

ALASKA LEGISLATURE COMMITTEE FILES 1900-1900 00/2

4420 STRA HB 436 - HB 552 1298

When construing the statute, the court will examine the language of the statute first. However, after reviewing the language of the statute itself, the court will then refer to the legislative history to gain insight that may be helpful in determining the statute's meaning. City and Borough of Sitka v. IBEW, 653 P.2d 332 (Alaska 1982). The wording of 45 U.S.C. §1207(a)(4) can be construed as prohibiting the State from enacting any legislation which impacts the number of crew members employed in connection with the operation of trains. However, the legislative history indicates that the legislative intent, was to exempt the Alaska Railroad only from "existing" laws.

At the time of the Alaska Railroad Transfer Act, Alaska law strictly regulated the minimum crews necessary for passenger trains, freight trains, light engines, etc. AS 23.10.420. ARTA clearly exempted the state-owned railroad from that law. But, did ARTA also exempt the Alaska Railroad from any future enactments? The legislative history provides clear guidance. A report of the Committee of Commerce, Signs and Transportation states as follows:

Section 8 of the bill governs the application of various federal and state laws to the state-owned railroad after its transfer to the state. . . . In general the Committee believes that in the future this state-owned railroad should be treated like all other railroads subject to federal and state laws. . . . Third, the Committee believes it would be inappropriate for the federal government to dictate to the state how it should set up and operate the railroad beyond what generally applies to all rail carriers under existing laws. Report of Committee on Commerce, Signs and Transportation, S.Rep. No. 97-479, 97th Cong. 2d Ses. Calendar No. 862EG10-12, 20 (1982).

Emphasis added. The legislative history speaks specifically to "existing laws." The history notes that "in the future" the Alaska Railroad should be like other railroads. This is a clear indication that Congress, when enacting ARTA, intended to deal only with the laws that were on the books at the time, and did not intend to prohibit the State from future regulation of its wholly owned railroad.

Another rule of statutory construction is that statutes relating to the same subject matter should be read together as a

whole so that the total regulatory scheme is preserved. Nash v. State Commercial Fisheries, 679 P.2d 477 (Alaska 1984). In addition, federal statutes must be construed consistently with one another. Get Oil Out v. Exxon Corp., 586 F.2d 726 (9th Cir. 1978). These statutory guidelines mean that §1207(a)(4) of ARTA must be viewed in the context of other federal regulations concerning railroads. Federal law generally allows states to enact caboose legislation. Federal law in Alaska should be no different.

ARTA makes the state-owned railroad subject to the Interstate Commerce Commission and the federal Railroad Safety Act. 45 U.S.C. §421, et seq. The federal Railroad Safety Act states at 45 U.S.C. §434:

A state may adopt or continue in force any law, rule, regulation, order, or standard relating to railroad safety until such time the secretary has adopted a rule, regulation, order, or standard covering the subject matter of such state requirements. A state may adopt or continue in force an additional or more stringent law, rule, regulation, order, or standard relating to railroad safety when necessary to eliminate or reduce an essentially local safety hazard and when not incompatible with any federal law, rule, regulation, order, or standard and when not creating an undue burden on commerce. (Emphasis added.)

In Burlington Northern Railroad Co. v. State of Nebraska, C.B. 83-L423 (F.D.N.D., May 10, 1985), the court stated that because the Interstate Commerce Commission has not provided any guidance or any statutes regarding cabooses and the manning of cabooses, states are free to legislate in that area until the time that the Commission does regulate that area. Thus, in order for ARTA to be consistent with federal law, Alaska must be considered as having the right to pass safety measures concerning cabooses.

Even if Congress intended to exempt the state-owned railroad from future laws on crew size, it could not have intended that the state-owned railroad be exempt from state safety laws. In determining this kind of legislative intent the pre-enactment history is relevant, including the statutes in effect at the time that ARTA was passed. 2A Singer, N.J. Sutherland's Statutory Construction §48.03 (1984). In Section 1207(a)(4) and in the

legislative history, there is no indication that the purpose was specifically to prevent featherbedding. However, looking at the law in effect at the time ARTA was passed, and discussing the matter with persons knowledgeable in the industry, it is clear that the law required more employees than was necessary. Clearly, Section 1207(a)(4) was enacted to prevent featherbedding. Since the Alaska caboose legislation is a bona fide safety measure and not a featherbedding measure, then it will not be in conflict with Section 1207(a)(4), regardless of the fact that it has some impact on railroad manning. In this regard, it is instructive to note that the court in the North Dakota case found that the caboose legislation was reasonably related to the protection of the health and safety of the citizens of the state. Burlington Northern, supra at 7.

In researching this question, we have examined a number of other issues. I will not discuss in depth the work that we have done. However, we do not believe that Section 1207(a)(4) is a violation by Congress of Alaska's Tenth Amendment rights. See, Garcia v. San Antonio Metro Transit Authority, 105 S. Ct. 1005 (1985). In addition, it does not appear that Congress is prohibited from addressing Alaska's law on minimum sizes of crewmen in a bill that does not address that problem with regard to the other states in the Union. See generally, State of South Carolina v. Katzenbach, 383 U.S. 301 (1966), where the Supreme Court upheld the Voting Rights Act of 1965 that was imposed on three particular states.

If you have any questions or if I can be of any further assistance, don't hesitate to contact me at your convenience.

Sincerely,

JERMAIN, DUNNAGAN & OWENS



Charles A. Dunnagan

CAD/bh

Cook  
4/30/86 ✓

Original sponsors: Cato, Hurley,  
Koponen, et al

1 IN THE HOUSE

BY THE TRANSPORTATION COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 436 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring a properly equipped and staffed  
7 caboose on certain trains."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 42.30 is amended by adding new sections to read:

10 ARTICLE 6. CABOOSE REQUIRED.

11 Sec. 42.30.400. CABOOSE REQUIRED. (a) A train that exceeds  
12 1,000 feet in length including locomotives shall have a properly  
13 maintained and equipped caboose, that is staffed by a qualified train  
14 conductor or brakeman, attached as the rear car while the train is  
15 moving over tracks outside a yard or terminal.

16 (b) This section applies to a railroad that transports goods or  
17 passengers for a fee.

18 Sec. 42.30.410. EXCEPTIONS. (a. AS 42.30.400 does not apply

19 (1) to a train composed only of locomotives, passenger  
20 coaches, and baggage cars;

21 (2) to a train not exceeding 2,500 feet in length, includ-  
22 ing locomotives, composed only of trailer on flat car equipment or  
23 container on flat car equipment provided that any hazardous or toxic  
24 materials on the train are located in the first 1,000 feet of the  
25 train as measured from the lead locomotive;

26 (3) if an emergency occurs in route that prevents compli-  
27 ance with that section; or

28 (4) unless a collective bargaining agreement between the  
29 railroad and an appropriate bargaining unit contains a provision

1 requiring compliance with AS 42.30.400.

2 (b) Notwithstanding AS 42.30.400, a defective car that cannot be  
3 entrained except behind the caboose may be attached as the rear car on  
4 a train and moved to the nearest terminal where it can be repaired.

5 Sec. 42.30.420. PENALTY. Violation of AS 42.30.400 is an of-  
6 fense punishable by a fine of not less than \$500 and not more than  
7 \$1,000. Each violation is a separate offense.

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Offered: 4/2/86  
Referred: Rules

as defined in their Collective  
Bargaining agreement -

Original sponsors: Cato, Hurley,  
Koponen, et al.

Wave 5 Day Rule -

1 IN THE HOUSE

BY THE RULES COMMITTEE

2

CS FOR HOUSE BILL NO. 436 (Rules)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

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For an Act entitled: "An Act requiring a properly equipped and staffed

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\* Section 1. AS 42.30 is amended by adding new sections to read:

10

ARTICLE 6. CABOOSE REQUIRED.

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Sec. 42.30.250. CABOOSE REQUIRED. (a) A train that exceeds

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1,000 feet in length including locomotives shall have a properly

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maintained and equipped caboose, that is staffed by a qualified train

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conductor or brakeman, attached as the rear car while the train is

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moving over tracks outside a yard or terminal.

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(b) This section applies to a railroad that transports goods or

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passengers for a fee.

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Sec. 42.30.260. EXCEPTIONS. (a) AS 42.30.250 does not apply

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(1) to a train composed only of locomotives and passenger

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coaches;

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(2) to a train not exceeding <sup>2000</sup> 1,825 feet in length, includ-

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ing locomotives, composed only of trailer on flat car equipment or

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container on flat car equipment provided that any hazardous or toxic

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materials on the train are located in the first 1,000 feet of the

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train as measured from the lead locomotive; or

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(3) if an emergency occurs in route that prevents compli-

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ance with that section.

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(b) Notwithstanding AS 42.30.250, a defective car that cannot be

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entrained except behind the caboose may be attached as the rear car on

1 a train and moved to the nearest terminal where it can be repaired.

2 Sec. 42.30.270. PENALTY. Violation of AS 42.30.250 is an of-  
3 fense punishable by a fine of not less than \$500 and not more than  
4 \$1,000. Each violation is a separate offense.

Cook  
4/30/86

Original sponsors: Cato, Hurley,  
Koponen, et al

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18 Sec. 42.30.260. EXCEPTIONS. (a) AS 42.30.250 does not apply

19 (1) to a train composed only of locomotives, <sup>baggage cars</sup> and passenger  
20 coaches;

21 (2) to a train not exceeding <sup>2500</sup> ~~7,825~~ feet in length, includ-  
22 ing locomotives, composed only of trailer on flat car equipment or  
23 container on flat car equipment provided that any hazardous or toxic  
24 materials on the train are located in the first 1,000 feet of the  
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# ALASKA RAILROAD CORPORATION

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P.O. Box 7-2111 • Anchorage, Alaska 99510-7069

## FACT SHEET

March 6, 1986

Contact: Vivian Hamilton  
265-2675

### HISTORY OF CABOOSES

Caboose date back to the beginnings of railroading and served as a traveling office for the conductor. From the caboose the conductor and crewman could monitor the train's performance and apply the hand brakes when the engineer's whistle sounded. The entire crew often ate and slept in the caboose at terminals away from home. Today cabooses are less necessary. Computerization has replaced most of the conductor's paperwork duties. New technologies provide automatic detection systems for train problems and automatic braking systems are used in favor of hand brakes. Crews rarely have to sleep in cabooses anymore.

### NATIONWIDE RAIL INDUSTRY TRENDS

In 1982 the national United Transportation Union (UTU), which represents trainmen, enginemen and conductors, and the nation's railroads agreed upon rules that called for the eventual elimination of cabooses on trains. As a result, most of the nation's biggest railroads have dropped cabooses from roughly one-fourth of their long distance freight trains. The 1982 agreement provided that railroads no longer have to purchase new cabooses or refurbish existing cabooses. Once its useful life has ended, a caboose need not be replaced. A more recent 1985 agreement has

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sped the elimination of cabooses. Apparently frustrated with these negotiated agreements, and rebelling at the notion of losing cabooses, UTU has repeatedly taken its case to legislatures. Yet some 25 states have rejected the implementation of a caboose law; only four states currently require a caboose on freight trains, (only two adopted since the negotiated 1982 agreements.)

#### CABOOSES AT THE ALASKA RAILROAD CORPORATION

The Alaska Railroad Corporation has never eliminated a caboose from an existing freight train or commodity service. A new service begun in May 1985, the Arctic FOX (Freight Overnight Express), is a cabooseless train. Because the FOX is a short, fast, daily train which carries trailers and containers on flat cars, the union and Railroad managers agree that it does not require a caboose. Assigned with only two engines and entirely new equipment, the service also has no intermediate switching needs. Only a two-person crew is required.

Type of freight hauled, age of equipment, switching needs, and length of the train are key points in determining train makeup and crew assignments. Cabooses will be needed on most freight trains until new technologies such as wayside detectors are available to help reveal any train malfunctions.

#### MAJOR POINTS OF THE PROPOSED BILL

House Bill 436, as proposed, would require a manned caboose on all freight trains over 1,000 feet in length, including locomo-

tives. This would apply to nearly all ARRC freight trains. A fine would be imposed for violations.

WHY THE ARRC OPPOSES HB 436

By requiring cabooses on all freight trains, this legislation would effectively limit the Railroad's ability to introduce innovative operations for a safer, more efficient enterprise.

Legislative intervention in matters of ARRC management would also contradict a previous legislative directive that the Railroad "carry out its responsibilities on a self-sustaining basis" and "provide for the prudent operation of the Railroad." The ARRC has been operating according to sound business management practices and will continue to do so without additional legislation.

Mandatory caboose legislation would also undermine the bargaining process between unions and railroads, which have already addressed and resolved the caboose issue. If either side may use legislative processes to overturn agreements, contract negotiations will become virtually meaningless.

IS SAFETY AT STAKE?

The ARRC is already directed by the Legislature, the Federal Railway Administration and a host of other regulatory and occupational safety provisions to provide for safe rail operations. Additionally, the collective bargaining and arbitration process protects legitimate safety concerns while permitting railroads to implement more cost-effective technologies.

## Summary

1. The historical purpose for the caboose has been eliminated by modern day technology.

The caboose has become a relic of a bygone era of railroading. Most major mainlines are now equipped with centralized traffic control, eliminating the need for a flagman on a halted train to walk back to flag following trains. In a centralized traffic control system, a dispatcher in an office often hundreds of miles away operates switches automatically and signals activated by the train itself warn off those behind it. It has been a long time since brakemen had to go over the tops of cars to set hand brakes on individual cars. The engineer controls air brakes on the entire train. Lighted electronic end-of-train devices mark the end of the train and electronic trackside detectors monitor overheated journal bearings and dragging equipment, a chore once performed visually by crewmen from the caboose. Finally, the use of cabooses by train crews as a home away from home where they bunked and ate their meals also belongs to a long gone era. Today, crews are provided with lodging and meals by the railroad.

2. A comprehensive study of the need for cabooses for safety purposes by a Presidential Emergency Board in 1982 stated:

"...caboose may be eliminated in each class of service without undermining safety and operational considerations."

The Federal Railroad Safety Act of 1970 (45 U.S.C. 421 et seq.) was enacted by Congress to establish uniform railroad safety standards for the benefit of the public and railroad employees. The Act was designed to eliminate a hodgepodge of conflicting local railroad regulations which were a burden on interstate commerce and a burden to the pocketbooks of consumers. The Federal Railroad Administration, the agency responsible for administering the Federal Railroad Safety Act, has never determined that occupied cabooses contribute to safety.

3. The use of cabooses has historically been an item for labor/management negotiations.

The United Transportation Union reached a national agreement with the railroads on October 15, 1982 which specifically permitted and recognized the right of railroads to eliminate cabooses subject to certain guidelines. Today, elimination of cabooses continues to be negotiated or arbitrated pursuant to the National Agreement.

4. Cabooses are a financial burden to deregulated railroads.

Continued operation and maintenance of obsolete cabooses constitutes a costly and unnecessary waste of limited resources. If railroads and the jobs they provide are to survive in the highly competitive transportation market, they must eliminate wasteful spending of capital which inevitably is translated to higher shipping rates.

§ 1207. State operation

(a) Laws, authorities, etc., applicable to State-owned railroad with status as rail carrier engaged in interstate and foreign commerce

(1) After the date of transfer to the State pursuant to section 1203 of this title, the State-owned railroad shall be a rail carrier engaged in interstate and foreign commerce subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of Title 49, and all other Acts applicable to rail carriers subject to that chapter, including the antitrust laws of the United States, except, so long as it is an instrumentality of the State of Alaska, the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), the Railway Labor Act (45 U.S.C. 151 et seq.), the Act of April 22, 1908 (45 U.S.C. 51 et seq.) (popularly referred to as the "Federal Employers' Liability Act"), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.). Nothing in this chapter shall preclude the State from explicitly invoking by law any exemption from the antitrust laws as may otherwise be available.

(2) The transfer to the State authorized by section 1203 of this title and the conferral of jurisdiction to the Interstate Commerce Commission pursuant to paragraph (1) of this subsection are intended to confer upon the State-owned railroad all business opportunities available to comparable railroads, including contract rate agreements meeting the requirements of section 10713 of Title 49, notwithstanding any participation in such agreements by connecting water carriers.

(3) All memoranda which sanction noncompliance with Federal railroad safety regulations contained in 49 CFR Parts 209-236, and which are in effect on the date of transfer, shall continue in effect according to their terms as "waivers of compliance" (as that term is used in section 431(c) of this title).

Portion prohibiting the State of Alaska from requiring  
a minimum number of personnel on trains

45 § 1207

RAILROADS 496

(4) The operation of trains by the State-owned railroad shall not be subject to the requirement of any State or local law which specifies the minimum number of crew members which must be employed in connection with the operation of such trains.

(5) Revenues generated by the State-owned railroad shall be retained and managed by the State-owned railroad for railroad and related purposes.

(6)(A) After the date of transfer, continued operation of the Alaska Railroad by a public corporation, authority or other agency of the State shall be deemed to be an exercise of an essential governmental function, and revenue derived from such operation shall be deemed to accrue to the State for the purposes of section 115(a)(1) of Title 26. Obligations issued by such entity shall also be deemed obligations of the State for the purposes of section 103(a)(1) of Title 26, but not obligations within the meaning of section 103(b)(2) of Title 26.

(B) Nothing in this chapter shall be deemed or construed to affect customary tax treatment of private investment in the equipment or other assets that are used or owned by the State-owned railroad.

(b) Procedures for issuance of certificate of public convenience and necessity; inventory, valuation, or classification of property; additional laws, authorities, etc., applicable

As soon as practicable after January 14, 1983, the Interstate Commerce Commission shall promulgate an expedited, modified procedure for providing on the date of transfer a certificate of public convenience and necessity to the State-owned railroad. No inventory, valuation, or classification of property owned or used by the State-owned railroad pursuant to subchapter V of chapter 107 of Title 49, shall be required during the two-year period after the date of transfer. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 6362(b) of Title 42 shall not apply to actions of the Commission under this subsection.

(c) Eligibility for participation in Federal railroad assistance programs

The State-owned railroad shall be eligible to participate in all Federal railroad assistance programs on a basis equal to that of other rail carriers subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of Title 49.

