the opinion that the average citizen thought that only marked crosswalks were crosswalks as such and probably didn't know there were thousands of unmarked crosswalks in Oregon.

Chairman Browne asked if the committee was in agreement that on a one-way roadway all lanes of traffic should stop for a pedestrian. Rep. Hampton said he was not persuaded that on a wide one-way street all traffic should stop. Chairman Browne commented that if one car were permitted to proceed after the pedestrian passed in front of his car, the car behind him might think the way was clear for him, move ahead and possibly strike a second pedestrian who was coming across, unseen by the second car in line. Rep. Hampton said his concern was whether a driver violated his duty to yield right of way by proceeding through a crosswalk when the question of right of way did not arise because the pedestrian was not so close as to constitute an immediate hazard.

Miss Howard called attention to the language of UVC s 11-502 (a) which said that a driver "shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian . . . within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger." She said her concern with deviating from this language was that out of state motorists might kill Oregon residents because they didn't know they were to stop when a pedestrian was on the far side of the road.

Sen. Eivers asked where most pedestrian accidents occurred. Miss Howard replied that in 1973, 714 pedestrian accidents involved cars traveling in a straight line; 63 were turning right; 141 were turning left. At intersections involving fatal accidents, there were 29 where the car was going straight and 60 at non-intersections. For non-fatal injury accidents, 226 were at an intersection and 338 at a non-intersection. There were a total of 1,066 pedestrians killed and injured of which 455 were crossing or entering the roadway at an intersection and 388 not at an intersection. Of the 455 killed or injured in the crosswalk the breakdown by age was:

0 to 4 years	13	20 to 24 years	30
5 to 9 years	56	25 to 44 years	45
10 to 14 years	42	45 to 64 years	82
15 to 19 years	37	65 and over	101

Rep. Paulus said those statistics lead her to believe that what the committee should do was require all vehicles to stop. Rep. Eivers pointed out that these figures could be 1/10th of 1% of all pedestrians. He urged the committee to consider whether they wanted to grind all traffic to a halt on a four lane roadway when a person stepped off the left side and the car was on the far right. If the car went on

through, it would be completely out of the way by the time the pedestrian reached his side of the road.

Chairman Browne reiterated her concern for the driver behind the first car. It was up to him to stop too and if the first car didn't stop, the second might not get the message that someone was in the crosswalk.

Rep. Cole commented that the key to the dilemma the committee was facing lay with the interpretation of "yield," i.e., whether the driver should stop until the pedestrian was completely free of the crosswalk or only until he was free of the vehicle.

After further discussion, Sen. Carson said he would support a provision requiring all vehicles to stop once a pedestrian entered the crosswalk on the basis that the danger of a car coming from the rear and of his view being blocked was very dangerous. Therefore, on a one-way roadway, all cars should stop. On a two-way roadway, it could be different on the theory that cars coming from the opposite direction had a better chance to see the pedestrian.

Sen. Carson then moved that when a pedestrian was crossing a one-way street in a crosswalk, all lanes of traffic must stop. Motion carried. Voting for the motion: Sens. Carson, Eivers, Chairman Browne. Rep. Paulus, Chairman Cole. Voting no: Rep. Hampton.

Rep. Hampton explained that his objection to the motion was that he believed a car on the far side of the road from the pedestrian should be permitted to proceed. If there were some way to meet that objection, he said he would support the motion.

Chairman Browne said the next decision to be made was whether cars, once having stopped, could then proceed after the pedestrian had passed and before he reached the opposite curb.

Rep. Hampton said that once everyone had stopped, it was logical to require that they remain stopped until the pedestrian had reached the other side. Sen. Carson agreed that was the safest policy. Admittedly, he said, it would be most unhandy and would cause congestion, but perhaps the problems could be solved at busy intersections by traffic signals and other engineering means.

After further discussion, Sen. Carson moved to provide that all cars must remain stopped on a one-way roadway with no traffic signal until the pedestrian has reached the far curb. Motion carried. Voting for the motion: Sens. Carson, Eivers, Chairman Browne. Rep. Paulus, Chairman Cole. Voting no: Rep. Hampton.

Chairman Browne asked that the committee next consider two-way streets with cars traveling in opposing directions. Under present law, she said, drivers must stop when the pedestrian is on his half of the roadway and the mid-point of the highway is theoretically a place of safety.

The Chair moved that when a pedestrian enters a two-way roadway where cars are proceeding straight and where there is no safety island, traffic in both directions must stop until the pedestrian has regained the other side of the street. This motion was subsequently withdrawn. (See page 16 of these minutes.)

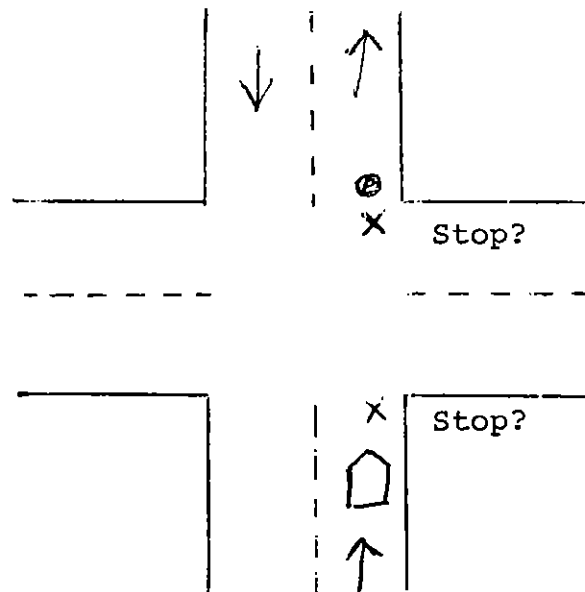
Sen. Carson indicated he would support the Chair's motion, but this was a different situation from the one-way street because on two-way streets, cars coming from the opposite direction had a better view of the crosswalk. He asked if it would be possible to obtain further statistics on pedestrian accidents so the committee would be in a better position to make a prediction as to whether the approach they were considering would reduce pedestrian accidents or merely lull pedestrians into a state of false security where they would be less cautious.

Miss Howard said the Highway Division had some print-outs on pedestrian accidents in Portland which might be helpful, although they did not segregate accidents that occurred in marked crosswalks from those occurring in unmarked. Mr. George added that his division could make a special run on pedestrian accidents to sort out on which half of the street the accident occurred and whether it was on a one-way or two-way street. This data should give some indication of whether people were getting into trouble by stepping out from behind other traffic.

Miss Howard commented that there were other factors that should be taken into account in the figure she had quoted earlier showing that the older pedestrians had a higher accident rate. Most of the fatal accidents involving older pedestrians occurred in the early evening or dusk hours when it was difficult for the driver to see them and the accidents were not always due to a right of way factor. Older persons were generally less alert, sometimes had hearing problems and alcohol was also a factor. These were problems, she said, that the law could not resolve. She was of the opinion that it would be a tremendous educational job to convert drivers from the provisions of the present law to the understanding that all cars must stop for pedestrians even though they are not on the driver's half of the roadway. From a traffic safety standpoint she agreed it would give pedestrians a better chance if all traffic stopped, but she was a little nervous about the pedestrian who would assume, even more than he does now, that because the law reads this way, all drivers are going to stop for him.

Mr. George indicated he would be in favor of the motion on the basis that it was the safest possible policy to require all vehicles to stop. He asked if the committee wanted him and Miss Howard to see what kind of picture they could extract from the pedestrian accident data. The members were in agreement that they would like to have that information.

Rep. Hampton asked where a driver would be required to stop in the following situation under the committee's proposal:



The committee was in agreement that the driver would have to stop at the intersection at the top where the pedestrian was located because where there was no marked crosswalk, the crosswalk would be the one the pedestrian was in and not the one on the opposite side of the street.