(d) Laws and regulations applicable to National Forest and Park lands; covered lands; limitations on Federal actions

After the date of transfer to the state pursuant to section 1203 of this title, the portion of the rail properties within the boundaries of the Chugach National Forest and the exclusive-use easement within the boundaries of the Denali National Park and Preserve shall be subject to laws and regulations for the protection of forest and park values. The right to fence the exclusive-use easement within Denali National Park and Preserve shall be subject to the concurrence of the Secretary of the Interior. The Secretary of the Interior, or the Secretary of Agriculture where appropriate, shall not act pursuant to this subsection without consulting with the Governor of the State of Alaska or in such a manner as to unreasonably interfere with continued or expanded operations and support functions authorized under this chapter.

(Pub.L. 97-468, Title VI, § 608, Jan. 14, 1983, 96 Stat. 2573.)

**References in Text.** The antitrust laws, referred to in subsec. (a)(1), are classified generally to section 1 et seq. of Title 15, Commerce and Trade.

The Railroad Retirement Act of 1974, referred to in subsec. (a)(1), is Title I of Pub.L. 93-445, Oct. 16, 1974, 88 Stat. 1305, and is classified generally to subchapter IV (section 231 et seq.) of chapter 9 of this title. Such Title I completely amended and revised the Railroad Retirement Act of 1937 (approved June 24, 1937, c. 382, 50 Stat. 307), and as thus amended and revised, the 1937 Act was redesignated the Railroad Retirement Act of 1974. Previously, the 1937 Act had completely amended and revised the Railroad Retirement Act of 1935 (approved Aug. 29, 1935, c.

812, 49 Stat. 967). Section 201 of the 1937 Act provided that the 1935 Act, as in force prior to amendment by the 1937 Act, may be cited as the Railroad Retirement Act of 1935; and that the 1935 Act, as amended by the 1937 Act, may be cited as the Railroad Retirement Act of 1937. The Railroad Retirement Acts of 1935 and 1937 were classified to subchapter II (section 215 et seq.) and subchapter III (section 228a et seq.), respectively, of chapter 9 of this title. For complete classification of this Act to the Code, see section 231t of this title and Tables volume.

The Railroad Retirement Tax Act, referred to in subsec. (a)(1), is Act Aug. 16, 1954, c. 736, §§ 3201, 3202, 3211, 3212, 3221, and 3231 to 3233, 68A Stat. 431, which is classified generally

## What's the real issue? Who should decide?

THE NOSTALGIC PICTURE of a brightly painted caboose tagging along behind a meandering freight train is part of the colorful tradition of railroading in Alaska and elsewhere. This historical perspective regarding cabooses has created through the years a very strong emotional reaction among railroaders, the general public, and now, most recently, from Alaska's legislators.

The status of the caboose has been debated in nearly 30 states in the last several years with only two states actually passing legislation requiring cabooses. Now it is Alaska's turn to look at the issue. The argument is a classic struggle between railroad companies who wish to modernize and improve system efficiencies and railroad unions who are seeking to protect jobs.

The proposed legislation being discussed in Juneau, HB 436, would require a manned caboose to accompany freight trains longer than 1,000 feet. The issue has been introduced under the label of "safety," but the real argument probably revolves around three separate questions:

1. Who should decide when to assign cabooses? The unions? The legislature? Or the Alaska Railroad management?

2. Is the railroad union leadership using safety as a guise for job protection?



Point

by  
Frank G.  
Turpin

tion?

3. Is the Alaska Railroad operating a safe and efficient system without a mandatory boose law?

**BEFORE EXPLORING** these questions it is important to state for the record that the Alaska Railroad does not plan to eliminate cabooses from its train operations in the near future. Until the railroad can install modern, automated equipment and invest in the detection devices that would allow elimination of cabooses, the railroad will continue to use them.

The technology and modernization that would be required to transform the Alaska railroad to a total "cabooseless" system is many dollars and years away from us right now. The railroad has never eliminated a caboose from an existing freight train. We believe, however, that it is inappropriate for a state legislature to interfere in what is

essentially and historically a management or collective bargaining issue.

Currently the Alaska railroad operates only one train, the Arctic Fox, without a caboose. It has never had a caboose. The 10 to 15 car configuration and new, modern equipment deployed in this train allow for safe and efficient operation. This is a new service, providing fast trailer and container service between Anchorage and Fairbanks and expanding the number of total railroad jobs available. It has been accident-free since its inception last summer. Because the articulated flat cars are each 100 feet long, even this new train service would require a caboose if the proposed legislation is passed.

Despite much rhetoric from union spokespeople, safety and cabooses are not irrevocably linked as they insist. A recent National Railway Labor Conference study determined there was no significant difference from a safety standpoint whether a train was operated with or without a caboose. The accident frequency rate per million train miles for trains with cabooses was 5.19, while the frequency rate per million train miles for cabooseless operations was slightly better at 5.15. The bottom line is that a caboose is not essential for safety, or for its other traditional functions, such as

administration, fuel and lodging, with the advent of modern railroad technology.

**UNTIL THIS** modern technology is added to the Alaska Railroad, inspections are made by crew members either from their vantage point in the locomotive when they meet opposing trains or on the ground during an inspection known as a "roll by."

A "roll by" requires a crew member to leave the locomotive and stand at trackside to visually inspect the train as it is slowly pulled forward. After the train has passed the crewman completely, he crosses the tracks to inspect the opposite side of the train as it is backed up. He then returns to the locomotive. At least five of these inspections are performed on all freight trains traveling between Anchorage and Fairbanks.

Usually, all trains are inspected by railroad employees living and working along the tracks. Known as "maintenance of way" personnel, these employees are stationed about every 30 miles along the line.

The caboose legislation is essentially asking legislators to act on an issue that has already been resolved nationally in agreements between the union and the railroads. In 1982 both factions agreed to the eventual elimi-

nation of cabooses nationwide. Therefore, this kind of legislation is not needed, a conclusion reached by 26 other states when they rejected this effort by the national union to nullify the negotiated agreements through implementation of mandatory caboose laws. If passed, HB 436 would seriously restrict the future improvement, efficiency and productivity of the Alaska Railroad Corporation.

**I FIRMLY BELIEVE** that the caboose issue is a matter to be resolved by safety-conscious railroad managers on a train-by-train basis as they evaluate train configurations, work assignments, and the availability of new technologies. The Alaska Railroad's safety record is excellent and we constantly seek ways to improve our performance. In fact, we are currently rated by the Federal Railroad Administration as the second safest in a class of 24 similar sized railroads nationwide.

I can assure you that the management and the employees of the Alaska Railroad Corporation are proud to work in Alaska and pledge that the Alaska railroad will continue to provide safe, efficient transportation for all Alaskans.

*Frank G. Turpin is President and Chief Executive Officer of the Alaska Railroad.*

## When it comes to safety, technology can't replace experience

**POSE THE QUESTION**, "What is a railroad caboose?" to any Alaskan in the state, and you will find that the number of different answers you will hear is directly related to the number of times that you ask the question.

Try it on yourself. What does "caboose" mean to you?

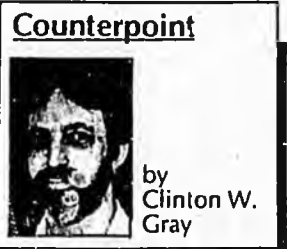
Is a caboose the little red car on the end of the train that was (and still is) the featured character in the first book that you were able to read on your own as a child?

Is it merely the last car on a railroad train going across the road crossing? Is it the one car on that train that you are interested in enough to watch for, knowing that when it is clear of the crossing, you can now continue on with your business or trip?

Is the caboose (as one 9-year-old stated) "where the man stays and comes out and yells at us to quit playing on the track?"

Or is the caboose still the home-away-from-home for that "quaint" and unusual breed of men that work on those mysterious trains that come and go in the night carrying their equally mysterious cargo?

The answer to me, and to many oth-



Counterpoint

by  
Clinton W.  
Gray

ers, is easy. It is easy for virtually hundreds of reasons. The purpose of a caboose is to protect against hazards associated with train derailments, shifted cargo, burning wheel bearings, right-of-way fires, highway-rail crossing accidents and many other mishaps.

There is ample evidence recorded to illustrate that each of these threats to the public and operating employees' safety is real and occurs with some degree of regularity. In my opinion, manned cabooses, used in conjunction with other safety devices, are the best means currently available to minimize the potentially disastrous effects of many of these safety threats.

**SOME CRITICS** of the present legislation to retain cabooses, including the Alaska Railroad Corporation, contend that electronic monitoring devices adequately detect failed equipment, fires and other safety threats without a manned caboose. First, I'd like to point out that the Alaska Railroad has few of these devices, and to my knowledge they are not planning to install additional devices in the near future. As important, the Outside railroads that have these monitoring devices have discovered they are not failsafe. It is recorded that trainmen have found that you can actually have a burning box car pass over a "hot box detector" without activating it. Moreover, these alternatives do not and cannot meet every need that is currently met by a manned caboose.

I will acknowledge that there is less need now for a manned caboose in certain situations, and I support the use of all available mechanical monitoring devices. But there is ample evidence that a crew member at the end of a train can see a safety threat that electronic devices cannot detect and that retention of manned cabooses still plays an essential role in the early de-

tection of equipment defects and other problems before they can cause derailments or other damages.

The Alaska Railroad management has testified that the caboose is a collective bargaining issue that should be negotiated. There would only be management and labor at the bargaining table. Unfortunately, no one would be there to represent the Alaskan public.

The Alaska Railroad has also testified that they already must comply with many federal safety regulations. While this general statement is not particularly relevant to the caboose issue, I nevertheless would like to point out that railroad safety legislation was a result of unnecessary accidents or worse yet, deaths of railroad employees or members of the public. I would hope that the Alaska legislature does not intend to play Russian roulette with whether unrelated safety regulations, new technology or no technology, could provide a safe rail system in Alaska. We should not forget the recent lessons of the Crown Point Alaska gas leak or the tragic space shuttle Challenger disaster.

**THE CABOOSE** is the single most

important safety feature on a train, and a train needs all of its safety features, particularly in Alaska where long trains often carrying hazardous materials are transported through varied terrain and under many adverse conditions in highly populated and remote areas. It is simply not possible to replace with one or more machines, the eyes, ears, nose, voice and brain of an experienced employee who can see views of a moving train that cannot be seen from any other position, and who can detect and respond to a variety of problems at a moment's notice.

For these reasons, the Alaska legislature in its wisdom has the right and the obligation to take every reasonable step to guarantee that cabooses will continue to be used under appropriate circumstances to protect the safety of the general public and of our train crews. It is not enough to simply leave it to the Alaska Railroad Corporation to do the "right thing."

*Clinton W. Gray worked as a conductor for 12 years on the Alaska Railroad and is Legislative Representative for the United Transportation Union Local 1626.*



# Editori

## The obsolete caboose

**THE FIRST QUESTION** raised by the derailment of an Alaska Railroad coal train yesterday was, "Did it have a caboose?"

The answer is "yes."

That question and answer are pertinent because the House at Juneau voted approval on Monday of a bill that would require cabooses on most freight trains for safety reasons.

The records of the Alaska Railroad show that every freight train that has had a derailment — and there have been a half dozen or so since the state took over the railroad a year ago — has had a caboose. Conversely, the record shows that no freight train without a caboose has ever had an accident of any sort.

That last statement, although factual, has only limited significance because the railroad has only one train — the Arctic Fox — that operates without a caboose. However, railroads Outside have long records of operations without cabooses.

The national record for all railroads show there have been about the same number of accidents with cabooses as without. That means the presence of a caboose has nothing to do with the occurrence of accidents.

**THE LEGISLATION** requiring cabooses has the strong support of the United Transportation Union. It has approved the Alaska operations of the Arctic Fox, but now seeks to retain cabooses on all other trains. While the union claims the caboose will assure public safety, there is no factual basis to support it.

Railroad management contends economics and

technology have made the caboose obsolete. The cars cost \$80,000 each and weigh 27 tons. They are being replaced by a machine, known as an end-of-train device, that blinks a red light to warn following trains.

The original purpose of cabooses was to provide living quarters for train crews in the old days of long distance runs. Crews would be away from home for four or five days, or even more. The caboose was their rolling hotel.

With passage of time, operating speeds have increased, transit time decreased. The runs are shorter and crew time on duty is less.

**WHEN THE STATE** took over the railroad, the legislature forbade any state law that specified the number of crew members a train must have. In 1982 the UTU agreed to the elimination of cabooses under certain conditions. In 1985 it agreed to expedite their removal.

Those agreements showed the union's willingness to live with the newest trends and technology, as they did when coaling stations and water tanks were eliminated when steam locomotives were replaced by diesels.

The state has made it public policy to allow the railroad corporation to operate as a private enterprise, free of politics insofar as possible. The House is violating that policy by passing this bill, which would inject politics into railroad management.

To serve Alaskans best, the railroad must be allowed to operate like a railroad, not a political plaything.

## Trainman says caboose unsafe, unnecessary

Dear Editor:

I recently retired from the Alaska Railroad after 35 years of service. At the time of retirement, I occupied the number one position on the conductor's seniority roster. From 1951 through 1974, I performed service as a brakeman conductor. I also served as vice-chairman of the grievance committee, as safety representative, and alternate legislative representative for the Brotherhood of Railroad Trainmen (predecessor organization to the United Transportation Union (UTU)), and had 30 years continuous membership in the Brotherhood of Railroad Trainmen and UTU combined.

Since 1974, I have held the positions of relief yardmaster, trainmaster, and retired as superintendent of transportation.

My entire railroad career of 35 years was spent as an operating employee, trainman, and/or officer. During that time, I have worked and ridden in wooden cabooses with coal stoves and oil lamps and in "new" steel cabooses with oil stoves and electric lights. They all, every one, have been hot and dusty in the sun-

## Letters to the editor

mer, cold and odorous in the winter, and always noisy, uncomfortable and downright dangerous when moving.

The lookout function, which the UTU has alleged as most critical, has in this day and age of longer and faster trains become ineffective. The historic limitations of darkness, rain, blowing, swirling snow, and/or dust, plus track curvature which generally result in the inability of either the head end (engine) crew or the rear end (caboose) crew to see much more than a few cars ahead of the caboose or behind the engines, are further diminished by train length, with the majority of the train in the middle not being observed at all, or if observed, not clearly so. Therefore, railroad standard operating rules still require that roll-by (wayside) inspections be made by the train's crew and also require all other employees on the wayside (along the track) or on other trains, to likewise inspect each passing train.

The moving roll-by (wayside) inspection has proven to be, by far, the most reliable and effective manner of train inspection. The implication made by the UTU that train operation is safer with a manned caboose on the rear is just not so!

It is also notable that while no injuries to the public, communities, or families, etc., have occurred as a result of derailments on the ARR over the past five years, there were during that five-year period a total of seven personal lost-time injuries sustained by brakemen or conductors, either riding in or getting on or off a caboose.

One could easily conclude, and rightly so, that not only has "The Little Red Caboose" (which most people regard fondly as a reminiscent symbol of railroading) outlived its usefulness, but has in fact, become a negative factor in regard to railroad train safety.

The benefits of its continued use in almost all situations is not commensurate with the risk of injury to which its occupants are exposed nor with the expense of its operation and maintenance.

Robert W. Davison

Lake Havasu City, Ariz.

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March 14, 1986

The Honorable Representative Cato  
House of Representatives  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Cato:

I am writing of behalf of the United Transportation Union, Local 1826 regarding proposed amendments to HB436, An Act requiring a properly equipped and staffed caboose on certain trains. My clients have asked me to advise you that they intend to propose, through Representative Pignalberi and the House Rules Committee, the following amendments:

1) Line 12, after "property", add the words maintained and. This section would then read:

"(1) A train that exceeds 1,000 feet in length including locomotives shall have a properly maintained and equipped caboose...."

This amendment should help assure that cabooses are used for their full useful lives and are not taken out of service prematurely due to lack of normal preventive maintenance.

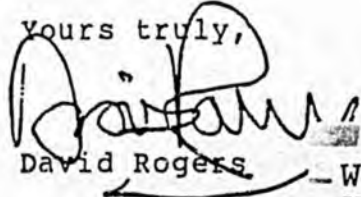
→ 2) An additional exception in 42.30.260 offered in the spirit of compromise which effectively would exempt the "FOX" from the requirements of 42.30.250 to read as follows:

"3) to a train composed exclusively of TOFC (Trailer on Flat Car)/COFC (Container on Flat Car) equipment not exceeding 1825 feet in length including locomotives, provided that hazardous or toxic materials are located in the first 1,000 feet of the train as measured from the lead locomotive."

If you have any questions or comments, please give me a call.

Thanks.

Yours truly,

  
David Rogers

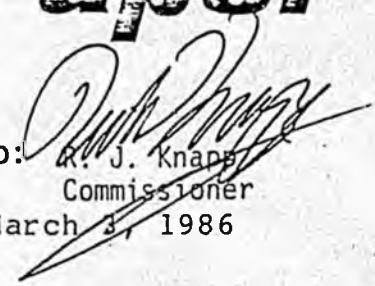
Wagstaff, Pope, and Rogers  
UTU Proposed amendments to Original Bill



## Dept. of Transportation & Public Facilities

# Position Paper

BILL NO: HB 436 and SB 313

APPROVED:   
R. J. Knapp  
Commissioner

TITLE: An Act requiring a properly equipped and staffed caboose on certain trains. DATE: March 3, 1986

Although not an issue of direct concern to the Department of Transportation and Public Facilities (DOT&PF), it is appropriate to provide certain comments given the DOT&PF Commissioner's role on the Board of Directors of the Alaska Railroad Corporation (ARRC). However, it is important that these comments not be construed as the official position of the ARRC regarding HB 436. ARRC management should be contacted separately to solicit their formal views on this matter.

The central question underlying this legislation is whether to mandate by statute the use of cabooses for certain types of trains, with little regard for technological improvements and variety in train consists that may have a direct bearing on the need for cabooses. Evidence from the rail industry and at the Alaska Railroad suggests this sort of non-discretionary arrangement is unwarranted and may add unnecessary costs to train operations. More detailed information regarding these issues can be found in the ARRC's Position Paper on HB 436, dated February 14, 1986.

Another concern is DOT&PF's perception that this type of legislation may be inconsistent with the spirit and intent of the state Alaska Railroad Corporation Act (ARCA), which established the ARRC as an independent, public corporation to own and operate the Alaska Railroad under state ownership. ARCA sets out explicit direction regarding goals and objectives for operation and management of the Alaska Railroad, and provides broad powers for the ARRC Board of Directors to oversee and manage these responsibilities. Included are the requirements to provide "safe, efficient, and economical transportation," to "be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad," and to "carry out its responsibilities on a self-sustaining basis." HB 436 appears to run counter to this approach by attempting to limit management's ability to meet these different goals. This is unfortunate coming so soon following passage of ARCA, and the apparent absence of evidence that ARRC management has failed to meet its statutory responsibilities.

In summary, DOT&PF is unaware of any real evidence that suggests this legislation is warranted, and respectfully submits that HB 436 contradicts the spirit and intent of ARCA by unnecessarily attempting to legislate decisions reserved for management.

For further information

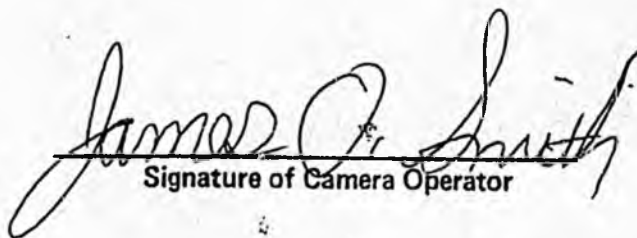
DOT/PF POSITION PAPER

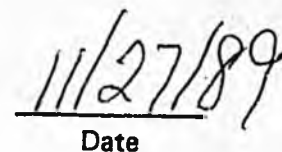
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# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

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ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y, State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

February 24, 1986

MEMORANDUM

TO: Representative Rick Uehling  
ATTN: David Cobb  
FROM: Mary Jennings *mg*  
Legislative Analyst  
RE: Speed Limits in Other States  
Research Request 86-113

You requested information regarding regulations and policies in other states which guide how speed limits are set, specifically, in parks, schools, and neighborhoods with children. You requested we examine policies in Arizona, California, Connecticut, Massachusetts, New York, Oregon, and Virginia.

Conclusions

Arizona, California, Massachusetts, Oregon, Virginia, and Washington have statutes that set speed limits in business, residential, and school areas.<sup>1</sup> In Connecticut and New York, the speed limit for state highways in these areas is set by the State Department of Transportation (DOT). Oregon was the only state that had a statute specifically applying to state highways in parks.

Arizona. According to statute, the speed limit for state highways in business or residential districts is 25 miles per hour (mph) and in school zones with children present the limit is 15 mph. Local authorities set the limits for roads within their jurisdiction, but cannot raise or lower speed limits by increments of more than 10 mph.

California. Speed limits are addressed in the California Vehicle Code. For state highways in residential or business districts the speed limit

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<sup>1</sup>For various state definitions of these areas see Attachment A.

Representative Uehling  
February 24, 1986  
Page Two

is 25 mph and the limit in school zones with children present is 25 mph. Local authorities may determine a different speed for roads in their jurisdiction under procedures set forth in the Vehicle Code.

Connecticut. In Connecticut, the DOT has the authority to set speed limits on state highways in residential, business, and school areas. Roads under the jurisdiction of local authorities must have speed limits approved by the DOT.

Oregon. For state highways in residential and business districts and state roads in parks and beaches, Oregon statute sets the speed limit at 25 mph. In school zones with children present the limit is 20 mph. The Oregon State Speed Control Board approves speed limits set by local authorities for roads under local jurisdiction.

Massachusetts. According to statute, the speed limit for state highways inside a residential or business district is 30 mph. In a school zone, the limit is 20 mph. Roads under the jurisdiction of local authorities must have speed limits approved by the DOT and the Registry of Motor Vehicles.

New York. The DOT sets speed limits for state highways in business, residential, and school areas. Roads under the jurisdiction of local authorities must have speed limits approved by the DOT.

Virginia. According to statute, the speed limit for state highways in business or residential districts is 25 mph. In schools zones with children present, the limit is 25 mph. Speed limits for roads under the jurisdiction of local authorities are set by the local authorities.

Washington. The Standard Speed Statute in Washington sets a limit of 25 mph for state highways in cities or towns. In school zones with children present, the limit is 20 mph. Speed limits for roads under the jurisdiction of local authority must be approved by the State Maintenance Engineer of the DOT.

I have attached pertinent statutes from California, Connecticut, Massachusetts, and Virginia. For your interest, I have also attached pertinent statutes from Indiana, Hawaii, Louisiana, and Pennsylvania. I hope you find this information useful. If you have any questions or if we can be of further assistance, please contact our office.

MJ

Attachments

## Attachment A

Definitions from various states of business, residential and school areas.

### Business

The California Vehicle Code defines business district as, "that portion of highway and the property contiguous thereto (a) upon one side of which highway, for distance of 600 feet, 50 percent or more of the contiguous property fronting thereon is occupied by buildings in use for business, or (b) upon both sides of which highway, collectively, for a distance of 300 feet, 50 percent or more of the contiguous property fronting thereon is so occupied. A business district may be longer than the distances specified in this section if the above ratio of buildings in use for business to the length of the highway exists."

### Residential

The California Vehicle Code defines residence district as, "that portion of highway and the property contiguous thereto, other than a business district (a) upon one side of which highway, within a distance of a quarter of a mile, the contiguous property fronting thereon is occupied by 13 or more separate dwelling houses or business structures, or (b) upon both sides of which highway, collectively, within a distance of a quarter of a mile, the contiguous property fronting thereon is occupied by 16 or more separate dwelling houses or business structures. A residence district may be longer than one-quarter of a mile if the above ratio of separate dwelling houses or business structures to length of the highway exists."

Massachusetts statute defines residential area as, "a thickly settled district."

Oregon statute defines a residential area as, "highway that has solid residential type dwellings for 300 feet on both sides of the highway."

### School Zone

Virginia statute defines school zone as, "between portable signs, tilt-over signs, or fixed blinding signs placed in or along any highway bearing the word 'school' or 'school crossing'."

The California Vehicle Code defines school zone as, "When passing a school building or the grounds thereof, contiguous to a highway and posted with a standard 'SCHOOL' warning sign, while children are going to or leaving the school either during school hours or during the noon recess period...when passing any school grounds which are not separated from the highway by fence, gate or other physical barrier while the grounds are in use by children and the highway is posted with a standard 'SCHOOL' warning sign."

**Attachment B**

**Statutes pertaining to the setting of speed limits.**

movement, in which event notice as applicable to such additional traffic lane shall be given by any official traffic control device.

(c) When right- or left-hand turns are prohibited at an intersection notice of such prohibition shall be given by erection of a sign.

(d) When official traffic control devices are placed as required in subdivisions (b) or (c), it shall be unlawful for any driver of a vehicle to disobey the directions of such official traffic control devices.

Amended Ch. 481, Stats. 1963. Effective September 20, 1963.  
Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

#### **U-Turn in Business District**

22102. No person in a business district shall make a U-turn, except at an intersection, or on a divided highway where an opening has been provided in accordance with Section 21651.

Amended Ch. 1310, Stats. 1961. Effective September 15, 1961.  
Amended Ch. 622, Stats. 1970. Effective November 23, 1970.

#### **U-Turn in Residence District**

22103. No person in a residence district shall make a U-turn when any other vehicle is approaching from either direction within 200 feet, except at an intersection when the approaching vehicle is controlled by an official traffic control device.

Amended Ch. 255, Stats. 1963. Effective September 20, 1963.  
Amended Ch. 622, Stats. 1970. Effective November 3, 1970.

#### **Turning Near Fire Stations**

22104. No person shall make a U-turn in front of the driveway entrance or approaches to a fire station. No person shall use the driveway entrance or approaches to a fire station for the purpose of turning a vehicle so as to proceed in the opposite direction.

Amended Ch. 622, Stats. 1970. Effective November 23, 1970.

#### **Unobstructed View Necessary for U-Turn**

22105. No person shall make a U-turn upon any highway where the driver of such vehicle does not have an unobstructed view for 200 feet in both directions along the highway and of any traffic thereon.

Amended Ch. 622, Stats. 1970. Effective November 23, 1970.  
Amended Ch. 64, Stats. 1972. Effective March 7, 1973.

#### **Starting Parked Vehicles or Backing**

22106. No person shall start a vehicle stopped, standing, or parked on a highway, nor shall any person back a vehicle on a highway until such movement can be made with reasonable safety.

#### **Turning Movements and Required Signals**

22107. No person shall turn a vehicle from a direct course or move right or left upon a roadway until such movement can be made with reasonable safety and then only after the giving of an appropriate signal in the manner provided in this chapter in the event any other vehicle may be affected by the movement.

Amended Ch. 1996, Stats. 1959. Effective September 18, 1959.

#### **Duration of Signal**

22108. Any signal of intention to turn right or left shall be given continuously during the last 100 feet traveled by the vehicle before turning.

#### **Signal When Stopping**

22109. No person shall stop or suddenly decrease the speed of a vehicle on a highway without first giving an appropriate signal in the manner provided in this chapter to the driver of any vehicle immediately to the rear when there is opportunity to give the signal.

#### **Method of Signaling**

22110. The signals required by this chapter shall be given either by means of the hand and arm or by a signal lamp, but when the body or load on any vehicle or combination of vehicles projects 24 inches or more to the left of the center of the steering wheel so that a hand and arm signal would not be visible both to the front and rear of such vehicle or combination of vehicles, or under any condition when a hand and arm signal would not be visible both to the front and rear of the vehicle or vehicles, then the vehicle or vehicles shall be equipped with, and signals shall be given by, a signal lamp, except that implements of husbandry need not be equipped with signal lamps, but drivers of implements of husbandry shall give a hand and arm signal when required by this chapter.

Amended Ch. 118, Stats. 1961. Effective September 15, 1961.  
Amended Ch. 1012, Stats. 1965. Effective September 17, 1965.  
Amended Ch. 859, Stats. 1967. Effective November 8, 1967.

#### **Hand Signals**

22111. All required signals given by hand and arm shall be given from the left side of a vehicle in the following manner:

(a) Left turn—hand and arm extended horizontally beyond the side of the vehicle.

(b) Right turn—hand and arm extended upward beyond the side of the vehicle, except that a bicyclist may extend the right hand and arm horizontally to the right side of the bicycle.

(c) Stop or sudden decrease of speed signal—hand and arm extended downward beyond the side of the vehicle.

Amended Ch. 153, Stats. 1963. Effective September 20, 1963.  
Amended Ch. 751, Stats. 1976. Effective January 1, 1977.

#### **Schoolbus Signal**

22112. The driver of a schoolbus shall operate the flashing red signal lamps required on the schoolbus at all times when children are unloading from the schoolbus to cross a highway or private road or when the schoolbus is stopped for the purpose of loading children who must cross a highway or private road to board the schoolbus, except that the signal lamps shall not be operated at any place where traffic is controlled by a traffic officer or official traffic control signal. The schoolbus signal lamps shall not be operated at any other time.

Amended Ch. 533, Stats. 1977. Effective January 1, 1978.  
Amended Ch. 813, Stats. 1981. Effective January 1, 1982.

#### **Local Authorities**

22113. This chapter does not prevent local authorities, by ordinance, from prohibiting the making of any turning movement by any vehicle at any intersection or between any designated intersections.

### CHAPTER 7. SPEED LAWS

#### Article 1. Generally

#### **Temporary Maximum Speed Limit**

22348. (a) Notwithstanding Section 22349, 22356, or any other provision of this chapter ( )<sup>1</sup>, no person shall drive a vehicle upon a highway at a speed greater than 55 miles per hour.

(b) Any person who ( )<sup>2</sup> drives a vehicle upon a highway at a speed greater than 100 miles per hour is guilty of an infraction punishable, as follows:

(1) Upon a first conviction of a violation of this subdivision, by a fine not to exceed five hundred dollars (\$500). The court may also suspend the privilege of the person to operate a motor vehicle for a period not to exceed 30 days pursuant to Section 13200.5.

(2) Upon a conviction under this subdivision of an offense which occurred within three years of a prior offense resulting in a conviction of an offense under this subdivision, by a fine of not to exceed five hundred dollars (\$500). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to subdivision (a) of Section 13355.

(3) Upon a conviction under this subdivision of an offense which occurred within five years of two or more prior offenses resulting in convictions of offenses under this subdivision, by a fine of not to exceed five hundred dollars (\$500). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to subdivision (b) of Section 13355.

(c) Any vehicle subject to Section ( )<sup>3</sup> 22406 shall be driven in a lane designated pursuant to Section 21655, or if no lane has been so designated, in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb. When overtaking and passing another vehicle proceeding in the same direction, ( )<sup>4</sup> the drivers shall use either the designated lane, the lane to the immediate left of the right-hand lane, or the right-hand lane for traffic as permitted under ( )<sup>3</sup> this code. If, however, specific lane or lanes have not been designated on a divided highway having four or more clearly marked lanes for traffic in one direction, any such vehicle may also be driven in the lane to the immediate left of ( )<sup>4</sup> the right-hand lane, unless otherwise prohibited under ( )<sup>3</sup> this code. This subdivision ( )<sup>5</sup> does not apply to a driver who is preparing for a left- or right-hand turn or who is in the process of entering into or exiting from a highway or to a driver who ( )<sup>6</sup> is required necessarily to drive in a lane other than the right-hand lane to continue on his intended route.

(d) This section shall remain in effect 120 days from the date that the 55-mile-per-hour national maximum speed limit, as specified in Section 154 of Title 23 of the United States Code, is repealed.

Added Ch. 1218, Stats. 1973. Operative January 1, 1974.

Amended Ch. 153, Stats. 1975. Effective June 28, 1975 by terms of an urgency clause.

Amended Ch. 217, Stats. 1978. Effective June 8, 1978 by terms of an urgency clause.

Amended Ch. 980, Stats. 1983. Effective January 1, 1984.

Amended Ch. 276, Stats. 1984. Effective January 1, 1985.

The 1984 amendment added the italicized material and at the point(s) indicated deleted the following:

<sup>1</sup> "to the contrary"

<sup>2</sup> "violates subdivision (a) by driving"

<sup>3</sup> "to the provisions of"

<sup>4</sup> "such"

<sup>5</sup> "shall"

<sup>6</sup> "must"

#### Basic Speed Law

22350. No person shall drive a vehicle upon a highway at a speed greater than is reasonable or prudent having due regard for weather, visibility, the traffic on, and the surface and width of, the highway, and in no event at a speed which endangers the safety of persons or property.

Amended Ch. 252, Stats. 1963. Effective September 20, 1963.

#### Speed Law Violations

22351. (a) The speed of any vehicle upon a highway not in excess of the limits specified in Section 22352 or established as authorized in this code is lawful unless clearly proved to be in violation of the basic speed law.

(b) The speed of any vehicle upon a highway in excess of the prima facie speed limits in Section 22352 or established as authorized in this code is prima facie unlawful unless the defendant establishes by competent evidence that the speed in excess of said limits did not constitute a violation of the basic speed law at the time, place and under the conditions then existing.

#### Prima Facie Speed Limits

22352. The prima facie limits are as follows and the same shall be applicable unless changed as authorized in this code and, if so changed, only when signs have been erected giving notice thereof:

(a) Fifteen miles per hour:

(1) When traversing a railway grade crossing, if during the last 100 feet of the approach to the crossing the driver does not have a clear and unobstructed view of the crossing and of any traffic on the railway for a distance of 400 feet in both directions along such railway. This subdivision does not apply in the case of any railway grade crossing where a human flagman is on duty or a clearly visible electrical or mechanical railway crossing signal device is installed but does not then indicate the immediate approach of a railway train or car.

(2) When traversing any intersection of highways if during the last 100 feet of his approach to the intersection the driver does not have a clear and unobstructed view of the intersection and of any traffic upon all of the highways entering the intersection for a distance of 100 feet along all such highways, except at an intersection protected by stop signs or yield right-of-way signs or controlled by official traffic control signals.

(3) On any alley.

(b) Twenty-five miles per hour:

(1) On any highway other than a state highway, in any business or residence district unless a different speed is determined by local authority under procedures set forth in this code.

(2) When passing a school building or the grounds thereof, contiguous to a highway and posted with a standard "SCHOOL" warning sign, while children are going to or leaving the school either during school hours or during the noon recess period. Such prima facie limit shall also apply when passing any school grounds which are not separated from the highway by a fence, gate or other physical barrier while the grounds are in use by children and the highway is posted with a standard "SCHOOL" warning sign.

Amended Ch. 1996, Stats. 1959. 1959. Effective September 18, 1959. Supersedes Ch. 11.

Amended Ch. 530, Stats. 1961. Effective September 15, 1961.

Amended Ch. 409, Stats. 1963. Effective September 20, 1963. Supersedes Ch. 397.

Amended Ch. 813, Stats. 1981. Effective January 1, 1982.

#### Decrease of State Highway Limits

22354. Whenever the Department of Transportation determines upon the basis of an engineering and traffic survey that the limit of 65 miles per hour is more than reasonable or safe upon any portion of a state highway where the limit of 65 miles is applicable, the department may determine and declare a prima facie speed limit of 60, 55, 50, 45, 40, 35, 30 or 25 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe, which declared prima facie speed limit shall be effective when appropriate signs giving notice thereof are erected upon the highway.

Amended Ch. 11, Stats. 1959. Effective September 18, 1959.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

#### Variable Speed Limits

22355. Whenever the Department of Transportation determines upon the basis of an engineering and traffic survey that the safe and orderly movement of traffic upon any state highway which is a freeway will be facilitated by the establishment of variable speed limits, the department may erect, regulate, and control signs upon the state highway which is a freeway, or any portion thereof, which signs shall be so designed as to permit display of different speed limits at various times of the day or night. Such signs need not conform to the standards and specifications established by regulations of the Department of Transportation pursuant to Section 21400, but shall be of sufficient size and clarity to give adequate notice of the applicable speed limit. The speed limit upon the freeway at a particular time and place shall be that which is then and there displayed upon such sign.

Amended Ch. 11, Stats. 1959. Effective September 18, 1959.

Amended Ch. 78, Stats. 1973. Effective January 1, 1974.

**Increase of Freeway Limit**

22356. Whenever the Department of Transportation, after consultation with the Department of the California Highway Patrol, determines upon the basis of an engineering and traffic survey on existing freeway segments, or upon the basis of ( )<sup>1</sup> appropriate design standards and projected traffic volumes in the case of newly constructed freeway segments, that a speed greater than 65 miles per hour would facilitate the orderly movement of vehicular traffic and would be reasonable and safe upon any state highway, or portion thereof, which is a freeway with full control of access and without crossings at grade otherwise subject to a maximum speed limit of 65 miles per hour, the ( )<sup>2</sup> Department of Transportation, with the approval of the Department of the California Highway Patrol, may declare a higher maximum speed of 70 miles per hour, and shall cause appropriate signs to be erected giving notice thereof.

No person shall drive a vehicle upon ( )<sup>3</sup> that highway at a speed greater than 70 miles per hour.