Capt. Williams voiced opposition to adoption of the motion on the ground that it deviated not only from present law but also from the UVC. He asked how many states had adopted provisions comparable to the UVC and was told by Mr. Paillette that 32 states had substantially the same provisions as the UVC. Capt. Williams said the language of the UVC might avoid rear end collisions and other accidents caused by drivers from other states who were not familiar with Oregon's attempt to protect pedestrians.

After further discussion, the committee decided to await additional statistics before taking action on the motion. Chairman Browne withdrew her motion relating to pedestrians on a two-way roadway.

Mr. Paillette indicated that the staff could draft several different versions of section 2 to take into account the different approaches open to the committee. The members approved this suggestion.

Rep. Cole asked if the committee wanted to consider making a distinction between marked and unmarked crosswalks as proposed by Sen. Carson earlier. Rep. Hampton said he had been told by the Beaverton City Manager that he had incontrovertible data showing that more injuries and fatalities occurred in marked crosswalks than in unmarked. Miss Howard commented that this was undoubtedly true because more pedestrians used marked crosswalks.

Sen. Carson pointed out that section 2 was intended to come down hard on the pedestrian who failed to use a pedestrian tunnel or overhead crossing when one was available to him, but he was not sure this point was clear as the section was drafted. Mr. Paillette suggested that it could be drafted to place an affirmative duty on the pedestrian to use the tunnel or overhead crossing in every case rather than writing it in as an exception to the duty to the motorist to yield the right of way.

Rep. Hampton had a question as to whether the definition of "crosswalk" was inconsistent with a crossing where there was also a tunnel or overhead crossing. Mrs. Embick explained that a crosswalk was simply an extension of a sidewalk or that portion to the side of the roadway where pedestrians may walk.

The committee discussed Mr. Paillette's proposal to place an affirmative duty on the pedestrian to use the tunnel or overhead crossing when one was provided for him. They decided that it would be preferable to state the provision in that manner, one reason being that under the draft, the pedestrian could cross without using the pedestrian tunnel or overhead crossing and not be in violation of the statute, although it would be his fault and not the motorist's if he were hit by an automobile. They felt Mr. Paillette's suggestion was preferable in that it would make it unlawful for a pedestrian to cross the street at the street level when there was a pedestrian tunnel or overhead crossing available for his use.

Section 3. (Pedestrian leaving curb.) Following Mrs. Embick's explanation of section 3, Rep. Paulus proposed to delete "suddenly" from subsection (1). Rep. Cole objected to the deletion of "suddenly" because the gist of the whole section was that a pedestrian should not suddenly dart into the path of an oncoming vehicle.

Mrs. Embick suggested substituting "move" for "walk or run" in subsections (1) and (2) to get around Sen. Eiver's comment that it might be all right to suddenly skip or hop off a curb.

Rep. Paulus asked if a baby in a stroller was a pedestrian. Mr. Paillette said he was certainly not a motorist. Sen. Carson pointed out that page 2 of the draft noted that the UVC definition of "pedestrian" was "Any person afoot." Therefore, there was a question as to whether someone in a wheelchair, perambulator or stroller was a pedestrian.

Chairman Browne moved that the commentary to section 1 include a statement that the definition of "pedestrian" was intended to include persons in wheelchairs, on crutches, in perambulators, walkers, strollers, etc. There being no objection, the motion was adopted.

Rep. Paulus moved to delete "walk or run" in subsections (1) and (2) of section 3 and substitute "move" in subsection (1) and "moves" in subsection (2). Motion carried unanimously. Voting: Sens. Carson, Eivers, Chairman Browne. Reps. Hampton, Paulus Chairman Cole.

Rep. Cole moved to adopt section 3 as amended. Motion carried without opposition with the same six members voting.

Rep. Hampton asked if section 3 applied to both crosswalks and places where there were no crosswalks and received an affirmative reply.

Rep. Hampton commented that because of his negative votes on the previous section, he did not concur with the reporter's Plasker v. Fazio notation in the commentary to section 3. The center line could still be a place of safety under the draft if the committee should later adopt that version.

Section 4. (Drivers not to overtake stopped vehicle.) Mrs. Embick noted that section 4 said "a driver approaching from the rear" and suggested that the committee might want to change that phrase to "all drivers" or "any driver."

Rep. Cole asked why section 4 was changed from the criteria in present law which was "shall not cause or allow the front end of his vehicle to pass beyond the front end of the stopped vehicle" to a requirement not to pass the stopped vehicle. Mrs. Embick advised that it was changed to conform to the UVC and because the consensus of the subcommittee was that it provided a simpler statement.

Chairman Browne asked if section 4 applied to all lanes and received an affirmative reply from Mrs. Embick.

Chairman Browne moved to revise subsection (1) of section 4 to read:

" . . . cross the roadway, a driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle."

Motion carried unanimously. Voting: Sens. Carson, Eivers, Chairman Browne. Reps. Hampton, Paulus, Chairman Cole.

Chairman Browne advised that the intent of her motion was to include all lanes approaching from the rear. Mr. Paillette said that

neither the amended version nor the draft version made that point clear. He believed it would be advisable to put the Chair's statement of the intent of the motion in the commentary, and the committee concurred.

Rep. Cole asked why it was necessary to say "at a marked crosswalk or at an unmarked crosswalk at an intersection" when the same purpose could be served by simply saying "at a crosswalk" inasmuch as the term "crosswalk" included unmarked as well as marked and they were all necessarily at intersections. Mrs. Embick advised that this again was UVC language and was probably included purely for educational purposes.

Rep. Cole moved to adopt section 4 as amended. Motion carried without opposition with the same six members voting as voted on the previous motion.

Section 5. (Crossing at other than crosswalks.) Chairman Browne asked if the decision the committee made in connection with section 2 to place an affirmative burden on the pedestrian to use a tunnel or overhead crossing was consistent with section 5. Mrs. Embick replied that section 5 stated that requirement in the negative.

Mrs. Embick, in response to a question by Sen. Eivers, explained that the Oregon code did not now contain a prohibition comparable to subsection (3) of section 5. Sen. Eivers objected to requiring a person to walk to the end of a long block in order to cross the street. Sen. Carson commented that this was the jaywalking statute and it would apply when there were traffic controls at either end of a block.

Rep. Hampton asked how close a person would have to be to a pedestrian tunnel before he would be required to use it under paragraph (1) (b) and subsection (3). On the coast highway, he said, there might be several miles between traffic signals and he wanted to know whether this would require a person to walk to one of those intersections. Sen. Carson explained that there would undoubtedly be an intersection without controls somewhere in between the two lights and this subsection would not then apply because the two signals would not be "adjacent."

Mrs. Embick advised that section 37 of the Bureau of Governmental Research and Service's Proposed Uniform Traffic Ordinance stated:

"No pedestrian shall cross a street other than within a crosswalk in blocks with marked crosswalks or if within 150 feet of a marked crosswalk."

There was also a footnote to that section which said, "It may be desirable to modify the 150-foot distance . . . depending upon the typical length of blocks in a given city."

Rep. Hampton said he admired the subcommittee's efforts to eliminate specific distances but in this instance there needed to be some standard other than "adjacent." Sen. Eivers was in favor of deleting the provision entirely. If no cars were coming, he said, it would do no harm for a pedestrian to cross wherever he chose.

Sen. Carson explained that subsection (3) would apply primarily to urban areas and if an uncontrolled intersection intervened between traffic signals, a pedestrian could cross wherever he chose. The question was whether the committee wanted to permit jaywalking between two traffic lights. Rep. Hampton commented that if there was enough traffic to merit signal lights at both ends of a block, people probably shouldn't be crossing at other than those places.