Repealed Ch. 11, Stats. 1959. Effective September 18, 1959.

Added Ch. 1735, Stats. 1963. Effective September 20, 1963.

Amended Ch. 78, Stats. 1967. Effective November 8, 1967.

Amended Ch. 632, Stats. 1969. Effective November 10, 1969. Supersedes Ch. 91 and Ch. 138.

Amended Ch. 545, Stats. 1975. Effective January 1, 1975.

Amended Ch. 579, Stats. 1984. Effective January 1, 1985.

The 1984 amendment added the italicized material and at the point(s) indicated deleted the following:

<sup>1</sup> "approaching"

<sup>2</sup> "Secretary of the Business and Transportation Agency"

<sup>3</sup> "such"

**Increase of Local Limits**

22357. Whenever a local authority determines upon the basis of an engineering and traffic survey that a speed greater than 25 miles per hour would facilitate the orderly movement of vehicular traffic and would be reasonable and safe upon any street other than a state highway otherwise subject to a prima facie limit of 25 miles per hour, the local authority may by ordinance determine and declare a prima facie speed limit of 30, 35, 40, 45, 50, 55, or 60 miles per hour or a maximum speed limit of 65 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe. The declared prima facie or maximum speed limit shall be effective when appropriate signs giving notice thereof are erected upon the street and shall not thereafter be revised except upon the basis of an engineering and traffic survey. The provisions of this section shall not apply in respect to any 25-mile-per-hour prima facie limit which is applicable when passing a school building or the grounds thereof.

Amended Ch. 11, Stats. 1959. Effective September 18, 1959.

Amended Ch. 631, Stats. 1969. Effective November 10, 1969.

**Decrease of Local Limits**

22358. Whenever a local authority determines upon the basis of an engineering and traffic survey that the limit of 65 miles per hour is more than is reasonable or safe upon any portion of any street other than a state highway where the limit of 65 miles per hour is applicable, the local authority may by ordinance determine and declare a prima facie speed limit of 60, 55, 50, 45, 40, 35, 30 or 25 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe, which declared prima facie limit shall be effective when appropriate signs giving notice thereof are erected upon the street.

Amended Ch. 11, Stats. 1959. Effective September 18, 1959.

**Decrease on Narrow Street**

22358.3. Whenever a local authority determines upon the basis of an engineering and traffic survey that the prima facie speed limit of 25 miles per hour in a business or residence district or in a public park on any street having a roadway not exceeding 25 feet in width, other than a state highway, is more than is reasonable or safe, the local authority may, by ordinance or

resolution determine and declare a prima facie speed limit of 20 or 15 miles per hour, whichever is found most appropriate and is reasonable and safe. The declared prima facie limit shall be effective when appropriate signs giving notice thereof are erected upon the street.

Added Ch. 1614, Stats. 1965. Effective September 17, 1965.

Amended Ch. 1095, Stats. 1972. Effective March 7, 1973. Supersedes Ch. 372.

**Decrease of Local Limits Near Schools**

22358.4. Whenever a local authority determines upon the basis of an engineering and traffic survey that the prima facie speed limit of 25 miles per hour established by paragraph (2) or subdivision (b) of Section 22352 is more than is reasonable or safe, the local authority may, by ordinance resolution, determine and declare a prima facie speed limit of 20 or 15 miles per hour, whichever is justified as the appropriate speed limit by survey. No such ordinance or resolution shall be effective until appropriate signs giving notice thereof are erected upon the highway nor, in the case of a state highway, until such ordinance is approved by the Department of Transportation and such signs are erected upon the highway.

Added Ch. 102, Stats. 1974. Effective January 1, 1975.

**Downward Speed Zoning**

22358.5. It is the intent of the Legislature that physical conditions such as width, curvature, grade and surface conditions, or any other condition readily apparent to a driver, in the absence of other factors, would not require special downward speed zoning, as the basic rule of Section 22350 is sufficient regulation as to such conditions.

Added Ch. 11, Stats. 1959. Effective September 18, 1959.

**Boundary Line Streets**

22359. With respect to boundary line streets and highways where portions thereof are within different jurisdictions, no ordinance adopted under Sections 22357 and 22358 shall be effective as to any such portion until all authorities having jurisdiction of the portions of the street concerned have approved the same. This section shall not apply in the case of boundary line streets consisting of separate roadways within different jurisdictions.

Amended Ch. 209, Stats. 1963. Effective April 29, 1963.

**Linking Districts on Local Highways**

22360. Whenever a local authority determines upon the basis of an engineering and traffic survey that the limit of 65 miles per hour is more than is reasonable or safe upon any portion of a highway other than a state highway for a distance of not exceeding 2,000 feet in length between districts, either business or residence, the local authority may determine and declare a reasonable and safe prima facie limit thereon lower than 65 miles per hour, but not less than 25 miles per hour, which declared prima facie speed limit shall be effective when appropriate signs giving notice thereof are erected upon said street or highway.

Amended Ch. 11, Stats. 1959. Effective September 18, 1959.

**Multiple-Lane Highways**

22361. On multiple-lane highways with two or more separate roadways different prima facie speed limits may be established for different roadways under any of the procedures specified in Sections 22354 to 22359, inclusive.

Amended Ch. 209, Stats. 1963. Effective April 29, 1963.

**Speed Limit Where Persons at Work**

22362. It is prima facie a violation of the basic speed law for any person to operate a vehicle in excess of the posted speed limit upon any portion of a highway where officers or employees of the agency having jurisdiction of the same, or any contractor of the agency or his employees, are at work on the roadway or within the right-of-way so close thereto as to be endangered by passing traffic. This section applies only when appropriate signs,

indicating the limits of the restricted zone, and the speed limit applicable therein, are placed by such agency within 400 feet of each end of such zone. The signs shall display the figures indicating the applicable limit, which shall not be less than 25 miles per hour, and shall indicate the purpose of the speed restriction. Nothing in this section shall be deemed to relieve any operator of a vehicle from complying with the basic speed law.

Amended Ch. 515, Stats. 1970. Effective November 23, 1970.

#### **Restrictions Because of Snow or Ice Conditions**

22363. Notwithstanding any speed limit that may be in effect upon the highway, the Department of Transportation in respect to state highways, or a local authority with respect to highways under its jurisdiction, may determine and declare a prima facie speed limit of 40, 35, 30, or 25 miles per hour, whichever is found most appropriate and is reasonable and safe based on the prevailing snow or ice conditions upon such highway or any portion thereof. Signs may be placed and removed as snow or ice conditions vary.

Amended Ch. 515, Stats. 1970. Effective November 23, 1970.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

#### **Lane Speed Limits**

22364. Whenever the Department of Transportation determines, upon the basis of an engineering and traffic survey, that the safe and orderly movement of traffic upon any state highway will be facilitated by the establishment of different speed limits for the various lanes of traffic, the department may place signs upon the state highway, or any portion thereof. The signs shall designate the speed limits for each of the lanes of traffic.

Added Ch. 1542, Stats. 1965. Effective September 17, 1965.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

Amended Ch. 681, Stats. 1982. Effective January 1, 1983.

### Article 2. Other Speed Laws

#### **Minimum Speed Law**

22400. (a) No person shall drive upon a highway at such a slow speed as to impede or block the normal and reasonable movement of traffic, unless the reduced speed is necessary for safe operation, because of a grade, or in compliance with law.

No person shall bring a vehicle to a complete stop upon a highway so as to impede or block the normal and reasonable movement of traffic unless the stop is necessary for safe operation or in compliance with law.

(b) Whenever the Department of Transportation determines on the basis of an engineering and traffic survey that slow speeds on any part of a state highway consistently impede the normal and reasonable movement of traffic, the department may determine and declare a minimum speed limit below which no person shall drive a vehicle, except when necessary for safe operation or in compliance with law, when appropriate signs giving notice thereof are erected along the part of the highway for which a minimum speed limit is established.

Subdivision (b) of this section shall apply only to vehicles subject to registration.

Amended Ch. 1304, Stats. 1959. Effective September 18, 1959.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

Amended Ch. 364, Stats. 1979. Effective January 1, 1980.

#### **Traffic Signals**

22401. Local authorities in timing traffic signals may so regulate the timing thereof as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speed otherwise applicable under this code.

#### **Bridges and Structures**

22402. The Department of Transportation may, in the manner provided in Section 22404 determine the maximum speed, not less than five miles per hour, which can be maintained with safety to any bridge, elevated structure, tube, or tunnel on a state highway. Said department may also make a determination with reference to any other highway, upon receiving a request therefor from the board of supervisors or road commissioner of the county, the governing body of the local authority having jurisdiction over the bridge, elevated structure, tube, or tunnel.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

#### **Local Bridges and Structures**

22403. Any local authority may, in the manner provided in Section 22404, determine the maximum speed, not less than five miles per hour, which can be maintained with safety to any bridge, elevated structure, tube, or tunnel under its jurisdiction, or may request the Department of Transportation to make such determination.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

#### **Revision of Speed Limit on Bridges and Structures**

22404. The Department of Transportation or local authority making a determination of the maximum safe speed upon a bridge, elevated structure, tube, or tunnel shall first make an engineering investigation and shall hold a public hearing.

Notice of the time and place of the public hearing shall be posted upon the bridge, elevated structure, tube, or tunnel at least five days before the date fixed for the hearing. Upon the basis of the investigation and all evidence presented at the hearing, the department or local authority shall determine by order in writing the maximum speed which can be maintained with safety to the bridge, elevated structure, tube or tunnel. Thereupon, the authority having jurisdiction over the bridge, elevated structure, tube, or tunnel shall erect and maintain suitable signs specifying the maximum speed so determined at a distance of not more than 500 feet from each end of the bridge, elevated structure, tube, tunnel, or any approach thereto.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

#### **Violations on Bridges and Structures**

22405. (a) No person shall drive a vehicle on any bridge, elevated structure, tube, or tunnel constituting a part of a highway, at a speed which is greater than the maximum speed which can be maintained with safety to such structure.

(b) Upon the trial of any person charged with a violation of this section with respect to a sign erected under Section 22404, proof of the determination of the maximum speed by the Department of Transportation or local authority and the erection and maintenance of the speed signs shall constitute prima facie evidence of the maximum speed which can be maintained with safety to the bridge, elevated structure, tube, or tunnel.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

#### **Maximum Speed for Designated Vehicles**

22406. No person shall drive any of the following vehicles on a highway at a speed in excess of 55 miles per hour:

(a) A motortruck or truck tractor having three or more axles or any motortruck or truck tractor drawing any other vehicle.

(b) A passenger vehicle or bus drawing any other vehicle.

(c) A schoolbus transporting any school pupil.

(d) A farm labor vehicle when transporting passengers.

(e) A vehicle transporting explosives.

Amended Ch. 2134, Stats. 1959. Effective September 18, 1959.

Amended Ch. 62, Stats. 1961. Effective September 15, 1961.

Amended Ch. 376, Stats. 1963. Effective September 20, 1963.

Repealed and added Ch. 78, Stats. 1967. Effective November 8, 1967.

Amended Ch. 678, Stats. 1980. Effective January 1, 1981.

**Decreasing Truck Speed Limit**

22407. Whenever the Department of Transportation or local authority determines upon the basis of engineering studies and a traffic survey that the speed of 55 miles per hour is more than is reasonable or safe for vehicles mentioned in subdivision (a) of Section 22406 which have a manufacturer's gross vehicle weight rating of 10,000 pounds or more, in descending a grade upon any portion of a highway; the department or local authority, with respect to highways under their respective jurisdiction, may determine and declare a speed limit of 50, 45, 40, 35, 30, 25 or 20 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe, which declared speed limit shall be effective for such vehicles when appropriate signs giving notice thereof are erected upon the highway.

Amended Ch. 1210, Stats. 1965. Effective September 17, 1965. Supersedes Ch. 184.

Amended Ch. 78, Stats. 1967. Effective November 8, 1967.

Amended Ch. 82, Stats. 1973. Effective January 1, 1974.

**Solid Tire**

22409. No person shall operate any vehicle equipped with any solid tire when such vehicle has a gross weight as set forth in the following table at any speed in excess of the speed set forth opposite such gross weight:

When gross weight of vehicle and load is:	Maximum speed in miles per hour:
10,000 lbs. or more, but less than 16,000 lbs. ....	25
16,000 lbs. or more but less than 22,000 lbs. ....	15
22,000 lbs. or more .....	12

**Metal Tires**

22410. No person shall operate any vehicle equipped with any metal tire in contact with the surface of the highway at a speed in excess of six miles per hour.

**Decreasing Speed Limit on Grades**

22413. Whenever a local authority determines upon the basis of an engineering and traffic survey that the prima facie limit of 25 miles per hour is more than is reasonable and safe on any portion of a street having a grade in excess of 10 percent, the local authority may by ordinance determine and declare a maximum limit of 20 or 15 miles per hour, whichever is found most appropriate and is reasonable and safe. The declared maximum speed shall be effective when appropriate signs giving notice thereof are erected upon the street.

Added Ch. 318, Stats. 1959.

**CHAPTER 8. SPECIAL STOPS REQUIRED**

**Stop Requirements**

22450. The driver of any vehicle approaching a stop sign at the entrance to, or within, an intersection, or railroad grade crossing shall stop at a limit line, if marked, otherwise before entering the crosswalk on the near side of the intersection.

If there is no limit line or crosswalk, the driver shall stop at the entrance to the intersecting roadway or railroad grade crossing.

Amended Ch. 364, Stats. 1969. Effective November 10, 1969.

**Stops for Train Signals**

22451. (a) The driver of any vehicle approaching a railroad grade crossing shall stop not less than 15 feet from the nearest rail and shall not proceed until he can do so safely, whenever the following conditions exist:

prima facie evidence that such speed is not reasonable, but the fact that the speed of a vehicle is lower than such limits shall not relieve the operator from the duty to decrease speed when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(b) Any person who operates a motor vehicle at a greater rate of speed than is reasonable, other than speeding, as provided for in section 14-219, shall commit the infraction of traveling unreasonably fast.

(P.A. 75-577, S. 7, 126; P.A. 77-103; 77-340, S. 4; P.A. 84-429, S. 65.)

History: P.A. 77-103 clarified proviso re effective date of speed limits; P.A. 77-340 replaced first reference to parking areas for ten or more cars with parking areas as defined in Sec. 14-219a and specified infraction in Subsec. (b) as infraction "of traveling unreasonably fast"; P.A. 84-429 made technical changes for statutory consistency.

See chapter 881b.

Cited. 181 C. 515, 516, 519.

Cited. 38 CS 426, 431, 434, 435, 445. Cited. 39 CS 313, 314.

Sec. 14-219. Speeding. Absolute limits. (a) No person shall operate any motor vehicle (1) upon any highway, road or any parking area for ten cars or more, at such a rate of speed as to endanger the life of any occupant of such motor vehicle, but not the life of any other person than such an occupant; or (2) at a rate of speed greater than fifty-five miles per hour upon any highway.

(b) Any person who operates a motor vehicle (1) on a multiple lane, limited access highway at a rate of speed greater than fifty-five miles per hour but not greater than seventy miles per hour or (2) on any other highway at a rate of speed greater than fifty-five miles per hour but not greater than sixty miles per hour, shall commit an infraction, provided any such person operating a truck, as defined in section 14-260n, shall have committed a violation and shall be fined not less than one hundred dollars nor more than one hundred fifty dollars.

(c) Any person who violates any provision of subdivision (1) of subsection (a) of this section or who operates a motor vehicle (1) on a multiple lane, limited access highway at a rate of speed greater than seventy miles per hour or (2) on any other highway at a rate of speed greater than sixty miles per hour shall be fined not less than one hundred dollars nor more than one hundred fifty dollars, provided any such person operating a truck, as defined in section 14-260n, shall be fined not less than one hundred fifty dollars nor more than two hundred dollars.

(d) No person shall be subject to prosecution for a violation of both subsection (a) of this section and subsection (a) of section 14-222 because of the same offense.

(1949 Rev., S. 2407; 1961, P.A. 379, S. 2; 517, S. 15; 1963, P.A. 289; 595; February, 1965, P.A. 92; P.A. 73-253, S. 1; P.A. 75-577, 6, 126; P.A. 79-609, S. 1; P.A. 80-276, S. 1, 6; P.A. 84-372, S. 5, 9.)

History: 1961 acts amended Subsec. (a) to add parking areas for ten cars or more and deleted exception for Merritt Parkway from first sentence of Subsec. (b); 1963 acts established maximum speed limits in Subsec. (a)(2) and added mads of specially chartered municipal associations; 1965 act added district roads to Subsec. (a); P.A. 73-253 prohibited operation of vehicle at greater than reasonable speed on school property; P.A. 75-577 deleted provisions of Subsec. (a) re operation at greater than reasonable speed, deleted Subsec. (b) re determination of speed limits and relettered former Subsec. (c) as Subsec. (b); P.A. 79-609 reduced speed limit from seventy to fifty-five miles per hour with limit being generally applicable, special limit provisions were deleted; P.A. 80-276 inserted new Subsec. (b) re offenses deemed infractions and expanded Subsec. (c) re speeding offenses and replaced one hundred dollar maximum fine with one hundred dollar minimum fine and one hundred fifty dollar maximum fine; P.A. 84-372 established higher penalties for person operating a truck.

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Motor Vehicle Laws

more than two feet above the road at a distance of thirty feet from the vehicle, except that such a spot light may be used for the purpose of reading signs, and as an auxiliary light in cases of necessity when the other lights required by law fail to operate.

No person, except a duly authorized person driving an emergency fire vehicle, shall operate a motor vehicle equipped with metal studded tires upon a public way between May the first and November the first; provided, however, the registrar may authorize the use of such tires before November the first, if weather conditions require the use thereof. Whoever violates the provisions of this paragraph shall be punished by a fine of not more than fifty dollars.

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§16A. Stopped motor vehicles.

No person shall cause, suffer, allow or permit the unnecessary operation of the engine of a motor vehicle while said vehicle is stopped for a foreseeable period of time in excess of five minutes. This section shall not apply to (a) vehicles being serviced, provided that operation of the engine is essential to the proper repair thereof, or (b) vehicles engaged in the delivery or acceptance of goods, wares, or merchandise for which engine assisted power is necessary and substitute alternate means cannot be made available, or (c) vehicles engaged in an operation for which the engine power is necessary for an associate power need other than movement and substitute alternate power means cannot be made available provided that such operation does not cause or contribute to a condition of air pollution. Whoever violates any provision of this section shall be punished by a fine of not more than one hundred dollars for the first offense, nor more than five hundred dollars for each succeeding offense.