The committee agreed on the concept that they did not want to permit jaywalking between traffic signals so long as the signals were within a reasonable distance and there was no intervening crosswalk without a signal. The problem was that "adjacent" did not appear to state this concept clearly which was further complicated by the fact that in some places, such as in Klamath Falls, there were areas where traffic lights were twelve to fifteen hundred feet apart with no intervening intersection.

Mr. Paillette advised that the Ohio law qualified its comparable provision with the phrase, "Except when crosswalks are an unreasonable distance apart," while Massachusetts had a 300 foot limitation, i.e., "within 300 feet of a marked crosswalk."

Rep. Hampton said he would approve of the Massachusetts provision if it were 300 feet from signal to signal, but Rep. Paulus pointed out that because some city blocks were 400 feet long, Rep. Hampton's proposal would be unworkable. Mr. Paillette remarked that the distance should be related to the distance from the pedestrian rather than from the signal. He suggested the following language from the Massachusetts code:

"Whenever there is a traffic control signal or a marked crosswalk within 300 feet of a pedestrian, no pedestrian shall cross except within the limits of a marked crosswalk."

After further discussion, the committee agreed that when the pedestrian was within 300 feet of a controlled intersection, he should use that crosswalk. Chairman Browne asked Mrs. Embick to redraft section 5 accordingly.

Rep. Hampton asked if the 300 foot rule would apply to the proximity of a pedestrian tunnel. Chairman Browne said that if 300 feet were adopted as the standard at one point, it would seem logical to apply it to another. Rep. Cole commented that such a provision might create greater hazards for the pedestrian by requiring him to walk 300 feet down the highway to get to a signal or a tunnel.

[Note: Section 5 was further discussed and revised the following day. See page 32 of these minutes.]

Section 6. (Exercise of due care.) Mrs. Embick reported that s 11-504 of the Uniform Vehicle Code, set out on page 28 of the draft, had been studied by the subcommittee and rejected. They had also looked at ORS 483.345 and had decided to repeal that section and substitute section 6 as the standard to replace it.

Sen. Carson moved adoption of section 6. Motion carried unanimously. Voting: Sen. Carson, Chairman Browne. Reps. Hampton, Paulus, Chairman Cole.

Section 7. (Pedestrian's use of sidewalk, shoulder and roadway edge.) Mrs. Embick described the provisions of section 7. Rep. Hampton asked when he would become a pedestrian if he were walking from one field across the roadway to another field and was told by Mrs. Embick that he would be a pedestrian as soon as he reached the right of way line of the highway. Rep. Hampton next asked where he would have to walk under the provisions of section 7. Mrs. Embick's response was that he would walk on the sidewalk when there was one on either side of the road. If there were no sidewalk, then he would walk on the highway shoulder. If there were no shoulder, he would be required to be on the left side of the roadway and as close to the outside edge as possible. In reply to a question by Chairman Browne, she advised that when there was a shoulder, the pedestrian was not required to walk on the left facing traffic. The Chairman commented that she would prefer to require pedestrians to face traffic when there was no sidewalk and they were walking on the shoulder.

After further discussion, Chairman Browne moved to amend section 7 to require pedestrians to walk on the left-hand side of the highway at all times, the only exception being when there was a sidewalk. Motion carried. Voting for the motion: Sens. Carson, Eivers, Chairman Browne. Reps. Hampton, Paulus, Chairman Cole.

Rep. Paulus said she would be willing to bet that some minor aspect of this proposed code, such as some of the provisions they were discussing today, would give the passage of the code at the next legislature more trouble than some of the major revisions.

[Note: Definitions of "shoulder" and "sidewalk" were discussed in connection with this section on the following day. See pages 26, 28 and 33 of these minutes.]

Future Meetings

The following meeting dates were agreed upon by the committee:

Subcommittee on Revision: Wednesday, May 22, 1974

Full Committee: Wednesday and Thursday, June
12 and 13, 1974

Subcommittee on Adjudication: Tuesday, June 4, 1974

Chairman Browne indicated that she would not be in attendance on the following day and asked that she be recorded as voting "aye" on all motions. The meeting adjourned at 4:00 p.m.

* * * * *

May 8, 1974

Senate Members Present: Senator Wallace P. Carson, Jr.

Excused: Senator Elizabeth W. Browne, Chairman
Senator George Eivers

Absent: Senator John D. Burns

House Members Present: Representative George F. Cole, Chairman
Representative Lewis B. Hampton
Representative Robert P. Marx

Excused: Representative Stan Bunn
Representative Norma Paulus

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

Others Present for All or Part of the Morning: Mr. James Dutoit, Automobile Club of Oregon
Mr. L. E. George, Traffic Engineer, Department of Transportation
Miss Vinita Howard, Public Information and Publications, Motor Vehicles Division
Mr. Douglas Moore, Deputy Legislative Counsel
Mr. Chester W. Ott, Administrator, Motor Vehicles Division
Capt. John Williams, Traffic Division, Oregon Department of State Police

The meeting was called to order at 9:30 a.m. by Representative George F. Cole, Presiding Chairman.

PEDESTRIANS' RIGHTS AND DUTIES; Preliminary Draft No. 1; April 1974

Section 8. (Pedestrian must yield right of way.) Rep. Hampton said it bothered him to require a pedestrian to yield right of way. Mrs. Embick pointed out that the committee had already approved a section saying that except when there was a crosswalk, marked or unmarked, the vehicle had the right of way over the pedestrian unless he was blind.

Sen. Carson moved adoption of section 8. Motion carried. Voting for the motion: Sen. Carson, Chairman Browne. Reps. Hampton, Marx, Chairman Cole.

Section 9. (Pedestrians soliciting rides or business.) Mrs. Embick explained that section 9 contained a considerable change from existing law which prohibited hitchhiking by a definition of "roadway" as interpreted by an Attorney General's opinion saying that "roadway" included the shoulder. Therefore, under present law hitchhiking was prohibited on either the roadway or the shoulder. Conversely, subsection (1) of section 9 would permit hitchhiking from the shoulder of the road. Mr. Paillette added that under section 9 a hitchhiker could stand just to the right of the fog line unless hitchhiking was forbidden by signs in certain areas.

Chairman Cole noted that a hitchhiker commits the offense under section 9 when he stands in the roadway and asked if this could be interpreted to mean that he would not be in violation if he were walking. Mr. Paillette replied there was not meant to be a distinction between walking and standing.

Chairman Cole next asked why section 9 used the term "roadway" in subsection (1) and switched to "highway" in subsections (2) and (3). Mr. George explained that "highway" included the area from right of way line to right of way line whereas "roadway" was only the main traveled portion of the road. Subsections (2) and (3) would therefore be applicable to the right of way on both sides of the highway.

Sen. Carson asked if statistics were available on injuries and accidents to hitchhikers and was told by Mr. George that accident data was not coded to distinguish between pedestrians and hitchhikers. However, he was not aware of any great problem involving hitchhikers' accidents. Miss Howard said she could not remember more than one or two accidents involving hitchhikers in the last four or five years. The real hazard to the hitchhiker, she said, was what happened to him when he accepted a ride with the wrong person.

Chairman Cole requested an explanation of the type of problem subsections (2) and (3) were attempting to resolve. An example of the situation at which subsection (3) was aimed, Mr. George said, would be persons standing in the roadway directing traffic headed for the State Fair into privately owned property so they could collect the money for parking. Subsection (2) was directed at those who parked within the highway right of way to sell produce or other products. At some places where the vendors parked off the right of way, they caused no problem because there was enough area for customers to park out of the way of other traffic. In other places, however, the width of the shoulder or right of way was restricted and there was no safe place for buyers to park so that they became hazards to themselves as well as to oncoming traffic.

Chairman Cole asked if subsection (2) could prevent the collection of toll fees. Mr. George replied that such activity would probably not be construed as "unlawful solicitation."

Rep. Marx questioned whether the committee should stop anyone from selling fruit along the highway so long as he was not in the way of other traffic. Chairman Cole replied that the sellers might not themselves be impeding traffic but the congestion they created was what caused the hazard.

Chairman Cole questioned the meaning of the term "or near a highway" as used in subsection (3). Mrs. Embick advised that it was derived from the UVC. Sen. Carson was of the opinion that "or near" was ambiguous and should be deleted. It could, for instance, prevent a person from standing on his own property to sell strawberries if he were "near" a highway.

Sen. Carson moved to delete "or near" from subsection (3) of section 9. There being no objection, the motion was unanimously adopted. This decision was subsequently reversed. (See next page.)

Rep. Hampton asked if subsection (3) meant that a person could no longer stand on the right of way adjoining his own land for the purpose of making the public aware that public parking or a vehicle guarding service was available. He said he could see the reason for keeping him off the roadway but inquired as to the reason for the policy of keeping him off the right of way.

Rep. Marx commented that the problem with subsection (3) was that it referred to a vehicle "parked or about to be parked on a highway." It appeared to be aimed at someone "selling protection" in effect and if that was what it was designed to do, the phrase deleted by the committee, "or near," could have been left in.

Mr. George said Rep. Marx was right and the subcommittee had arrived at the same conclusion; namely, that this section did not involve the solicitation of business for the purpose of parking vehicles off the highway but rather that it was aimed at guarding and parking vehicles on the highway. He said he was wrong at both the subcommittee and this meeting when he said this section was aimed at the person soliciting private parking at the State Fair. Chairman Cole summarized the intent of the subsection by saying that it was meant to speak just to vehicles parked on the highway as opposed to those parked on private parking or anywhere else.

Chairman Cole said that in view of the committee's discussion, it appeared that "or near" should be retained in subsection (3) of section 9. There being no objection to rescinding the committee's previous action whereby that phrase was deleted, it was so ordered.

The committee then turned to a discussion of hitchhiking and Sen. Carson said he was not troubled by the distinction that a person could walk on the roadway under section 8 but could not hitchhike on the roadway under section 9 because a hitchhiker was required to get off the traveled portion of the road. As a matter of practice, he said, it seemed preferable to have hitchhikers off the traveled portion. For one thing, hitchhikers would normally be on the wrong side of the road, providing the committee stood by the decision made yesterday to require pedestrians to walk on the left-hand side of the road.

Mr. Paillette reported that when the subcommittee discussed this question, Captain Brown of the Portland Police Bureau urged the subcommittee to prohibit hitchhiking altogether and had quoted statistics showing that 31.9% of rapes or attempted rapes involved hitchhikers. Capt. Brown also noted that the current statute, in combination with the Attorney General's opinion interpreting "roadway" to include the shoulder, was totally ineffective in preventing hitchhiking. Capt. Williams of the State Police had generally echoed his comments about the ineffectiveness of the present statute. [Note: See Minutes, Subcommittee on Revision, 3/22/74, pp. 1 - 4.]

Sen. Carson moved adoption of section 9 without amendment. Motion carried unanimously. Voting: Sen. Carson, Chairman Browne. Reps. Hampton, Marx, Chairman Cole.

Section 10. (Driving through safety zone prohibited.)

Following Mrs. Embick's explanation of section 10, Sen. Carson moved its adoption. Motion carried unanimously with the same five members voting as voted on the previous motion.

Section 11. (Pedestrians' right of way on sidewalks.) Mrs. Embick outlined the provisions of section 11 as set out in the commentary to that section. Rep. Hampton asked if the definition of

"sidewalk" would mean that in an area where a driveway and a sidewalk intersected, the sidewalk status would prevail. He received an affirmative reply from Sen. Carson who added that his understanding was that a "sidewalk" did not necessarily have to be a strip of concrete that looked like a sidewalk. It could be a sidewalk area. Mrs. Embick confirmed Sen. Carson's statement and advised that a sidewalk included the area along the side of a roadway for walking.

Chairman Cole asked if "shoulder" was defined in the UVC and was told by Mrs. Embick that it was not. The Chairman then pointed out that section 11 said that a driver must yield right of way to a pedestrian on a sidewalk and asked if that meant that he must yield to him on a shoulder and Mrs. Embick said that was not the intent.

Chairman Cole recalled that section 7 as amended by the committee required the pedestrian to walk on the left-hand side of the highway when there was no sidewalk. Section 11 apparently required the driver to yield right of way to the pedestrian when he was on the shoulder, whether on the left or right side, because "sidewalk" could be the shoulder when there was no sidewalk as such.

Miss Howard pointed out that subsection (3) of section 7 said, "Where there is neither a sidewalk nor shoulder available." Presumably, therefore, if he were walking on the right side of a two-way roadway where there was a shoulder, he would not be in violation so long as he walked on the right-hand shoulder.

After further discussion, Chairman Cole observed that if "shoulder" were included in the definition of "sidewalk," section 11 was all right as drafted.

Mr. Paillette suggested that it would be a good idea to try to define "shoulder," particularly since the UVC definition of "roadway" referred to the exclusion of the "berm or shoulder."

By an illustration on the blackboard, Sen. Carson attempted to clarify the definitions of some of the terms the committee was using. He indicated that the terms "highway" and "right of way" were used interchangeably in the draft. The committee was in agreement that those terms included the land owned by the state, city or county from right of way line to right of way line. "Roadway" included the surface of the road from fog line to fog line or, on a rural road with no fog line, it would be from one edge of the pavement or asphalt to the other. Capt. Williams said there was a problem with that definition because there was sometimes a lot of pavement outside the fog line. Mr. George explained that the spot Sen. Carson was calling the end of the pavement could be graveled, oiled or paved. The depth of the sub-base was what determined whether it was in fact shoulder or roadway. He added that when the shoulder was gravel, there was no problem because the edge of the pavement was reasonably delineated. Where confusion arose was between the traveled lane and the paved shoulder, but in those instances there were usually fog lines to indicate the edge of the roadway.

Mr. Paillette read the UVC definition of "roadway":

"That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder "

Chairman Cole said with that definition the pedestrian could walk outside the main traveled portion of the highway used for vehicular traffic, whether delineated by a fog line or by the end of pavement. If there were no pavement and he was on, for example, a graveled road, it would be a guess as to where the shoulder began and the traveled portion of the road stopped.

It was pointed out that on some of the new highways there was a wide paved strip outside the fog line intended for use by disabled vehicles or for emergency conditions and those lanes would appear to be an open invitation to pedestrians to walk on them. Sen. Carson said for that reason it was important to have a clear definition of "sidewalk" and to state specifically whether those lanes were intended for pedestrian use. He was concerned that the fog line on highways might create a "sidewalk" where pedestrians would walk on either side of the highway rather than on the left side only. Mr. Paillette commented that part of the highway was not "intended for use by pedestrians" which was one of the qualifications in the UVC definition of "sidewalk":

"That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians."

Chairman Cole remarked that if that was the intent, the statute should clearly state that such lanes were not intended to be sidewalks.

Sen. Carson was of the opinion that the problems being discussed could be resolved by better definitions. Chairman Cole agreed and noted that the existing statute required all pedestrians to walk on the left-hand side of the road outside of cities but did not speak to sidewalks or shoulders. He suggested it might be preferable to take that approach rather than the one in the draft. Mr. Paillette observed that the present law gave the pedestrian more latitude to use the roadway than did the draft. At the present time the only restriction was for him to face traffic whether he was on the shoulder or any other place on the road. Mrs. Embick believed it would be quite a step ahead so far as traffic safety was concerned to require pedestrians to be off the roadway. Chairman Cole was of the opinion that if they were required to face traffic and to yield right of way to vehicles on the traveled portion of the roadway, that was about as much protection as the law could extend.