§17. Speed limits.

No person operating a motor vehicle on any way shall run it at a rate of speed greater than is reasonable and proper, having regard to traffic and the use of the way and the safety of the public. Unless a way is otherwise posted in accordance with the provisions of section eighteen, it shall be prima facie evidence of a rate of speed greater

## Motor Vehicles

90§18

than is reasonable and proper as aforesaid (1) if a motor vehicle is operated on a divided highway outside a thickly settled or business district at a rate of speed exceeding fifty miles per hour for a distance of a quarter of a mile, or (2) on any other way outside a thickly settled or business district at a rate of speed exceeding forty miles per hour for a distance of a quarter of a mile, or (3) inside a thickly settled or business district at a rate of speed exceeding thirty miles per hour for a distance of one-eighth of a mile, or (4) within a school zone established in conformance with standards of the department of public works at a rate of speed exceeding twenty miles per hour. Operation of a motor vehicle at a speed in excess of fifteen miles per hour within one-tenth of a mile of a vehicle used in hawking or peddling merchandise and which displays flashing amber lights shall likewise be prima facie evidence of a rate of speed greater than is reasonable and proper. If a speed limit has been duly established upon any way, in accordance with the provisions of said section, operation of a motor vehicle at a rate of speed in excess of such limit shall be prima facie evidence that such speed is greater than is reasonable and proper; but, notwithstanding such establishment of a speed limit, every person operating a motor vehicle shall decrease the speed of the same when a special hazard exists with respect to pedestrians or other traffic, or by reason of weather or highway conditions. Except on a limited access highway, no person shall operate a school bus at a rate of speed exceeding forty miles per hour, while actually engaged in carrying school children. (*Chgd. eff. 6/17/78; L. 1978, chap. 171.*)

### \*§18. Special regulations as to speed.

The city council, the traffic and parking commission of the city of Boston, the selectmen, park commissioners, a traffic commission or traffic director, or the department, on ways within their control, may make special regulations as to the speed of motor vehicles and as to the use of such vehicles upon particular ways, and may prohibit the use of such vehicles altogether on certain ways; provided, that except in the case of a speed regulation no such special regulation shall be effective unless it shall have been published in one or more newspapers, if there be any, published in the town in which the way is situated otherwise in one or more newspapers published in the county in which the town is situated; nor until after the department, and in the case of a speed regulation the department and the registrar, acting jointly, (*Chgd. by L. 1984, chap. 84, eff. 9/13/84.*)

(rev.85)

§ 46.1-193

POLICE, CRIMES AND OFFENSES, ETC.

§ 46.1-193

§ 46.1-193. **Maximum and minimum speed limits.** — The maximum and minimum speed limits on highways of this State shall be as hereinafter prescribed.

(1) **Maximum limits.**

(a) Fifty-five miles per hour on the Interstate System of Highways or other limited access highways with divided roadways.

(b) Fifty-five miles per hour on nonlimited access highways having four or more lanes and on all State primary highways.

(c) Fifty-five miles per hour on highways not included in (a) or (b) if the vehicle is a passenger motor vehicle, passenger bus, United States post office bus, pickup or panel truck or a motorcycle; and forty-five miles per hour on such highways if the vehicle is a truck, road tractor, ~~tractor truck~~, or combination of vehicles designed to transport property, or is a motor vehicle being used to tow a vehicle designed for self-propulsion, or a house trailer.

(d) Thirty-five miles per hour or the minimum speed allowable, whichever is greater, on any highway other than an interstate highway, if the vehicle is being used as a school bus carrying children, and forty-five miles per hour on interstate highways; provided, however, that for any such vehicle which neither takes on nor discharges children between its point of origin and point of destination, the speed limit shall be forty-five miles per hour.

(e) Forty-five miles per hour on any highway if the vehicle or combination of vehicles is operating under a special permit issued by the State Highway and Transportation Commission in accordance with §§ 46.1-330 and 46.1-343. The State Highway and Transportation Commission may, however, prescribe a speed limit of less than forty-five miles per hour on any permit issued in accordance with §§ 46.1-330 and 46.1-343.

(f) Twenty-five miles per hour between portable signs, tilt-over signs, or fixed blinking signs placed in or along any highway bearing the word "school" or "school crossing." Such word or words shall indicate that school children are present in the vicinity. Any signs erected under this section shall be placed not more than six hundred feet from the limits of the school property or crossing in the vicinity of the school, which is used by children going to and from the school; provided that "school crossing" signs may be placed in any location if the Department of Highways and Transportation or the council of the city or town or the board of supervisors of a county maintaining its own system of secondary roads approves the said crossing for such signs. If the portion of the highway to be posted is within the limits of a city or town, such portable signs shall be furnished and delivered by such city or town. If the portion of highway to be posted is outside the limits of a city or town such portable signs shall be furnished and delivered by the State Highways and Transportation Department. It shall be the duty of the principal or chief administrative officer of each school or some responsible person designated by the school board, preferably not a classroom teacher, to place such portable signs in the highway at a point not more than six hundred feet from the limits of the school property and remove such signs when their presence is no longer required by this subsection. Such portable signs, tilt-over signs, or fixed blinking signs shall be placed in a position plainly visible to vehicular traffic approaching from either direction but shall not be placed so as to obstruct the roadway. Such portable signs, tilt-over signs, or blinking signals shall be in a position, or be turned on, for thirty minutes preceding regular school hours and for thirty minutes thereafter and during such other times as the presence of children on such school property or going to and from school reasonably requires a special warning to motorists. Provided, however, that the governing body of any city or town may, if the portion of the highway to be posted is within the limits of such city or town, increase or decrease the speed limit provided in this subsection only after justification for such increase or decrease has been shown by an

engineering and traffic investigation, and provided further that no such increase or decrease in speed limit shall be effective unless such increased or decreased speed limit is conspicuously posted upon the portable signs, tilt-over signs, or fixed blinking signs required by this subsection.

(g) Twenty-five miles per hour on highways in a business or residential district, except upon interstate or other limited access highways with divided roadways.

(h) Thirty-five miles per hour on highways in any city or town, except upon interstate or other limited access highways with divided roadways and except in business or residence districts.

(i) Notwithstanding the provisions of subdivisions (a), (b) and (c) of this subsection, the speed limits for passenger motor vehicles while towing utility, camping or boat trailers not exceeding an actual gross weight of twenty-five hundred pounds shall be the same as that for passenger motor vehicles.

(2) Minimum speed limits.

(a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(b) Whenever the State Highway and Transportation Commissioner or local authorities within their respective jurisdictions determine on the basis of a traffic engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the Commissioner or such local authority may determine and declare a minimum speed limit to be set forth on signs posted on such highway below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

(3) Notwithstanding the foregoing provisions, the State Highway and Transportation Commissioner or other authority having jurisdiction over highways may decrease the speed limits set forth in subsections (1) (a) through (1) (c) of this section and may increase or decrease the speed limits set forth in subsections (1) (f) through (1) (h) of this section on any highway under its jurisdiction; and may establish differentiated speed limits for daytime and nighttime by decreasing for nighttime driving the speed limits set forth in subsections (1) (a) through (1) (c) of this section and by increasing for daytime or decreasing for nighttime the speed limits set forth in subsections (1) (f) through (1) (h) of this section on any highway under its jurisdiction. Such increased or decreased speed limits and such differentiated speed limits for daytime and nighttime driving shall be effective only when prescribed after a traffic engineering and traffic investigation and when indicated upon the highway by signs; provided, the increased or decreased speed limits over highways under the control of the State Highway and Transportation Commissioner shall be effective only when prescribed in writing by the Highway and Transportation Commissioner and kept on file in the Central Office of the Department of Highways and Transportation.

Any person violating this section shall be guilty of a traffic infraction and upon conviction shall be punished as provided in § 46.1-16.01. (Code 1950, § 46-212; 1950, p. 881; 1952, c. 666; 1954, c. 244; 1956, c. 364; 1958, c. 541; 1960, c. 153; 1962, c. 307; 1964, cc. 118, 408; 1966, c. 85; 1968, c. 641; 1972, cc. 89, 546, 553, 608; 1974, c. 528; 1977, c. 577; 1978, c. 605; 1980, c. 347.)

**Cross references.** — For definition of business district, see § 46.1-1 (1). For definition of residence district, see § 46.1-1 (24). As to additional penalty when violation occurs while transporting explosives or inflammable gas or liquid, see § 46.1-424.

**This section applies to United States employee.** — The provisions of this section, fixing the speed limit for automobiles on public highways, must be obeyed by a United States employee while engaged in transporting United States mail in a United States owned automo-

# Indiana

## 139. Reckless driving

IC 9-4-1-56.1

A person operating a vehicle who recklessly:

- (1) drives at such an unreasonably high rate of speed, or at such an unreasonably low rate of speed, under the circumstances, as to endanger the safety or the property of others, or as to block the proper flow of traffic;
- (2) passes another vehicle from the rear while on a slope or on a curve where vision is obstructed for a distance of less than five hundred (500) feet ahead;
- (3) drives in and out of a line of traffic, except as otherwise permitted; or
- (4) speeds up or refuses to give one-half (1/2) of the roadway to a driver overtaking and desiring to pass;

commits a Class B misdemeanor; and, if the offense results in damage to the property of another person, the court shall recommend the suspension of the current driving license of the person for a fixed period of not less than thirty (30) days nor more than one (1) year.

## 140. Failure to dim headlights

IC 9-4-1-56.2

A person operating a vehicle who fails to dim bright or blinding lights when meeting another vehicle or pedestrian commits a Class B infraction.

## 141. Basic speed law

IC 9-4-1-57

(a) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so restricted as may be necessary to avoid colliding with any person, or vehicle or other conveyance on or near, or entering a highway in compliance with legal requirements and with the duty of all persons to use due care.

(b) Except when a special hazard exists that requires lower speed for compliance with subsection (a), the limits specified in this section or established as authorized by this section shall be maximum lawful speeds, and no person shall drive a vehicle on a highway at a speed in excess of such maximum limits:

- (1) Thirty (30) miles per hour in any urban district.
- (2) Fifty-five (55) miles per hour on the interstate defense network of dual highways and in other locations.

(c) The maximum speed limits set forth in this section may be altered as authorized in sections 58 and 61 of this chapter.

(d) The driver of every vehicle shall, consistent with the requirements in subsection (a), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(e) In addition to the other limitations in this section, in section 58, and in any oversize vehicle permit issued under IC 9-8-1 and IC 9-8-1.6, no vehicle that exceeds:

- (1) a width of eight (8) feet, six (6) inches;
- (2) a height of thirteen (13) feet, six (6) inches; or
- (3) a length of eighty (80) feet;

may be operated at a speed greater than forty-five (45) miles per hour.

## 142. Speed; local authorities, adjustment of limits

IC 9-4-1-58

(a) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering and traffic investigation that the maximum speed permitted under this chapter is greater or less than reasonable and safe under the conditions found to exist on a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which:

1. decreases the limit within urban districts but not to less than twenty (20) miles per hour; or

2. increases the limit within an urban district but not to more than sixty (60) miles per hour during daytime and fifty (50) miles per hour during nighttime; or
3. decreases the limit outside an urban district, but not to less than thirty-five (35) miles per hour.

(b) Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed for all local streets and shall declare a reasonable and safe maximum speed permitted under this chapter for an urban district.

(c) Any altered limit established as hereinabove authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected on such street or highway.

(d) Local authorities shall not have power to alter speed limits on any highway or extension thereof in the state highway system except that incorporated cities and towns may establish speed limits on state highways upon which a school is located: Provided, That such limit shall only be valid if (1) the limit is not less than twenty (20) miles per hour, (2) the limit is imposed only in the immediate vicinity of the school, (3) children are present, (4) if the speed zone is properly signed, and (5) the department of highways has been notified of the limit imposed, by registered or certified mail.

#### 143. Minimum speed law—operating trucks on interstate

IC 9-4-1-59

Sec. 59. (a) No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with the law. Any person who is driving at such slow speed and under such circumstances that three (3) or more other vehicles are blocked and can not pass on the left around this vehicle, shall give right-of-way to such vehicle by pulling off to the right of the right lane at the earliest reasonable opportunity and allowing the blocked vehicles to pass.

(b) Whenever the department of highways or local authorities within their respective jurisdictions determine, on the basis of an engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the respective department of highways or such local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law. A limit so determined and declared by appropriate resolution, regulation or ordinance becomes effective when appropriate sign or signals giving notice of the limit of speed are erected along such part of a highway.

(c) All vehicles that travel at a speed less than the established maximum shall travel in the right lanes to provide for better flow of traffic on interstate defense network of dual highways.

(d) No person shall operate a truck, truck tractor, road tractor, trailer, semitrailer or pole trailer on the interstate defense network of dual highways in any lane except the far right lane, provided that, such vehicles may use the left lane for the purpose of passing a slower moving vehicle, entering or leaving the highway, or where a special hazard exists that requires for safety reasons, the use of an alternate lane.

(e) No person shall operate a truck, truck tractor, road tractor, trailer, semitrailer or pole trailer on any interstate highway consisting of three (3) or more lanes in one (1) direction, in any lane other than the two (2) far right lanes, provided that such vehicles may use an alternate lane where necessary to enter or leave a highway or where a special hazard exists that requires, for safety reasons, the use of an alternate lane.

(f) For the purpose of enforcing this section, the term "trailer" as used in subsections (d) and (e) shall mean the combination of any motor vehicle towing another vehicle or trailer.

(g) The department of highways shall complete the placement of signs or signals on all appropriate roadways no later than January 1, 1976.

**144. Speed; state highways; maximum limits** IC 9-4-1-61

Whenever the department of highways shall determine on the basis of an engineering and traffic investigation that any maximum speed heretofore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or on any part of the state highway system, the department of highways may determine and declare a reasonable and safe maximum limit thereon, which shall be effective when appropriate signs giving notice thereof are erected. Such a maximum speed limit may be declared to be effective at all times or at such times as are indicated on said signs; and differing limits may be established for differing times of day, different types of vehicles, varying weather conditions, and other factors bearing on safespeeds, which shall be effective when posted on appropriate fixed or variable signs.

**145. Motorized bicycles (mopeds)—operation of** IC 9-4-1-61.1

A motorized bicycle may not be operated by any person under the age of fifteen (15) years, and may not be operated on the interstate defense network of highways or on sidewalks.

**146. Speed—form of summons** IC 9-4-1-62

(a) In every charge of violation of any speed regulation in this act, the complaint or affidavit, and the summons, warrant or notice to appear, shall specify the speed at which the defendant is alleged to have driven, and the prima facie or fixed speed applicable within the district or at the location.

(b) The provisions of this act declaring or providing for fixed and prima facie speed limitations shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of the damage alleged.

**147. Driving left of center—when permitted** IC 9-4-1-63

Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
2. When the right half of a roadway is closed to traffic under construction or repair;
3. Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon; or
4. Upon a roadway designated and sign-posted for one-way traffic.
5. Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place under the conditions then existing shall be driven in the right-hand lane then available for traffic or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

**148. Trucks; lane restrictions; state highways** IC 9-4-1-64

(a) As used in this section, the term "truck" shall mean any motor vehicle designed, used or maintained primarily for the transportation of property. The term "truck" shall include any motor vehicle designed and used primarily for drawing another vehicle and so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn, and any motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

(b) The department of highways is hereby authorized and empowered to restrict, by rule or regulation, the operation of any truck to a certain lane or lanes

Sec. 291C-101 MOTOR AND OTHER VEHICLES

every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic, or by reason of weather or highway conditions. [L 1971, c 150, pt of §1; am L 1977, c 8, §1]

Amendment Note

L 1977 rephrased first sentence and substituted "curve" for "curb".

Case Notes

For conviction, there must be evidence that the speed was unreasonable under the actual and potential hazards and conditions then existing. 1 H. App. 403, 619 P.2d 1102.

§291C-102 Noncompliance with speed limit prohibited. (a) No person shall drive a vehicle at a speed greater than a maximum speed limit and no person shall drive a motor vehicle at a speed less than a minimum speed limit established by county ordinance.

(b) The director of transportation with respect to highways under his jurisdiction may place signs establishing maximum speed limits or minimum speed limits. Such signs shall be official signs and no person shall drive a vehicle at a speed greater than a maximum speed limit and no person shall drive a motor vehicle at a speed less than a minimum speed limit stated on such signs. [L 1971, c 150, pt of §1; am L 1984, c 273, §8]

Amendment Note

L 1984 amended section generally.

Case Notes

In prosecution under this section, prosecutor has burden of proving that speed limit was established in one of ways specified in this section. 57 H. 277, 554 P.2d 767.

§291C-103 Racing on highways. (a) Except as provided in section 291C-149, no person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, and no person shall in any manner participate in any such race, competition, contest, test, or exhibition.

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[am L 1984, c 273, §9]

Revision Note

Only the subsection amended is included in this Supplement.

Amendment Note

L 1984 amended subsection (a).

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the forwarding court exercising jurisdiction shall immediately notify the Department of Public Safety thereof. Upon such notification and payment of an additional twenty-five dollars to the Department of Public Safety, the operator's license of the arrested person shall be renewed or reissued for the purpose of this Section. One-half of the additional fine imposed by this Section shall be forwarded by the Department of Public Safety to the forwarding court exercising jurisdiction, to be deposited in that court's criminal court fund and to be used in the same manner as the other sums deposited in said fund.

C. Repealed by Acts 1984, No. 763, § 1.

Added by Acts 1978, No. 301, § 2. Amended by Acts 1980, No. 779, § 1.

1980 Amendment: Added the "A." designation subsec. A, and in that subsection substituted "on" for "upon" before "his written", substituted "fee" for "fine" following "fifty dollar", and substituted "had" for "has" before "hoored"; in subsec. B, substituted "dollars" for "dollar fine", and added "to be deposited in that court's criminal court fund and to be used in the same manner as the other sums deposited in said fund"; and added subsec. C.

1984 Legislation: Acts 1984, No. 763, § 1 repealed subsec. C which read: "C. The provisions of this Section shall not apply in Orleans Parish."

Library References

- Automobiles ¶144.1(1).
Bail ¶40, 75.
C.J.S. Motor Vehicles §§ 164.16, 164.17.
C.J.S. Bail §§ 32, 81, 82.

§ 58. Reasonable and proper control of vehicles

It shall be unlawful for the driver of any vehicle to negligently fail to maintain reasonable and proper control of said vehicle while operating the vehicle on the public roads of this state.