Rep. Hampton said he would agree with the Chairman except in the case of a one-way freeway where it would not solve the problem to

require pedestrians to walk down the left side. Chairman Cole said that if the shoulder of the road was to be included in the definition of "sidewalk," the whole purpose of the draft would be defeated.

Sen. Carson suggested that the problem might be resolved by creating a heavier definition of "sidewalk." What the committee was striving for was a separation between a pedestrian and a vehicle because they were mismatched in weight. It was, he said, foolhardy to make a person walk on the left side of the roadway or on the shoulder when there was a sidewalk on the right side. He proposed to sharpen the definition of "sidewalk" so it could not be confused with a shoulder or a paved area or a trail.

With the understanding that there would be a firmer definition of "sidewalk," Rep. Hampton moved adoption of section 11. Motion carried unanimously. Voting: Sen. Carson, Chairman Browne. Reps. Hampton, Marx, Chairman Cole.

[Note: Definitions of "shoulder" and "sidewalk" are discussed further below and again on page 33.]

Section 12. (Pedestrians yield to emergency vehicle or ambulance.) Mrs. Embick explained that the Oregon code presently contained nothing comparable to section 12 and only three other states had similar provisions.

In reply to a question by Rep. Hampton as to the duty of a pedestrian to go beyond the fog line upon the approach of an emergency vehicle, Mrs. Embick advised that a pedestrian had the right of way only on a sidewalk or in a crosswalk, but he didn't have it elsewhere unless it was specifically given to him. Even then, his right of way was gone when an emergency vehicle approached.

Rep. Marx moved adoption of section 12. Motion carried unanimously with the same five members voting as voted on the previous motion.

Definitions of "shoulder" and "sidewalk." Chairman Cole read the following definitions from the proposed recodification of the Michigan code:

"'Shoulder' means that portion of the highway contiguous to the roadway for the accommodation of stopped vehicles, for emergency use and for lateral support of base and surface courses."

"'Sidewalk' means that portion of a street between the curb lines or lateral lines of roadway and the adjacent property lines intended for the use of pedestrians."

Sen. Carson said as he understood this definition of "shoulder," on a rural road with no fog line where the asphalt just ends, the gravel portion would constitute the shoulder. On the Sunset Highway the shoulder would be the paved portion from the fog line to the gravel or grass or ditch. There still remained two "soft spots" in these definitions, however. One was "intended for the use of pedestrians" in the "sidewalk" definition where the meaning of "intended" was unclear and the other related to a graveled road where it might be necessary to go back to the old term, "main traveled portion," to determine where the shoulder began.

The committee was in agreement that the Michigan definition of "shoulder" was a good one, and Mr. George also expressed approval of it. Chairman Cole suggested inserting "whether paved or unpaved" into the definition so there would be no question that the portion outside the fog line was the shoulder, and the committee agreed this would add some understanding to the definition.

With respect to the definition of "sidewalk," Sen. Carson suggested that one way out of the dilemma might be to require the sidewalk to be outside the curb or outside the shoulder of the roadway and then it would make no difference whether the shoulder was gravel, dirt, concrete or whatever. He asked if the asphalt bumpers used on the highways to direct water off the road were called "curbs" and was told by Mr. George they were not. In that case, he said, it would probably meet the committee's purposes if "sidewalk" were defined as outside the curb or off the shoulder.

[Note: These definitions were subsequently discussed further. See page 33 of these minutes.]

Section 13. "Blind person," "guide dog," "white cane" defined.)
Rep. Hampton asked if there was any confusion under the present law as to who was actually a "blind person" and whether a blind pedestrian should be legally blind to qualify for the special privileges of these sections. Miss Howard commented that the sections were not a part of the UVC but were strictly Oregon provisions that had been in the code for sometime. Rep. Hampton further inquired as to whether there was any confusion over the term "guide dog" and was told by Mrs. Embick that she was aware of no problem in the past in either of those areas.

Rep. Hampton asked if, in view of the definition of "white cane," a white cane with a black tip would still qualify under section 13 as a white cane. Miss Howard explained that the white cane with the red tip was an internationally recognized symbol for the blind.

Mr. Paillette advised that these sections were merely a restatement of existing law and if the committee wanted to make any substantial changes, some research should be done to determine the significance of such things as the color of the tip of the cane.

Chairman Cole pointed out that as the definition of "white cane" was drawn, it could mean a cane that was white in color or one with a red tip so that all white canes could be covered.

Rep. Marx moved adoption of section 13. Motion carried unanimously. Voting: Sen. Carson, Chairman Browne. Reps. Hampton, Marx, Chairman Cole.

Section 14. (Use of white cane by blind person.)

Following Mrs. Embick's explanation of section 14, Rep. Hampton moved its adoption. Motion carried unanimously with the same five members voting as voted on the previous motion.

Section 15. (Duty of driver to yield to blind pedestrian.) Mrs. Embick advised that section 15 restated subsection (2) of ORS 483.214 except that the present code contained no statement of the location of the blind person in relation to the approaching vehicle whereas section 15 said that the driver must stop only when the blind pedestrian is crossing or about to cross a roadway.

Rep. Hampton noted that section 15 did not contain the same protection for the blind pedestrian as was extended to other pedestrians by earlier sections of this draft whereby drivers would be required to remain stopped until the pedestrian had reached the opposite side of the roadway.

After further discussion of this point, Rep. Hampton moved to amend the last sentence of subsection (1) of section 15 to read:

"He shall not move his vehicle until the blind pedestrian has vacated the roadway."

There being no objection, the motion was adopted.

Rep. Hampton then moved to approve section 15 as amended. Motion carried unanimously. Voting: Sen. Carson, Chairman Browne. Reps. Hampton, Marx, Chairman Cole.

Section 16. (Blind pedestrian in roadway with traffic control signals.) Following Mrs. Embick's explanation of section 16, Rep. Marx commented that section 16 appeared to say that when a driver was facing a traffic control signal with a red light, he could ignore that signal when there was a blind pedestrian in the roadway.

Mr. Paillette called attention to the provisions of subsection (2) of ORS 483.214 and asked if the committee would be more satisfied with the language of that section. The members agreed that section 16 should be redrafted in the words of the present code and should include

the "notwithstanding" clause in subsection (2) of ORS 483.214. Chairman Cole directed that section 16 be referred to the staff for redrafting in accordance with this discussion.

Section 17. (Rights of blind pedestrian without white cane or guide dog.)

Following a brief explanation of section 17 by Mrs. Embick, Rep. Hampton moved approval of the section. Motion carried unanimously. Voting: Sen. Carson, Chairman Browne. Reps. Hampton, Marx, Chairman Cole.

Section 18. (Unlawful use of bridge by pedestrian.) Mr. George pointed out that the words "approach to a bridge" were ambiguous because normally the approach to a bridge did not move when a draw-bridge was operated. Sen. Carson commented that the way to control that situation was by placement of the gate or barrier which was usually some distance back from the operational part of the bridge.

The committee was not enthusiastic about adopting section 18 but when told by Mr. Paillette that it would be worth five UVC points, Rep. Hampton moved its approval. Motion carried unanimously with the same five members voting as voted on the previous motion.

Section 19. (Pedestrian crossing closed bridge or railroad grade crossing barrier prohibited.) Following Mrs. Embick's explanation of section 19, Chairman Cole noted that there were situations where a train stops somewhere down the line but close enough to the crossing to cause the barrier to lower. The train is not moving nor will it be crossing the intersection. He asked if in that circumstance a pedestrian should be required to stand and wait until the train finally backs away. Mr. George advised that this could happen on the older type of equipment but railroads were presently installing track equipment known as "predictors" which had the ability to know whether a train will actually cross the intersection, and those installations do not lower the gate unless the train is going to cross.

Rep. Marx commented that both this section and the previous one were attempting to substitute a statute for the judgment of an individual and both were too specific.

Mr. Paillette remarked that this same prohibition was directed to vehicles in another Article. Rep. Hampton observed that as a practical matter, the only time section 19 would be enforced was when there was a flagrantly dangerous violation.

Sen. Carson was of the opinion that section 19 was far more important in terms of safety than section 18 and moved its adoption. Motion carried unanimously with the same five members voting.

Section 5. (Crossing at other than crosswalks.) The committee returned to a discussion of section 5 and the adoption of the Massachusetts provision stating that a pedestrian must use a marked crosswalk or a crossing with traffic control signals when he is within 300 feet of one.

Rep. Hampton asked if the policy the committee was expressing was one that required the pedestrian to use a marked crosswalk within 300 feet of him or required him to use a signal-controlled marked or unmarked crosswalk within 300 feet or either. Mr. Paillette said he would interpret the wording to mean that he could use either.

Sen. Carson said his understanding was that the key to the use of a particular crosswalk was the traffic signal and if a pedestrian were within 300 feet of a signal, he would be required to use the signalized crossing unless there was a closer marked crosswalk in which case he could use either, but he could not jaywalk. However, if he were more than 300 feet from the traffic signal, he could jaywalk even though there was a marked crosswalk without a signal within 25 feet of him.

Chairman Cole said that in Seaside the blocks were short. In one place there was a signal at an intersection and at the other end of that block there was an intersection with an unmarked crosswalk where there were sidewalks but no signal. The provision as explained by Sen. Carson would mean that a person could not cross at the unmarked crosswalk but would have to walk to the other end of the block to cross at the signal.

Sen. Carson observed that it might be better to go to 150 feet instead of 300 feet. Rep. Hampton suggested requiring the pedestrian to use a crosswalk when he was within 150 feet of one that was either marked or unmarked. Mr. Paillette commented that the committee's discussion of the previous day was directed toward marked crosswalks only.

Sen. Carson said he would prefer to require pedestrians to use a marked crosswalk. If the statute were directed toward unmarked crosswalks, it would force people in rural areas to walk 150 feet or 300 feet, depending upon the committee's decision, to reach an intersection when it could be safer for him to "jaywalk." The whole purpose of section 5, he said, was to take care of the jaywalking problem in municipal areas.

After further discussion, Chairman Cole suggested that the best way to handle the jaywalking question might be by local option. Mrs. Embick advised that the local option provisions would be gathered together in one Article of the code. Sen. Carson said that if this committee decided to go the "300 foot" route, they would not be leaving local authorities any option to make a change to a distance shorter than that.

Other factors were discussed after which the committee agreed that the staff should redraft section 5 with a provision similar to subsection (6) of ORS 483.210 which would leave these decisions to local authorities in their respective jurisdictions.

Section 7. (Pedestrian's use of sidewalk, shoulder and roadway edge.) Chairman Cole requested the committee to decide on definitions for "shoulder" and "sidewalk" in order that section 7 could be built around those terms. Mr. Paillette said it was his understanding that the Michigan definition of "shoulder" discussed earlier was reasonably satisfactory. [Note: See page 28 of these minutes.] That definition had not actually been enacted in Michigan, he said, but it could have been taken from one already in existence in which event there might be some case law on the subject. He indicated the staff would research that question.

Miss Howard asked if it was the committee's intent to change from the draft provision to one saying that walking on the left should apply not just to when pedestrians were walking on the edge of the roadway but when they were walking on the shoulder as well. Chairman Cole said he believed that was the sense of the discussion; the committee preferred the existing statute requiring pedestrians to walk on the left in all instances, whether on the edge of the shoulder or on the edge of the roadway. That provision would apply in conjunction with the requirement to yield to vehicles.

Miss Howard said she was thinking specifically of freeway situations. She said if she were stranded between Salem and Woodburn and it was closer to get to a phone or to help by going north, she would not want to walk on the left side of that one-way roadway.

Mr. Dutoit pointed out that on Skyline Road in Salem the right-hand side of the road had been beefed up by extending the shoulder to create a pedestrian path of sorts leading to Sprague High School. He wondered how many other similar places there were in Oregon where they couldn't afford to build sidewalks and had beefed up a shoulder to allow more room for pedestrians. The area he referred to, he said, was not a marked sidewalk and was surfaced with gravel, but it was certainly a safer place to walk than on the left. Mr. Paillette pointed out that areas such as those would have to be dealt with on a case-by-case basis and noted also that the present statute required pedestrians to walk on the left.

Rep. Marx suggested drafting a statute requiring the pedestrian to walk on the left unless there was a divided highway such as a freeway plus a provision permitting him to walk on the right "when practical" so that when there was no shoulder on the left, he could walk on the right side.

Miss Howard's proposal was to leave subsection (2) of section 7 as drafted and impose the requirement to keep to the left only in subsection (3).

Rep. Hampton suggested it might be preferable to let the pedestrian walk off the shoulder rather than requiring him to walk on the shoulder.

Following further discussion, Chairman Cole directed the staff to draft several alternative provisions for section 7 and return them to the committee for further consideration.

At this point the committee recessed for lunch and reconvened at 1:30 p.m.

Senate Members Present: Senator Wallace P. Carson, Jr.

House Members Present: Representative George F. Cole, Chairman
Representative Stan Bunn
Representative Robert P. Marx

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

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

TURNING AND MOVING; SIGNALS ON STOPPING AND TURNING; Preliminary Draft
No. 1; April 1974

Section 1. (Required position and method of turning.) Mrs. Embick advised that subsection (2) of section 1 contained a change from the present law which now requires the driver to advance to the center point of the intersection before turning left. Section 1 would permit what is now done in practice, i.e., turning to the left of the center point of the intersection whenever practicable. This was considered to be a safer procedure that would cut down on the number of accidents and expedite traffic. She indicated that Capt. Williams had told the subcommittee that present law was not being enforced and cars were presently turning in this manner.

Rep. Bunn moved adoption of section 1. Motion carried unanimously. Voting: Sen. Carson, Chairman Browne. Reps. Bunn, Marx, Chairman Cole.

Section 2. (U-turns prohibited.)

Following a brief explanation of section 2 by Mrs. Embick, Rep. Bunn moved its adoption. Motion carried

unanimously with the same five members voting as voted on the previous motion.

Section 3. (Moving a stopped, standing or parked vehicle.)

Chairman Cole asked what kind of a signal would be required upon starting a vehicle and was told by Mrs. Embick that no signal would be required unless the vehicle were moving from one lane to another.

Sen. Carson moved adoption of section 3. Motion carried unanimously with the same five members voting.

Section 4. (Turning and stopping movements and signals required.)

With respect to subsection (3), Mrs. Embick advised that the comparable UVC provision made it a violation to use signals on one side only of a disabled vehicle. The subcommittee rejected this provision because many vehicles are not equipped to flash an emergency distress signal on both sides simultaneously, and they decided it would be better to flash the left turn signals than none at all. Section 4 also contained a change from existing law in that the present code required a turn signal only when another driver might be involved. Section 4 would require a signal in all instances and in this respect conformed to the UVC and the laws of most other states.

Chairman Cole asked what signal was required in paragraph (1) (b). Mrs. Embick replied that it would have to be an arm signal. The Chairman said that about 95% of the time there would be an opportunity to give an arm signal only if the car window were down. Sen. Carson said he would interpret the provision to say that if the driver had time to roll his window down and hang his arm out, he had better do so. Capt. Williams advised that under present law the brake light on the car was sufficient warning even when the hand signal was not used. In that event, Sen. Carson said, this provision was not needed. He asked if the police ever issued a citation to anyone for stopping abruptly so long as he had brake lights. Capt. Williams said they did not.