Added by Acts 1972, No. 567, § 1.

Library References

- Automobiles ¶331.
C.J.S. Motor Vehicles § 641 et seq.

Notes of Decisions

- Arrest 4
Construction and application 1
Guilty plea 2
Negligence 3
Validity 4

A. Validity

Person of ordinary reasonable intelligence can be expected to know what is "reasonable" and "proper" in control of his vehicle while operating it on public road in conforming his conduct thereto; therefore, this section proscribing failure to maintain reasonable and proper control of vehicle provided fair notice of prohibited conduct and was not unconstitutionally vague on theory that words "reasonable" and "proper" were vague and indefinite. State v. Jackson, Sup.1981, 404 So.2d 952.

1. Construction and application

Finding of negligence on part of driver of vehicle who was traveling at approximately 55 miles per hour in rainstorm and who subsequently pleaded guilty to failure to maintain reasonable and proper control of vehicle was not erro-

neous. Gregorie v. Hartford Acc. & Indem. Co., App.1977, 348 So.2d 186, writ denied 350 So.2d 1210, 1213.

2. Guilty plea

Although driver's guilty plea to failure to maintain reasonable and proper control of vehicle was not conclusive evidence of negligence, it was competent evidence of such negligence. Gregorie v. Hartford Acc. & Indem. Co., App. 1977, 348 So.2d 186, writ denied 350 So.2d 1210, 1213.

3. Negligence

Cab driver who violated at least two motorist's statutes in striking pedestrian, by failing to maintain control of vehicle and by driving on left side of roadway in marked no passing zone, was negligent, and such negligence was legal cause of pedestrian's injuries. Chiasson v. Whitney, App.1983, 427 So.2d 470, writ denied 433 So.2d 179, 180.

4. Arrest

Where arresting officer went to scene of accident and saw overturned vehicle, officer was informed by plaintiff's parents and sister that plaintiff was the owner and operator of vehicle, and that he had been operating vehicle when it went into the ditch, officer informed plaintiff's relatives that he needed to speak to plaintiff, but plaintiff never attempted to contact him, officer had probable cause to believe that plaintiff had committed the offense of failure to maintain

control, and officer could not be held liable for false arrest. Richard v. State, Through Dept of Public Safety, App.1 Cir.1983, 436 So.2d 1265, writ denied 441 So.2d 1223.

PART IV. TRAFFIC REGULATIONS

SUBPART A. SPEED RESTRICTIONS

Law Review Commentaries

Contributory negligence as a matter of law— auto collisions in smoke, fog and dust. 28 La.L. Rev. 674 (1968)

§ 61. Maximum speed limit

Text effective if Congress does not repeal penalties for violating the fifty-five mile-per-hour speed limit.

No person shall operate or drive a vehicle on any highway of this state in excess of fifty-five miles per hour; however, if national speed limits are increased to an amount in excess of fifty-five miles per hour, the secretary is authorized to increase the maximum speed limit provided in this Section to a speed limit not in excess of such national speed limit.

Amended by Acts 1964, No. 369, § 1; Acts 1974, No. 521, § 1; Acts 1977, No. 113, § 1, eff. June 22, 1977.

For text effective only if Congress repeals penalties for violating the fifty-five mile-per-hour speed limit, see § 61, post.

§ 61. Maximum speed limit

Text effective only if Congress repeals penalties for violating the fifty-five mile-per-hour speed limit.

A. No person shall operate or drive a vehicle on any highway of this state, excluding Interstate highways, in excess of fifty-five miles per hour; however, if national speed limits are increased to an amount in excess of fifty-five miles per hour, the secretary is authorized to increase the maximum speed limit provided in this Section to a speed limit not in excess of such national speed limit.

B. No person shall operate or drive a vehicle on any Interstate highways of this state in excess of sixty-five miles per hour.

Amended by Acts 1964, No. 369, § 1; Acts 1974, No. 521, § 1; Acts 1977, No. 113, § 1, eff. June 22, 1977; Acts 1982, No. 191, § 1, eff. Jan. 1, 1983, only if Congress has repealed penalties for violating 55 mile-per-hour speed limit (eff. date suspended until sixty days after 1984 Regular Session by H.C.R. No. 4 of 1983).

For text effective if Congress does not repeal penalties for violating the fifty-five mile-per-hour speed limit, see § 61, ante.

Effective Date—1982 Amendment

Section 2 of Acts 1982, No. 191 provided:

"This Act shall become effective on January 1, 1983, if, and only if, Congress has repealed penalties for violating the fifty-five mile-per-hour speed limit provided in Title 23, Section 154, of the United States Code."

## Notes 6

between 40 and 45 miles per hour, with her eyes closed, defendants failed to sustain burden of proof of excessive speed on part of motorcyclist's operator. *Freeman v. Liberty Mut. Ins. Co.*, App.1965, 175 So.2d 659.

## 7. Proximate cause

Evidence supported finding that driver of truck which collided with automobile and subsequently struck second automobile, the occupant of which had received medical and workmen's compensation benefits under plaintiff's policy and collision benefits under plaintiff's automobile liability policy, was driving at an excessive rate of speed prior to collision with the first automobile and that the excessive speed was a proximate cause of the second collision. *Fidelity & Cas. Co. of New York v. Aetna Life & Cas. Co.*, App.1971, 244 So.2d 255.

Testimony of investigating officer and out-bound motorist supported finding in personal injury action by passenger in inbound car that out-bound motorist was not negligent in crossing inbound lane when reentering highway after stopping at roadside telephone booth, and that excessive speed of inbound car was sole proximate cause of collision. *Necaise v. Norris*, App. 1970, 242 So.2d 282.

Violation of a speed law does not render a motorist liable unless the infraction is a cause in fact of the accident. *McDaniel v. Welsh*, App. 1970, 234 So.2d 833.

## 8. Last clear chance

Where defendant motorist observed 12-year-old pedestrian running toward highway at distance of 300 feet and recognized pedestrian to be child and defendant did not sound horn or slow his vehicle, defendant could reasonably have taken action to stop or slow vehicle so as to permit pedestrian to cross safely, and last clear chance doctrine was applicable even though 12-year-old pedestrian was contributorily negligent in running onto heavily traveled highway with but momentary hesitation. *Tate v. Hill*, App.1967, 197 So.2d 107, writ denied 250 La. 911, 199 So.2d 919.

Where operator of plaintiffs' automobile approached intersection from right at about 15 to 20 miles per hour and observed defendant's vehicle when it was 25 to 30 feet from intersection and immediately applies brakes but collided with right rear fender of defendant's vehicle, operator of plaintiffs' vehicle was engaged in exercise of reasonable care and accident was precipitated by gross negligence of operator of defendant's vehicle and doctrine of last clear chance was not applicable. *Kevlin v. Demarest*, App.1967, 196 So.2d 336.

In order to invoke doctrine of last clear chance it must be proved that person invoking doctrine was in position of peril of which he was unaware or from which he was unable to extricate him-

self, that person against whom doctrine is invoked actually discovered or was in position where he could have discovered such other person's peril and that person against whom doctrine is invoked could have avoided accident with exercise of reasonable care. *Id.*

The doctrine of last clear chance did not apply to a case wherein preceding driver was struck from behind after driving onto highway where visibility had been reduced to a few feet because of low-lying, dense smoke mixed with heavy fog. *Walden v. Employers Liability Assur. Corp.*, App.1967, 195 So.2d 350.

## 9. Intersections

Evidence in action arising out of collision which occurred at blind intersection of two gravel roads in rural area established that driver of southbound truck and trailer which was struck by eastbound truck was negligent in entering intersection in front of approaching preferred motorist when it was not safe to do so. *Ernst v. O'Bannon*, App.1978, 278 So.2d 830, writ denied 281 So.2d 749.

Driver of truck which entered intersection at moderate speed on light which had been favorable from 75 to 100 feet before truck reached intersection was not negligent in not according right-of-way and opportunity of completing movement through intersection to automobile which entered intersection at higher rate of speed on unfavorable light where there was little difference in the time the two vehicles entered the intersection, notwithstanding that automobile traveled further into the intersection than truck prior to collision. *Meek v. State Farm Mut. Auto. Ins. Co.*, App.1971, 244 So.2d 661.

Southbound motorist who collided with northbound motorist who was executing left turn at intersection was negligent in going too fast and failing to keep a proper lookout under evidence that prior to collision northbound motorist had been stopped and was signaling for a left turn, that yellow caution light was on at intersection where 25-m.p.h. speed limit was in effect, that automobile of southbound motorist who testified that he did not remember his speed at time of collision left 61 feet of skid marks and that substantial damage occurred to both automobiles indicating a severe impact. *Nelson v. State Farm Mut. Auto. Ins. Co.*, App.1971, 244 So.2d 303.

In view of length of defendants' northbound tractor-trailer rig, slow rate of speed at which it must have entered intersection, and length of time it took to cross intersection, plaintiff, no matter what speed his westbound vehicle was traveling, should have seen trailer rig in time to avoid collision and having failed to see what he should have seen, his negligence was a proximate cause of accident precluding recovery. *Thomas v. Lee*, App.1970, 243 So.2d 536, writ denied 257 La. 991, 244 So.2d 860.

Evidence in intersection collision case was insufficient to establish that northbound motorist was speeding and thus contributorily negligent at time of collision with eastbound motorist who entered favored street after stopping at stop sign. *Hill v. Main Ins. Co.*, App.1970, 242 So.2d 623.

## 10. Hills and curves

Evidence that motorist who collided with state trooper's vehicle while the two vehicles were attempting to negotiate a blind curve on a narrow gravel road was familiar with the road, that he entered the blind curve at 35 miles per hour driving well to his left on the narrow road, and that, when the collision occurred, the left portion of each of the two vehicles was beyond the center line sustained determination that the motorist was causally negligent and thus could not recover from parish which maintained the road. *Tezeno v. St. Landry Parish Police Jury*, App. 1977, 343 So.2d 452.

Evidence sustained finding that truck driver's negligence in attempting to enter highway having 60 m.p.h. speed limit in a long, slow moving truck and trailer within 200 feet of curve in that highway was sole cause of accident in which driver of automobile swerved to avoid striking truck, left highway, skidded on wet grass and ultimately struck building. *Hebert v. Hanover Ins. Co.*, App.1971, 244 So.2d 55.

## 16. Turning

Leading motorist, who was struck from behind in multiple-vehicle accident, was not negligent in stopping in inner lane of hour-lane highway, giving required signal for left turn at intersection with break in neutral ground designed to permit left turns. *Henderson v. Ancona*, App. 1967, 197 So.2d 150.

## § 62. Maximum speed limit; certain vehicles

*Text of subsec. A effective if Congress does not repeal penalties for violating the fifty-five mile-per-hour speed limit. For text of subsec. A effective only if Congress does repeal penalties for violating the fifty-five mile-per-hour speed limit, see subsec. A, post.*

A. No person shall operate any freight carrying vehicle upon the highways of this state at a speed in excess of fifty-five miles per hour; however, if national speed limits are increased to an amount in excess of fifty-five miles per hour, the secretary is authorized to increase the maximum speed limit provided in this Subsection to a speed limit not in excess of such national speed limit.

Amended by Acts 1970, No. 160, § 1; Acts 1974, No. 521, § 2; Acts 1977, No. 113, § 1, eff. June 22, 1977.

*Text of subsec. A effective only if Congress repeals penalties for violating the fifty-five mile-per-hour speed limit. For text of subsec. A effective if Congress does not repeal penalties for violating the fifty-five mile-per-hour speed limit, see subsec. A, ante.*

## 19. Radar

Where defendant raised no objections to admissibility of radar and speedometer evidence at trial for speeding, alleged error or irregularity at trial could not be reviewed by the Supreme Court. *State v. Kennedy*, Sup.1981, 398 So.2d 1082.

## 20. Failure to prosecute

One-year time limitation for commencement of misdemeanor trial after institution of prosecution was not interrupted by defendant's failure to appear as directed by arresting officer, inasmuch as she was a 16-year resident at same address, which address was reflected on driver's license seized by arresting officer, and her testimony that she was not long absent from her home in two years following the offense and that no efforts were made to serve a warrant on her went uncontradicted, thus, since the time allowed for institution of prosecution had run without interruption, she was entitled to have charges against her dismissed. *City of Baton Rouge v. Wheat*, Sup.1979, 377 So.2d 1234.

## 21. Review

Where pro se defendant failed to object to admissibility of radar and speedometer evidence, claimed error relating to admission thereof was not before reviewing court. *State v. Alford*, Sup.1980, 384 So.2d 761.

## 22. Trial

Defendant who was tried on counts of driving while intoxicated, second offense, illegally carrying a weapon, resisting arrest, and speeding at same time without mention of consolidation, so that charges would be considered as if joined and total possible punishment, which would be sum of maximum possible for each charge, was greater than six months imprisonment, was entitled to jury trial. *State v. Thompson*, App.3 Cir.1934, 446 So.2d 557.

A. (1) No person shall operate any freight carrying vehicle upon the highways of this state, excluding Interstate highways, at a speed in excess of fifty-five miles per hour; however, if national speed limits are increased to an amount in excess of fifty-five miles per hour, the secretary is authorized to increase the maximum speed limit provided in this Section to a speed limit not in excess of such national speed limit.

(2) No person shall operate any freight carrying vehicle upon the Interstate highways of this state at a speed in excess of sixty miles per hour.

Amended by Acts 1970, No. 150, § 1; Acts 1974, No. 521, § 2; Acts 1977, No. 113, § 1, eff. June 22, 1977; Acts 1982, No. 191, § 1, eff. Jan. 1, 1983 only if Congress has repealed penalties for violating the 55 mile-per-hour speed limit (eff. date suspended until sixty days after 1984 Session by H.C.R. No. 4 of 1983).

B. Forty-five miles per hour shall be the maximum speed at which a person shall be permitted to drive a vehicle which is towing a mobile home; however, when any such mobile home is not less than fifteen feet or more than thirty-two feet in length and is equipped with brakes or when such a mobile home is less than fifteen feet in length and is not equipped with brakes, a person may drive a vehicle towing any such mobile home at a speed not in excess of fifty-five miles per hour at any time between sunrise and sunset and not in excess of fifty miles per hour at any time between sunset and sunrise; however, if national speed limits are increased to an amount in excess of fifty-five miles per hour, the secretary is authorized to increase the maximum speed limit provided in this Subsection to a speed limit not in excess of such national speed limit.

Amended by Acts 1968, No. 181, § 1, Acts 1974, No. 521, § 2; Acts 1977, No. 113, § 1, eff. June 22, 1977.

[See main volume for text of C]

D. No person shall operate a school bus at a speed in excess of 55 miles per hour when transporting children, provided however, that the driver of a school bus transporting children under conditions which require frequent stops to receive and discharge such children shall not operate such school bus at a speed in excess of 35 miles per hour.

Amended by Acts 1966, No. 217, § 2.

#### Effective Date—1982 Amendment

Section 2 of Acts 1982, No. 191 (§ 1 of which amended subsec. A of this section) provided:

"This Act shall become effective on January 1, 1983, if, and only if, Congress has repealed penalties for violating the fifty-five mile-per-hour speed limit provided in Title 23, Section 154, of the United States Code."

#### Suspension of Acts 1982, No. 191, § 2

House Concurrent Resolution No. 4 of the 1983 Regular Session provided:

"WHEREAS, Act No. 191 of the 1982 Regular Session of the Legislature established a sixty-five mile per hour speed limit on Interstate highways in Louisiana; and

"WHEREAS, Section 2 of Act No. 191 of the 1982 Regular Session has the effective date of January 1, 1983; and

"WHEREAS, such effective date would apply if, and only if, Congress repeals the penalties for violating the fifty-five mile-per-hour speed limit provided in Title 23, Section 154, of the United States Code; and

"WHEREAS, Congress has not repealed these provisions; and

"WHEREAS, the present law is ineffective unless Congress repeals the penalties for violating the fifty-five mile-per-hour speed limit.

"THEREFORE, BE IT RESOLVED by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the effective date of Section 2 of Act No. 191 of the 1982 Regular Session is hereby suspended until sixty days after the 1984 Regular Session of the Legislature."

1982 Amendment: Designated the previous text of subsec. A as par. A(1); in par. A(1), added, "excluding Interstate highways," and substituted "Section" for "Subsection"; and added par. A(2).

#### Notes of Decisions

Motorcycles 17  
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#### 3. Freight carrying vehicles—In general

In absence of evidence in action for wrongful death establishing legal speed limit on portion of highway on which pickup truck struck pedestrian, it would be concluded that 55-mile per hour speed of truck was within speed limit, in view of this section setting speed limit, for pickup trucks which do not exceed 6,000 pounds gross weight at 60 miles per hour. *Demandre v. Robinson*, App.1969, 220 So.2d 542.

#### 4. Evidence, freight carrying vehicles

Where witnesses had only glimpse of vehicle before accident, little weight can be given to their estimates of speed. *Scruggs v. McCraney*, App.1970, 234 So.2d 262.

60 feet of skid marks before impact made it obvious that vehicle was traveling at high rate of speed. *Id.*

Evidence established that truck involved in collision with automobile that had entered highway from dirt road was traveling at speed in excess of rate of 50 miles per hour prescribed for that type of vehicle, as claimed by witness who watched truck go by about three-quarters of a mile before it came to the intersection. *McQuillin v. Travelers Indem. Co.*, App.1965, 171 So.2d 691, writ denied 247 La. 623, 172 So.2d 703.

#### § 63. Establishing of speed zones

Acts 1972, No. 314, § 1 provides: "The Department of Highways is authorized, urged and requested to study the speed limits of the state system as presently existing and to adopt higher limits than the present statutory limits where safe to do so, and to consider the imposition of minimum limits on interstate highways."

#### Notes of Decisions

#### 1. In general

In absence of evidence in action for wrongful death establishing legal speed limit on portion of

#### § 64. General speed law

[See main volume for text of A and B]

Text of subsec. C effective only if Congress repeals penalties for violating the fifty-five mile-per-hour speed limit.

#### 5. Intersections

In view of length of defendants' north-bound tractor-trailer rig, slow rate of speed at which it must have entered intersection, and length of time it took to cross intersection, plaintiff, no matter what speed his westbound vehicle was traveling, should have seen trailer rig in time to avoid collision and having failed to see what he should have seen, his negligence was a proximate cause of accident precluding recovery. *Thomas v. Lee*, App.1970, 243 So.2d 536, writ denied 257 La. 991, 244 So.2d 860.