Chairman Cole asked Mrs. Embick what provision she contemplated inserting as a reference in the blank section number in paragraph (1) (b) and was told that it would be section 6 (1) (c) which was the reference to an arm signal used to show an intention to slow down or stop.

Miss Howard pointed out that the driver error summary for 1973 showed that 19% of the driver errors involved in all accidents fell into the category of failing to avoid a stopped or a parked vehicle ahead. Therefore, it was apparent that the problem of being hit from the rear was a large one and she believed the provision should be retained just to emphasize the fact that a driver should let the person behind him know what he was going to do. Capt. Williams expressed agreement with Miss Howard.

Rep. Bunn suggested inserting "hand" after "appropriate" in paragraph (1) (b) so it would be clear that a hand signal was required.

The lighted brake signal would be given automatically when he stepped on the brake and he wanted to encourage hand signals wherever possible. Mrs. Embick advised that 37 other states had this provision concerning a signal on stopping or suddenly decreasing speed.

Chairman Cole inquired as to the intent of subsection (3) and was told by Mrs. Embick that it was meant to prohibit a driver from flashing his signals as a courtesy or distress signal. Under the commentary to the UVC it was pointed out that it was common practice among truck drivers to signal to a driver with his lights that it was safe for the driver to pass him. Capt. Williams commented that insurance companies were opposed to that practice because of the hazards involved, and the big trucking companies and unions were discouraging truck drivers from flashing such signals to drivers. He admitted it was a convenience to other drivers but it was also hazardous.

Mr. Paillette commented that subsection (3) was based on UVC s 11-604 (b). The UVC subsection referred to "signals required on vehicles by s 11-605 (b)" which had reference to heavy vehicles rather than motor cars. Apparently, he said, 11-604 (d) was talking about left and right turn signals and therefore subsection (3) probably did not state what was intended by the UVC provision. Mrs. Embick read from the Historical Note to UVC s 11-604 (d) which said:

"This subsection was added to prohibit certain improper uses of electrical turn signals by drivers of . . . buses, trucks and combinations of vehicles."

It was her understanding that the UVC section referred to turn signals and that they were required on vehicles exceeding a certain width and length.

In reply to a question by Rep. Bunn, Capt. Williams expressed the view that any type of flashing signal to another driver as a voluntary courtesy involved a certain amount of hazard, and he was opposed to the practice because a driver was not supposed to have his lights flashing. Chairman Cole said that in some instances he believed it was important to give other drivers some type of warning as a courtesy, but he was opposed to the "do pass" signal because a driver was relying on someone else's judgment. Furthermore, if he didn't make the pass immediately, after a short delay it might no longer be safe to pass.

Following further discussion, Rep. Marx moved to amend subsection (3) of section 4 by deleting "the signals [required on vehicles by section ____]" and inserting "any lights". The motion was adopted by unanimous consent.

Rep. Bunn moved to delete "courtesy or" from subsection (3) of section 4. Vote on this motion appears on the next page.

Sen. Carson objected to the deletion of "courtesy." Without that word in the statute, he said, it would be permissible to flash lights for any purpose and, if stopped by the police, the driver could say he had flashed his lights as a courtesy.

Rep. Bunn believed it was important to make a distinction between the "do pass" signal and all the other dangers related to courtesy signals. The only way to do it effectively in his opinion was to forget about the courtesy language inasmuch as it was unenforceable in any event and just include the "do pass" signal in the statute.

Sen. Carson suggested that another way to resolve the issue would be to speak specifically to "clearance lamps," "parking lamps," "turn signals," etc. The Chairman expressed approval of the proposal to name the lights specifically so long as they were defined elsewhere in the code and asked if any had been omitted from the list cited by Sen. Carson. Capt. Williams suggested including clearance lamps on the rear and side marker lamps on the sides of trucks because they were the ones that were causing the difficulty.

Vote was then taken on Rep. Bunn's motion to delete "courtesy or" from subsection (3) of section 4. Motion failed. Voting for the motion: Reps. Bunn, Marx, Chairman Cole. Voting no: Sen. Carson.

Sen. Marx moved adoption of section 4 as amended. Motion carried. Voting for the motion: Sen. Carson, Chairman Browne. Reps. Bunn, Marx, Chairman Cole.

Section 5. (Signals by hand and arm or by signal lamps.)

Chairman Cole asked if the subcommittee considered requiring a signal lamp at all times with the hand being used as an alternate signal at the option of the driver. Rep. Bunn replied that this was discussed by the subcommittee and the decision was that a driver should not use a hand signal at night.

Mr. Paillette read from the minutes of the Subcommittee on Revision dated April 22, 1974, page 14, wherein Capt. Williams stated that hand and arm signals were worthless during the nighttime. He noted the minutes stated that the following motion by Sen. Carson had been adopted by the subcommittee, but it had apparently been overlooked and had not been incorporated into the draft:

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

Chairman Cole ruled that the committee would read the draft before them as though it included the above provision and it could then be

added by the staff at a later time. Rep. Bunn said he was opposed to the provision and would vote against it. He commented that every signal he had seen during nighttime hours was visible because the headlights of the car to the rear illuminated the hand. There were many old vehicles on the highways that were built before turn signals became a standard piece of equipment and he was not convinced that the cost of requiring turn signals to be installed on all those vehicles would be offset by the slight increase in traffic safety.

Sen. Carson said he could see nothing wrong with requiring turn signals any more than requiring safety glass, brake lights, etc. Society had moved beyond the point where vehicles driving at rapid speeds at night without turn signals should be permitted, and the Chairman concurred.

Rep. Bunn asked Capt. Williams if he believed there was strong evidence that accidents occurred in significant numbers because of the use of hand signals in the evening. Capt. Williams replied that he had no statistics on the subject and could speak only from experience. His opinion was that from a traffic safety viewpoint, drivers should not be given the option of using hand signals at night but should be required to use turn signals. If he did not have them, he should not be on the highway at night.

Mrs. Embick indicated that Sen. Carson's motion as passed by the subcommittee would be incorporated by the following revisions to section 5:

(1) Amend subsection (1) to read:

"Except as provided in subsections (2) and (3) of this section"

(2) After subsection (2), insert:

"(3) A driver shall give a stop and turn signal by signal lamp during the evening and nighttime hours as prescribed in ORS 483.402."

(3) Renumber subsection (3) of the draft as subsection (4) and amend it to read:

" . . . in violation of subsection (1), (2) or (3) of this section"

Chairman Cole said that the amendments described by Mrs. Embick would accomplish the purpose of Sen. Carson's subcommittee motion but would not cover the committee's objective to require that vehicles be required to give notice of intention to stop at all times and not just during the nighttime.

Miss Howard said that from an educational standpoint, she disliked seeing that provision placed at the end of the section rather than near the top. She suggested that subsection (1) be revised to include the provision relating to the requirement for signal lamps during the hours when headlights are required by amending it to read:

" . . . either by means of the hand and arm or, during the hours when headlights are required, turn signal lamps."

Chairman Cole asked if the subcommittee had discussed a requirement for a stop signal at all times. Miss Howard advised that the 1965 Legislative Assembly enacted ORS 483.407 which said that after January 1, 1966, every motor vehicle shall be equipped with one or more stop lights.

Sen. Carson indicated that another way to accomplish the committee's objective would be to require turn signals and stop signals at all times and then grant an exception for hand signals during the daylight hours. That would bring the educational aspect up front, he said. Rep. Bunn asked if such a provision would permit a driver to drive a car not equipped with turn signals during the daytime, and Sen. Carson said it would so long as the provision was not drawn to require turn signals on all cars.

Chairman Cole directed that the staff redraft section 5 in accordance with the committee's discussion and it would then be reconsidered at the next meeting.