#### 16. Skidding

Evidence sustained finding that truck driver's negligence in attempting to enter highway having 60 m.p.h. speed limit in a long, slow moving truck and trailer within 200 feet of curve in that highway was sole cause of accident in which driver of automobile swerved to avoid striking truck, left highway, skidded on wet grass and ultimately struck building. *Hebert v. Hanover Ins. Co.*, App.1971, 244 So.2d 55.

#### 17. Motorcycles

In case in which motorcycle passenger testified that she estimated speed of motorcycle at between 40 and 45 miles per hour, with her eyes closed, defendants failed to sustain burden of proof of excessive speed on part of motorcycle operator. *Freeman v. Liberty Mut. Ins. Co.*, App.1965, 175 So.2d 659.

#### 18. Negligence

Evidence was sufficient to support determination that both motorists involved in intersectional automobile collision were negligent, one in driving at excessive speed and the second in not taking proper care in executing a left turn. *Agency Rent-A-Car, Inc. v. Hamm*, App.1971, 401 So.2d 1259.

highway on which pickup truck struck pedestrian, it would be concluded that 55-mile per hour speed of truck was within speed limit, in view of R.S. 32:62 setting speed limit for pickup trucks which do not exceed 6,000 pounds gross weight at 60 miles per hour. *Demandre v. Robinson*, App.1969, 220 So.2d 542.

that driver of first automobile involved in collision had been negligent in engaging in passing maneuver at high rate of speed and that drivers of third and fourth vehicles involved were also guilty of negligence in driving too closely to vehicles in front of them at speeds of 50 to 60 miles an hour, but evidence established that driver of second vehicle, which was lead automobile of group of automobiles overtaken by first automobile, was not negligent. *Felt v. Price*, 1941, 240 La. 966, 128 So.2d 331.

Evidence that motorist attempted to pass truck with which he collided while traveling at 35 to 45 miles per hour through an unincorporated village of ten inhabitants and that there was a sign a quarter of a mile from the village limits stating that the speed limit was 45 miles per hour and no other sign showing any necessity for reduction of speed and that the weather condition was good and the road was straight and level, did not show that motorist's speed was illegal so as to preclude recovery for damages sustained on ground that motorist was guilty of contributory negligence. *Federal Ins. Co. v. Employers' Liability Ins. Corporation*, App. 1941, 4 So.2d 620.

Evidence showed bus driver at fault in attempting to pass car in curve at excessive speed. *Griffin v. Tesche Transfer Co.*, 1932, 19 La.App. 157, 140 So. 113.

#### 15. Parking

Evidence established that defendant's loaded truck upon crossing levee near center of highway became uncontrollable and collided with vehicle in which plaintiff was sitting, while the vehicle was stopped on the side of the highway, as a result of negligence of the truck driver in failing to keep the truck under proper control and to drive at proper speed. *McDonnell v. Hargrove*, App. 1940, 197 So. 202.

Collision between truck and automobile, stopping on wrong side of road in darkness after steering gear was broken and lights extinguished when struck in rear by another truck, was due to negligence of driver of former truck in proceeding at excessive speed, rather than automobile driver's intervening negligence. *Penton v. Fisher*, App. 1934, 155 So. 35.

Where driver of plaintiff's truck when blinded by lights of approaching automobile was negligent in not reducing speed, contributory negligence barred recovery for damages sustained in collision with unlighted parked truck. *Safety Tire Service v. Murov*, 1932, 19 La. App. 683, 140 So. 870.

If automobile driver was prevented from seeing unlighted parked motor-truck because of contour of road until within 20 feet of it, he could not recover because of his excessive speed. *Sutton v. Stiles*, 1930, 15 La.App. 148, 130 So. 821.

#### 16. Turning

Where defendant motorist left gasoline filling station on right hand side of street and made left turn on main street of village without signaling and his automobile was rammed on its right hand side by oncoming automobile which was traveling at a speed not in excess of 25 miles per hour, defendant was negligent and his negligence was proximate cause of collision and fact that two automobiles were parked in front of defendant's own as he began left turn did not excuse him from consequences of his carelessness. *Zurich Fire Ins. Co. of N. Y. v. Thomas*, App. 1951, 49 So.2d 460.

Excessive speed of automobile, striking rear of car making left turn into highway, which driver entered after looking to right without seeing any car within 85 yards, was sole proximate cause of accident. *Fontanille v. Ducote*, App. 1934, 155 So. 40.

### § 62. Maximum speed limit; certain vehicles

A. No person shall operate any freight carrying vehicles upon the highways of this state at a speed in excess of 50 miles per hour;

B. No person shall drive a vehicle which is towing a house trailer at a speed in excess of 45 miles per hour;

C. No person pulling or towing upon any highway of this State, with another vehicle, any vehicle designed, equipped or intended to operate under its own power shall operate the towing vehicle at a speed in excess of 45 miles per hour;

D. No person shall operate a school bus at a speed in excess of 45 miles per hour when transporting children, provided however, that the driver of a school bus transporting children under conditions which

C. Rolling roadblocks shall be prohibited from operating on all Interstate highways in the state.

Added by Acts 1982, No. 191, § 1, eff. Jan. 1, 1983, only if Congress repeals the 65 mile-per-hour speed limit (eff. date suspended until sixty days after 1984 Regular Session by H.C.R. No. 4 of 1983).

#### Effective Date—Subsec. C

Section 2 of Acts 1982, No. 191 (§ 1 of which enacted subsec. C of this section) provided:

"This Act shall become effective on January 1, 1983, if, and only if, Congress has repealed penalties for violating the fifty-five mile-per-hour speed limit provided in Title 23, Section 153, of the United States Code."

#### Suspension of Act 1982, No. 191, § 2

House Concurrent Resolution No. 4 of the 1983 Regular Session provided:

"WHEREAS, Act No. 191 of the 1982 Regular Session of the Legislature established a sixty-five mile per hour speed limit on Interstate highways in Louisiana; and

"WHEREAS, Section 2 of Act No. 191 of the 1982 Regular Session has the effective date of January 1, 1983; and

"WHEREAS, such effective date would apply if, and only if, Congress repeals the penalties for violating the fifty-five mile-per-hour speed limit provided in Title 23, Section 153, of the United States Code; and

"WHEREAS, Congress has not repealed these provisions; and

"WHEREAS, the present law is ineffective unless Congress repeals the penalties for violating the fifty-five mile-per-hour speed limit.

"THEREFORE, BE IT RESOLVED by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the effective date of Section 2 of Act No. 191 of the 1982 Regular Session is hereby suspended until sixty days after the 1984 Regular Session of the Legislature."

Act 1972, No. 314, § 1 provides: "The Department of Highways is authorized, urged and requested to study the speed limits of the state system as presently existing and to adopt higher limits than the present statutory limits where safe to do so, and to consider the imposition of minimum limits on interstate highways."

1982 Amendment: Added subsec. C.

#### Law Review Commentaries

Last clear chance and the inattentive plaintiff in Louisiana. John Michael Cumberland, 12 Loyola L Rev. (La.) 1 (1965-66).

Last clear chance doctrine in Louisiana—An analysis and critique. 27 La. L Rev. (La.) 269 (1967).

#### Notes of Decisions

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#### 1. In general

Even though gore area and guardrail on highway did not meet standards that were existing at time of automobile accident, where both items met proper standards that were in existence at time highway was constructed, driver was speeding at time of accident, had blood alcohol level of .14 milligrams, driving pattern chosen by driver was in violation of this section and R.S. 32:61, 32:79, 32:82 regulating operation of motor vehicle, including improper lane change, and improper use of median, and of 88,000 vehicles which traversed that area every day there were only 24 accidents in that area in year immediately preceding driver's accident, gore area and guardrail did not create unreasonable risk of injury to driver. *Usry v. Louisiana Dept. of Highways*, App. 1981, 402 So.2d 240, writ denied 404 So.2d 1259, reconsideration denied 406 So.2d 610, writ denied 406 So.2d 613

Where statistics as to number and types of accidents in area of highway in which fatal accident occurred indicated that signs, guardrails and gore area in existence at time of accident were adequate for motorist exercising ordinary care, and driver killed in accident was violating this section and R.S. 32:61, 32:79, 32:82 governing regulation of motor vehicle traffic at time of accident, wife of driver who was killed in accident failed to carry burden of establishing that hazardous conditions complained of, inadequate signs, defective guardrails, and gore area, were patently or obviously dangerous to reasonably careful and ordinarily prudent driver. *Id.*

Generally, a motorist may assume that a road is safe for travel even at night; but this rule does not apply where a motorist has actual knowledge of defect or hazard. *Martin v. State*, Through Dept. of Highways, App. 1976, 322 So.2d 827.

This section prohibiting operation of motor vehicle upon highway at such slow speed as to impede normal and reasonable movement of traffic was inapplicable where preceding motorist had just entered highway from a controlled access ramp, was in process of accelerating and changing gears, was traveling at 15 to 20 miles per hour and one lane of dual lane bridge was unobstructed. *Smiley v. Ellis*, App. 1974, 307 So.2d 150, application denied 310 So.2d 643.

The maximum speed limit of 65 miles per hour at point of collision was conditional under R.S. 32:64 providing that no person shall drive at speed greater than reasonable and prudent under the conditions and potential hazards existing, having due regard to the surface and width of highway and the weather. *Beauregard v. Salmon*, App. 1967, 205 So.2d 634.

#### 3. Negligence, in general

Evidence established that black man wearing dark clothing was lying motionless in middle of traffic lane on rural, unlighted highway at 3:50 a.m. on foggy night, and that truck driver was proceeding at safe speed and at safe distance behind other truck, relative to his speed, and thus, failed to establish that driver was negligent in failing to observe victim in time to avoid accident. *Rayford v. Saia Motor Freight Lines, Inc.*, App. 1 Cir. 1983, 442 So.2d 646, writ denied 444 So.2d 1242.

There was no manifest error in trial court's determination of gross negligence of driver of automobile which struck preceding vehicle from behind where there were 71 feet of skid marks left by this automobile, impact of collision propelled preceding vehicle into two vehicles which were immediately in front of it and where all other vehicles in vicinity were able to stop without causing collision. *Anderson v. Craig*, App. 1981, 401 So.2d 1022.

On-coming motorist, whose vehicle hydroplaned on water that had accumulated on unresurfaced portion of old highway and skidded into path of plaintiff's on-coming vehicle, was operating his vehicle in a negligent manner where he had traversed several miles over a portion of highway before the accident and was operating his vehicle at a speed greater than reasonable and prudent under the circumstances. *Bush v. State*, Through Dept. of Highways, App. 1981, 395 So.2d 916, writ denied 399 So.2d 609.

Even if motorist had violated this section and R.S. 32:141, relating to obstruction of more than one-half of road bed, that did not automatically constitute negligence. *Comeaux v. Sims*, App. 1976, 328 So.2d 816.

Approach of police vehicle from opposite direction with blue flashing lights indicated to plaintiff truck driver that potentially dangerous situation existed so that plaintiff properly reduced his speed on overpass and was not negligent with respect to collision with following tank truck. *Eubanks v. Brasseal*, Sup. 1975, 310 So.2d 550, on remand 318 So.2d 79.

Evidence that pickup truck driver was driving at approximately 45 miles per hour on wet rainy night when he apparently lost control of the truck, which bounced off a bridge railing and collided with oncoming automobile, sustained finding that driver of the pickup truck was negligent and that his negligence caused the accident, which resulted in automobile passenger's death. *Wilson v. Pittman*, App. 1975, 307 So.2d 804.

Where road was straight and dry, visibility was unobstructed and following motorist had ample room in which to maneuver around preceding vehicle, if it were seen, following motorist was negligent in failing to observe preceding vehicle in time to avoid accident. *Smiley v. Ellis*, App. 1974, 307 So.2d 150, application denied 310 So.2d 643.

Where semitrailer truck driver took no action to slow vehicle except to remove foot from accelerator upon noticing increasingly thickening layer of gravel on highway, low beam headlights provided visibility of only 50 to 60 feet, truck struck three-foot pile of gravel in roadway, and veered into opposite lane striking oncoming vehicle, truck driver was negligent. *Tillman v. Canal Ins. Co.*, App. 1974, 305 So.2d 602, writ denied 307 So.2d 630.

Driver of pickup truck was negligent in not taking necessary precautions to insure that 12-year-old child in rear of pickup truck was safely seated and in driving at excessive rate of speed in light of his knowledge that the child was seated on truck's tailgate and was liable for injuries sustained when child was thrown from the truck. *Freeman v. Wilcox*, App. 1974, 303 So.2d 840, writ denied 307 So.2d 630.

Though defendant truck driver pled guilty to charge of prima facie speeding in connection

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Note 16  
In a bridge, evidence for bus company was insufficient to rebut prima facie case in favor of passenger. Fernandez v. Tri-State Transit Co. of Louisiana, App.1040, 104 So. 84.

trend of tires on rear wheels of bus. Id.

That truck skidded on somewhat steep approach to bridge considered extremely hazardous to automobile traffic did not raise presumption that driver was negligent. Siren v. Montague, App.1032, 142 So. 100.

In action against bus company for injuries sustained by passenger, evidence warranted conclusion that bus operator was operating bus in an illegal manner and was not free of negligence, at time of accident, in view of damage resulting when bus struck a bridge, and operator's knowledge concerning wet condition of highway, narrowness of bridge, and poor

Hurien was on defendant motorist sued for damages sustained in collision to establish defense that his automobile was uncontrollable only because floor of bridge was slick as result of rain. McNabb v. Dugas, App.1032, 142 So. 174.

§ 63. Establishing of speed zones

A. Whenever the department shall determine upon the basis of an engineering and traffic investigation that any maximum speed set forth in this Chapter is greater or less than is reasonable or safe under the conditions found to exist upon any highway of this state, or any part thereof, the department may determine and declare a reasonable and safe maximum speed limit thereat, which, when appropriate signs giving notice thereof are erected, shall be effective at all times or at such specific times as may be determined by the department.

B. Whenever the department determines on the basis of an engineering and traffic investigation that slow speeds on any highway of this state, or part thereof, consistently impede the normal and reasonable movement of traffic, the department may determine and declare a minimum speed limit thereat, below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law. Minimum speeds so determined shall become effective upon the erection of signs giving notice thereof. Acts 1962, No. 310, § 1.

Library references: Automobiles (C-54), 168, 331; C.J.S. Motor Vehicles §§ 27, 29, 35, 200 et seq., 641 et seq.

History and Source of Law

Source:

Uniform Vehicle Code §§ 11-602, 11-604.

Law Review Commentaries

Admissibility in evidence of radar speed meter readings. 28 Tulane Law Rev. 308 (April 1954).

§ 64 General speed law

A No person shall drive a vehicle on the highway within this state at a speed greater than is reasonable and prudent under the condi-

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tions and potential hazards then existing, having due regard for the traffic on, and the surface and width of, the highway, and the condition of the weather, and in no event at a speed in excess of the maximum speeds established by this Chapter or regulation of the department made pursuant thereto.

B. Except when a special hazard exists that requires lower speed for compliance with paragraph A of this section, no person shall operate or drive a motor vehicle upon the highways of this state at such a slow speed as to impede the normal and reasonable movement of traffic. Acts 1962, No. 310, § 1.

History and Source of Law

Source:

Acts 1938, No. 286, § 3.  
Acts 1948, No. 502, §§ 4, 5.  
R.S.1050, § 32:227.  
Acts 1950, 2nd Ex.Sess., No. 3, § 1.

R.S.1050, § 32:227 provided:

"In addition to the specific speed limitations of this Chapter, no person shall operate any vehicle upon the highways of this state at other than a reasonable and proper speed under the circumstances, or at a speed endangering the persons or property of others.

"Whoever operates a vehicle in violation of the speed limitations of this Chapter shall be prima facie at fault and responsible for any accident proximately caused by such operation.

"In addition, whoever violates the speed limitations of R.S. 32:223, or the general speed limit of this Section while operating or driving a motor vehicle to which R.S. 32:223 applies, shall be fined not more than two hundred dollars or imprisoned for not more than ninety days, or both. A subsequent offense shall be punished by a fine of not less than twenty-five dollars, nor more than five hundred dollars, or imprisonment for not less than ten days nor more than six months or both.

"In addition, whoever violates the speed limitations of R.S. 32:225, 32:226, or the general speed limit of this section while operating or driving a motor vehicle to which R.S. 32:225 or R.S. 32:226 applies, shall for the first offense be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not less than thirty days nor more than six months, or both;

a second offense shall be punished by a fine of not less than two hundred dollars nor more than one thousand dollars or imprisonment for not less than sixty days nor more than one year, or both, and in addition the Department of Public Safety shall forthwith revoke, for a period of not less than sixty days nor more than one year, the chauffeur's or driver's license, or both, of the person convicted of a second offense upon receiving satisfactory evidence of such conviction or of the entry of a plea of guilty and sentence thereon, or of the forfeiture of bail of any such person charged with a second offense; a third or subsequent offense shall be punished by a fine of not less than five hundred dollars nor more than two thousand dollars and imprisonment for not less than six months nor more than one year, and in addition the Department of Public Safety shall forthwith revoke, for a period of not less than sixty days nor more than one year, the chauffeur's or driver's license, or both, of the person convicted of a third or subsequent offense upon receiving satisfactory evidence of such conviction or of the entry of a plea of guilty and sentence thereon, or of the forfeiture of bail of any such person charged with a third or subsequent offense.

"No sentence imposed under the authority of this Section shall be suspended."

The general speed limitation, and presumption of fault, in R.S.1950, § 32:227, were based on Acts 1938, No. 280, § 3, rule 4. The penalty provisions were based on Acts 1948, No. 502, §§ 4, 5.

**SUBCHAPTER F  
SPEED RESTRICTIONS**

**Sec.**

- 3361. Driving vehicle at safe speed.
- 3362. Maximum speed limits.
- 3363. Alteration of maximum limits.
- 3364. Minimum speed regulation.
- 3365. Special speed limitations.
- 3366. Charging speed violations.
- 3367. Racing on highways.
- 3368. Speed timing devices.

**Cross References.** Subchapter F is referred to in section 6109 of this title.

**§ 3361. Driving vehicle at safe speed.**

No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing, nor at a speed greater than will permit the driver to bring his vehicle to a stop within the assured clear distance ahead. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

**Cross References.** Section 3361 is referred to in sections 1535, 3362, 3366 of this title.

**§ 3362. Maximum speed limits.**

(a) **General rule.**—Except when a special hazard exists that requires lower speed for compliance with section 3361 (relating to driving vehicle at safe speed), the limits specified in this subsection or established under this subchapter shall be maximum lawful speeds and no person shall drive a vehicle at a speed in excess of the following maximum limits:

- (1) 35 miles per hour in any urban district.
- (2) 55 miles per hour in other locations.
- (3) Any other maximum speed limit established under this subchapter.