Mrs. Embick asked if the committee wanted anything included in the section about brake signals or if the intent was to cover that requirement in the equipment section. Chairman Cole said he would prefer to see a requirement in the statute that a driver at all times must have a stop signal. Mr. Paillette advised this requirement appeared in two places; drivers were required to give a signal to stop and it automatically followed that they would have a brake light because of the stipulation referred to by Miss Howard in the equipment section of the code.

Section 6. (Method of giving required signals.)

Following Mrs. Embick's explanation of section 6, the Chair moved adoption of that section. Motion carried unanimously. Voting: Sen. Carson, Chairman Browne. Reps. Bunn, Marx, Chairman Cole.

SPECIAL STOPS REQUIRED; Preliminary Draft No. 1; May 1974

Section 1. (Stopping at railroad crossings upon signal of approaching train.) Mrs. Embick pointed out that subsection (1) contained language not found in either the Oregon code or the UVC as

to precisely where a driver should stop his vehicle at a railroad grade crossing. The reference to distance was "not less than 10 feet nor more than 20 feet" in the draft whereas the UVC used 15 to 50 feet. At the subcommittee meeting Mr. George had indicated that 15 feet was too great.

Rep. Cole asked if some of the railroad barriers were more than 20 feet from the railroad line and was told by Mr. George that most of them were about 10 feet away. The distance varied somewhat but they were always within the railroad right of way.

Rep. Marx moved to delete "nor more than 20 feet" from subsection (1) for the reason that it made little difference whether or not the car was more than 20 feet away. This motion was subsequently withdrawn. (See below.)

Rep. Bunn pointed out that without that phrase, a car might stop farther back in a line of cars and then not stop within the 10 to 20 foot area when he approached the track itself. Rep. Cole concurred that the provision would assure that a car would stop within a close distance so he would have some visibility of the track before proceeding.

In view of that explanation, Rep. Marx withdrew his motion to amend.

Rep. Marx then moved adoption of section 1 without amendment. Motion carried unanimously. Voting: Sen. Carson, Chairman Browne. Reps. Bunn, Marx, Chairman Cole.

At a later point in the meeting, Capt. Williams again raised the question of the distance a car should stop from the railroad barrier. From an enforcement standpoint, he said, if there were no extreme requiring cars to be within a certain area, they could stop a half mile back, proceed on, not stop within a given area and still claim they had complied with the statute because they had stopped. On the other hand, an officer might arrest a person who stopped at 30 feet but didn't stop again at 20 feet. He thought 20 feet might be cutting the distance a little bit short.

Mr. Paillette said that if there were some question, he would recommend that the committee adopt the UVC distance which was 15 to 50 feet.

Rep. Marx moved to revise the outside distance in subsection (1) of section 1 from 20 feet to 50 feet. Motion carried unanimously with the same five members voting as voted on the previous motion.

Section 2. (Certain vehicles must stop at all railroad grade crossings.) Mrs. Embick explained the provisions of section 2 and commented that it was too long and would later have to be broken into shorter sections.

Chairman Cole asked if subsection (3) would apply to taxicabs and require them to stop at every railroad crossing. Mrs. Embick replied that the only change in subsection (5) from existing law (ORS 483.228 (3)) was to substitute "Public Utility Commissioner" for "department." This change had been made to comply with section 3, Chapter 615, Oregon Laws 1973, which vested the PUC with jurisdiction over protective devices at railroad crossings.

Miss Howard read a portion of ORS 767.035 and said she was not familiar with PUC law but it might contain an exception for taxicabs. She noted also that subsection (5) of the draft appeared to be aimed at motor busses.

Mr. Paillette commented that there was no intent to change existing law. As Mrs. Embick had pointed out earlier, the section would have to be redrafted to break it into shorter sections and at the same time the staff would check the question raised by the Chairman regarding taxicabs.

The committee's decision was to consider section 2 again after it was redrafted.

Section 3. (Moving heavy equipment at railroad grade crossings.) Mrs. Embick noted that the same change from 20 feet to 50 feet should be made in sections 2 and 3 as was made in section 1. This revision was adopted by unanimous consent.

Chairman Cole inquired as to the meaning of "responsible officer" as used in paragraph (1) (a) and was told by Mrs. Embick that the phrase had been substituted for "station agent" because station agents no longer existed. The subcommittee decided that anyone who was in control around a railroad station would be a "responsible officer."

Rep. Bunn moved adoption of section 3 with the amendment to 50 feet in paragraph (1) (b). Motion carried unanimously. Voting: Sen. Carson, Chairman Browne. Reps. Bunn, Marx, Chairman Cole.

Section 4. (Overtaking and passing school bus.) Following Mrs. Embick's explanation of section 4, Mr. Paillette commented that the section was more restrictive than the UVC and was discussed at great length by the subcommittee.

Rep. Bunn moved the adoption of section 4 and the motion carried unanimously with the same five members voting as voted on the previous section.

Section 5. (Stopping before driving onto sidewalk from alley, driveway or building.) Chairman Cole asked why section 5 used the term "street." Mrs. Embick explained that the section was applicable to a business or residence district, and "street" had the same definition as "highway," i.e., it covered the space from right of way line to right of way line. Also, the UVC used "street" in this section.

Rep. Marx suggested it might be preferable to substitute "roadway" for "street." Mrs. Embick said it depended on where the committee wanted cars to stop. Rep. Marx observed that section 5 would be applicable not only where there were sidewalks but also where there were none, and drivers should stop before they entered the roadway in this situation.

Rep. Marx moved to substitute "roadway" for "street" in subsection (2) of section 5. The motion was adopted by unanimous consent.

The Chair moved adoption of section 5 as amended. Motion carried unanimously. Voting: Sen. Carson, Chairman Browne. Reps. Bunn, Marx, Chairman Cole.

The meeting was adjourned at 3:30 p.m.

Respectfully submitted,

Mildred E. Carpenter, Clerk
Committee on Judiciary

"STOP ALERT"

An Early Warning Vehicular Stop Light System

Approximately 4,000,000 rear end automobile collisions per year cry out that something should be done! Knowledgeable people in the insurance and accident statistical fields estimate that 66% of these accidents can be eliminated, and the severity of the remainder could be reduced by up to 85%. The answer is relatively simple - an early warning vehicular stop light system that will:

- . Require no re-education or re-training of the driving public.
- . Cause no unnecessary side effects or confusion that flashing yellow or red lights could cause.
- . Give following drivers instant warning when the driver ahead starts to react to an emergency.
- . Provide the most meaningful signal to a following driver that the driver ahead may make an emergency stop - that is, by activating the brake lights.
- . Give a driver, following a car equipped with Stop Alert, maximum warning time of a sudden intent to stop - approximately 1/2 to 3/4 second.
- . Automatically trigger the signal to the brake lights the instant a driver exhibits his first physical move to make an emergency stop - that is, when the driver suddenly - and only suddenly - starts to remove his foot from the accelerator pedal.
- . Activate only in emergency situations, and automatically shut off as soon as the emergency ends.

The Stop Alert is a fully-patented pressure vacuum differential switch, which activates the vehicle brake lights in emergency stopping situations. Under normal driving conditions, manifold vacuum rises and falls during acceleration/deceleration slowly, in relation to time. In an emergency situation, a driver removes his foot from the accelerator as fast as possible, causing an instantaneous rise in manifold vacuum.

Stop Alert detects the rise in manifold vacuum and turns on the brake lights before the driver can get his foot off the accelerator. If the emergency ends, and the driver does not apply the brake, the brake lights will automatically go out in approximately two seconds. If the driver does actuate the brakes, the normal brake light system takes over, but the early warning will have been achieved.

In closing, two additional considerations could be emphasized. They are the low cost and installation ease. Retail pricing would be under \$15.00. Installation consists of mounting the unit to the firewall, installing a "tee" connector in the manifold vacuum line, and connecting two wires in parallel to the stop light switch - time involved, about fifteen minutes.