(b) **Posting of speed limit.**—No maximum speed limit established under subsection (a)(1) or (3) shall be effective unless posted on fixed or variable official traffic-control devices erected in accordance with regulations adopted by the department which regulations shall require posting at the beginning and end of each speed zone and at intervals not greater than one-half mile.

(c) **Penalty.**—Any person violating this section is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$35. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional fine of \$2 per mile for each mile in excess of five miles per hour over the maximum speed limit.

**Cross References.** Section 3362 is referred to in section 1535 of this title.

**§ 3363. Alteration of maximum limits.**

The department or local authorities on highways under their respective jurisdictions, upon the basis of an engineering and traffic investigation, may determine that the maximum speed permitted under this subchapter is greater or less than is reasonable and safe under the conditions found to exist upon any such highway or part thereof and establish a reasonable and safe maximum limit. The maximum speed limit may be made effective at all times or at times indicated and may vary for different weather conditions and other factors bearing on safe speeds. No maximum speed greater than 55 miles per hour shall be established under this section.

**§ 3364. Minimum speed regulation.**

(a) **Impeding movement of traffic prohibited.**—Except when reduced speed is necessary for safe operation or in compliance with law, no person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic.

(b) **Slow moving vehicle to drive off roadway.**—Except when reduced speed is necessary for safe operation or in compliance with law, whenever any person drives a vehicle upon a roadway having width for not more than one lane of traffic in each direction at less than the maximum posted speed and at such a slow speed as to impede the normal and reasonable movement of traffic, the driver shall, at the first opportunity when and where it is reasonable and safe to do so and after giving appropriate signal, drive completely off the roadway and onto the berm or shoulder of the highway. The driver may return to the roadway after giving appropriate signal only when the movement can be made in safety and so as not to impede the normal and reasonable movement of traffic.

(c) **Establishment of minimum speed limits.**—At any other time when the department or local authorities under their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the department or such local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in com-

pliance with law. The minimum limit shall be effective when posted upon appropriate fixed or variable signs.

*Cross References.* Section 3364 is referred to in sections 4305, 6109 of this title.

**§ 3365. Special speed limitations.**

**(a) Bridges and elevated structures.—**

(1) No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to the bridge or structure when the structure is posted with signs as provided in this subsection.

(2) The department and local authorities on highways under their respective jurisdictions may conduct a traffic and engineering investigation of any bridge or other elevated structure constituting a part of a highway, and if it shall thereupon find that the structure cannot safely withstand vehicles traveling at the speed otherwise permissible under this title, the department or local authority shall determine and declare the maximum speed of vehicles which the structure can safely withstand, and shall cause or permit official traffic-control devices stating the maximum speed to be erected and maintained before each end of the structure.

(3) Upon the trial of any person charged with a violation of this subsection, proof of the determination of the maximum speed by the department and the existence of the signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety to the bridge or structure.

**(b) School zones.—**When passing a school zone as defined and established under regulations of the department, no person shall drive a vehicle at a speed greater than 15 miles per hour. An official traffic-control device shall indicate the beginning and end of each school zone to traffic approaching in each direction. Establishment of a school zone, including its location and hours of operation, shall be approved by the department.

**(c) Hazardous grades.—**The department and local authorities on highways under their respective jurisdictions may conduct traffic and engineering investigations on grades which are considered hazardous. If the grade is determined to be hazardous, vehicles having a gross weight in excess of a determined safe weight may be further limited as to maximum speed and may be required to stop before proceeding downhill. The restrictions shall be indicated by official traffic-control devices erected and maintained according to regulations established by the department.

**(d) Penalty.—**Any person violating any provision of this section is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$35. Any person exceeding a maximum speed limit established under this section by more than five miles per hour shall pay an additional fine of \$2 per mile for each mile in excess of five miles per hour in excess of the maximum speed limit.

(Oct. 10, 1980, No. 147, eff. imd.)

that more quickly accomplish the procedures established under such provisions.

(5) Any incorporated city may by ordinance require that the driver of a vehicle involved in an accident file with a designated city department a copy of any report required to be filed under ORS 811.725. All such reports shall be for the confidential use of the city department but subject to the same requirements for release of such reports as provided for the release of such reports by the division under ORS 802.220 and 802.240. [1983 c.338 §8; 1985 c.16 §7; 1985 c.171 §2; 1985 c.459 §2a]

**801.045 Permissive use of private roadway.** Nothing in the provisions of the vehicle code described in this section shall prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as a matter of right from prohibiting such use, or from requiring different or additional conditions than those specified or from otherwise regulating such use as may seem best to such owner. This section applies to the provisions of the vehicle code relating to abandoned vehicles, vehicle equipment, regulation of vehicle size, weight and load, the manner of operation of vehicles and use of roads by persons, animals and vehicles. [1983 c.338 §9]

**801.050 Privilege of motorist to use highways.** Subject to compliance with the motor vehicle law of this state, owners and operators of motor vehicles are granted the privilege of using the highways of this state. [1983 c.338 §10; 1985 c.16 §8]

**801.055 Weight standards; Department of Transportation responsibility for weight determination.** (1) References in the vehicle code to weights and measures refer to United States Standards thereof.

(2) For purposes of the vehicle code, the weights of vehicles, combinations of vehicles, parts of vehicles, wheels or axles shall be determined by the use of methods, procedures and devices established by the Department of Transportation by rule. The rules established in accordance with this subsection may include any or all of the following:

(a) Methods and procedures to determine weights when weighing devices or facilities are not convenient.

(b) Standards and certification procedures for weighing devices.

(c) Any other rules the department determines necessary or convenient for purposes of this subsection. [1983 c.338 §11; 1985 c.172 §1]

## DEFINITIONS

**801.100 Definitions generally.** Except where the context requires otherwise, the definitions given in the vehicle code govern its construction. [1983 c.338 §12]

**801.105 "Administrator."** "Administrator" means the Administrator of the Motor Vehicles Division. [1983 c.338 §13]

**801.110 "Alley."** "Alley" means a street or highway primarily intended to provide access to the rear or side of lots or buildings in urban areas and not intended for through vehicular traffic. [1983 c.338 §14]

**801.115 "Ambulance."** "Ambulance" means any privately or publicly owned motor vehicle that is regularly provided or offered to be provided for the emergency transportation of persons suffering from illness, injury or disability. [1983 c.338 §15]

**801.120 "Ambulatory disability."** "Ambulatory disability" means a disability because of which a person:

(1) Is so severely physically and permanently disabled as to be unable to move from place to place without the aid of a wheelchair;

(2) Is not able to cross curbs because of paralysis or loss of function of the person's legs;

(3) Is missing one or both legs; or

(4) Has a permanently impaired or unsteady gait that makes it impossible or impractical to walk as a means of transportation. [1983 c.338 §16]

**801.125 "Antique vehicle."** "Antique vehicle" means a motor vehicle that is older than one-half the number of years between the current year and 1900 and that is maintained as a collector's item. [1983 c.338 §17]

**801.130 "Assembled vehicle."** "Assembled vehicle" means a vehicle:

(1) With a body that does not resemble any particular year model or make of vehicle;

(2) That is not a vehicle rebuilt by a manufacturer;

(3) That is not a vehicle built in a factory where the year model and make are assigned at the factory; and

(4) That is not an antique vehicle, a vehicle of special interest, a reconstructed vehicle or a replica. [1983 c.338 §18; 1985 c.402 §3]

**801.135 "Axle."** "Axle" means any structure or structures, whether in one or more segments, of any vehicle, supported by wheels and on which the wheels rotate, so spaced longitudinally that the centers thereof are included between two

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vertical parallel transverse planes 40 inches apart. [1983 c.338 §19]

**801.140 "Balance trailer."** "Balance trailer" means every trailer, other than a self-supporting trailer, pole trailer or semitrailer, designed so that its weight and that of its load is substantially balanced upon its axle or axles and so that it couples to the towing vehicle with a device other than a fifth wheel hitch. The definition in this section is based upon design features and, except as otherwise provided in this section, does not prohibit a balance trailer from fitting into another classification of trailer based on use. [1983 c.338 §20; 1985 c.16 §9]

**801.145 "Bail."** "Bail" means money or its equivalent deposited by a defendant to secure the defendant's appearance for a traffic offense. [1983 c.338 §21]

**801.150 "Bicycle."** "Bicycle" means a vehicle that:

- (1) Is designed to be operated on the ground on wheels;
- (2) Has a seat or saddle for use of the rider;
- (3) Is designed to travel with not more than three wheels in contact with the ground;
- (4) Is propelled exclusively by human power; and
- (5) Has every wheel more than 14 inches in diameter or two tandem wheels either of which is more than 14 inches in diameter. [1983 c.338 §22]

**801.155 "Bicycle lane."** "Bicycle lane" means that part of the highway, adjacent to the roadway, designated by official signs or markings for use by persons riding bicycles except as otherwise specifically provided by law. [1983 c.338 §23]

**801.160 "Bicycle path."** "Bicycle path" means a public way, not part of a highway, that is designated by official signs or markings for use by persons riding bicycles except as otherwise specifically provided by law. [1983 c.338 §24]

**801.165 "Bus trailer."** "Bus trailer" means any trailer designed or used for carrying human beings. [1983 c.338 §25]

**801.170 "Business district."** "Business district" means the territory contiguous to a highway when 50 percent or more of the frontage thereon for a distance of 600 feet or more on one side, or 300 feet or more on both sides, is occupied by buildings used for business. [1983 c.338 §26]

**801.175 "Canceled."** "Canceled," with reference to driving privileges or vehicle registration or title, means that the driving privileges, registration or title are declared void and termi-

nated and new driving privileges, registration or title may be obtained only as permitted by law. [1983 c.338 §27; 1985 c.16 §10]

**801.180 "Camper."** "Camper" means a structure that:

- (1) Has a floor;
- (2) Is designed to be mounted upon a motor vehicle;
- (3) Is not permanently attached to a motor vehicle upon which it is mounted;
- (4) Is designed to provide facilities for human habitation or for camping;
- (5) Is six feet or more in overall length;
- (6) Is five and one-half feet or more in height from floor to ceiling at any point; and
- (7) Has no more than one axle designed to support a portion of the weight of the camper. [1983 c.338 §28]

**801.185 "Certificate of title."** "Certificate of title" means a document issued by any jurisdiction specifically as evidence of vehicle ownership. Oregon issues certificate of title under ORS 803.045. Titles for snowmobiles are issued as provided under ORS 807.370. Titles for mobile homes are issued as provided under ORS 820.500. [1983 c.338 §29; 1985 c.16 §11]

**801.190 "Class I all-terrain vehicle."** "Class I all-terrain vehicle" means a motorized, off-highway recreational vehicle 50 inches or less in width with a dry weight of 600 pounds or less that travels on three or more low pressure tires and has a saddle for the operator. [1985 c.459 §2]

**801.195 "Combination of vehicles."** "Combination of vehicles" means two or more vehicles coupled together. [1983 c.338 §31]

**801.200 "Commercial bus."** "Commercial bus" means every motor vehicle designed or used for carrying passengers and their personal baggage and express for compensation, except:

- (1) Taxicabs that:
  - (a) Are passenger vehicles with a passenger seating capacity that does not exceed five;
  - (b) Carry passengers for hire where destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of any combination of an initial fee, distance traveled or waiting time;
  - (c) Are operated under a current license or permit issued by a city, county or other unit of local government where a permit or license is required for the operation of a taxicab; and
  - (d) Transport persons or property, or both, between points in Oregon.



(e) The expense of erecting any sign under this subsection shall be borne by the road authority having jurisdiction over the highway.

(f) All signs erected under this subsection shall comply with ORS 810.200.

(g) A speed established under this subsection may be effective for not more than 120 days.

(h) If the board establishes an emergency temporary speed under this subsection, the board shall determine whether the board should permanently change the speed within 120 days after the speed becomes effective. The board shall use authority otherwise granted to the board under this section if the board determines to permanently establish the speed.

(i) The board may only establish a speed under this subsection upon the application of the road authority for the highway. (1983 c.338 §162; 1985 c.16 §51)

**810.190 State Speed Control Board procedures.** The State Speed Control Board is subject to the following procedures while exercising its authority under ORS 810.180 unless otherwise provided under ORS 810.180.

(1) If the change in speed is requested by the road authority for a highway, the road authority must make written application for the board to conduct an investigation with respect to speed on the highway under this section. An application required under this subsection must state the speed recommended for the highway or section of highway by the requesting road authority.

(2) The board may determine the speed to designate under its authority by making or causing to be made an engineering and traffic investigation with respect to the existing speed on the highway.

(3) The board may make the investigation required under this section or, when requested by the road authority, may allow the following:

(a) The road authority to make the investigation and make a report of the investigation to the board.

(b) A city to make the investigation with respect to any highway within its corporate limits that is under the jurisdiction of the commission or a county and report the results of the investigation to the board.

(4) The board shall allow any road authority that is requesting an investigation under this section to participate with the board in the investigation.

(5) The board:

(a) May change the existing speed on the highway if the investigation establishes to the satisfaction of the board that the existing designated speed is greater or less than reasonable or safe under the conditions at the area.

(b) Shall not make a final determination to change a speed under this section unless the board has provided due notice and opportunity for hearing to the road authority affected thereby.

(c) Shall give written notice to affected road authority of the board's determination concerning a designated speed under this section.

(6) An affected road authority may file written objections to any speed established by the board under this section. If the road authority files a written objection and requests a hearing not more than 10 days after signs establishing the speed are posted, the board shall hold a hearing to reconsider the speed after giving written notice of the hearing to the affected road authority. The hearing must be held more than five days after giving of the written notice. (1983 c.338 §162; 1985 c.16 §52)

#### (Traffic Control Devices)

**810.200 Uniform standards for traffic control devices; uniform system of marking and signing highways.** (1) The commission may exercise the following authority with respect to the marking, signing and use of traffic control devices in this state:

(a) The commission shall adopt a manual and specifications of uniform standards for traffic control devices consistent with the provisions of the vehicle code for use upon highways in this state.

(b) The commission is authorized to provide a uniform system of marking and signing highways within the boundaries of this state.

(c) The commission is authorized to determine the character or type of traffic control devices to be used in this state.

(2) The authority granted under this section is subject to all of the following:

(a) The system of marking and signing established under this section shall correlate with and, as far as possible, conform to the system adopted in other states. The commission may include in the system signs and signals that show internationally recognized and approved symbols.

(b) So far as practicable, all traffic control devices in this state shall be uniform as to type and location.

pedestrian has entered the roadway and is carrying a white cane or is accompanied by a dog guide. This paragraph applies notwithstanding any other provisions of the vehicle code relating to traffic control devices.

(2) This section is subject to the provisions and definitions relating to the rights of pedestrians who are blind or blind and deaf under ORS 814.110.

(3) The offense described in this section, failure to yield the right of way to a blind pedestrian, is a Class B traffic infraction. [1983 c.338 §549; 1985 c.16 §280]

**811.040 Failure to yield to pedestrian proceeding under traffic control devices; penalty.** (1) The driver of a vehicle commits the offense of failure to yield to a pedestrian proceeding under traffic control devices if the driver does not yield the right of way to a pedestrian who is:

(a) Proceeding under a pedestrian control signal under ORS 814.010.

(b) Lawfully within an intersection or crosswalk in accordance with any traffic control device in a manner that complies with ORS 814.010.

(2) The offense described in this section, failure to yield to a pedestrian proceeding under traffic control devices, is a Class B traffic infraction. [1983 c.338 §550; 1985 c.16 §281]

**811.045 Failure to yield to pedestrian when making turn at stop light; penalty.**

(1) A person commits the offense of failure to yield to a pedestrian when making a turn at a stop light if the person is driving a vehicle that is making a turn at a red light permitted under ORS 811.335 and the person does not yield the right of way to pedestrians lawfully within an adjacent crosswalk.

(2) The offense described in this section, failure to yield to a pedestrian when making a turn at a stop light, is a Class B traffic infraction. [1983 c.338 §551]

**811.050 Failure to yield to bicycle on bicycle lane.** (1) A person commits the offense of failure of a motor vehicle operator to yield to a bicycle on a bicycle lane if the person is operating a motor vehicle and the person does not yield the right of way to a person operating a bicycle or moped upon a bicycle lane.

(2) This section does not require persons operating mopeds to yield the right of way to bicycles if the mopeds are operated on bicycle lanes in the manner permitted under ORS 811.440.

(3) The offense described in this section, failure of a motor vehicle operator to yield to a bicycle on a bicycle lane, is a Class B traffic infraction. [1983 c.338 §698; 1985 c.16 §336]

**811.055 Failure to yield to bicyclist on sidewalk.** (1) The driver of a motor vehicle commits the offense of failure to yield the right of way to a bicyclist on a sidewalk if the driver does not yield the right of way to any bicyclist on a sidewalk.

(2) The driver of a motor vehicle is not in violation of this section when a bicyclist is operating in violation of ORS 814.410. Nothing in this subsection relieves the driver of a motor vehicle from the duty to exercise due care.

(3) The offense described in this section, failure to yield the right of way to a bicyclist on a sidewalk, is a Class C traffic infraction. [1983 c.338 §702; 1985 c.16 §340]

### SPEED

#### (Basic Rule)

**811.100 Violation of basic speed rule; penalty.** (1) A person commits the offense of violating the basic speed rule if the person drives a vehicle upon a highway at a speed greater than is reasonable and prudent, having due regard to all of the following:

- (a) The traffic.
- (b) The surface and width of the highway.
- (c) The hazard at intersections.
- (d) Weather.
- (e) Visibility.
- (f) Any other conditions then existing.

(2) The following apply to the offense described in this section:

(a) The offense is as applicable on an alley as on any other highway.

(b) Speeds that are prima facie evidence of violation of this section are established by ORS 811.105.

(c) This section and ORS 811.105 establish limitation on speeds that are in addition to maximum speeds established and subject to penalty as described in the following:

(A) A fuel conservation maximum speed limit under ORS 811.110.

(B) Maximum speeds for motor trucks and passenger transport vehicles under ORS 811.115.

(C) Maximum speeds on ocean shores under ORS 811.120.

(3) The offense described in this section, violating the basic speed rule, is a Class B traffic infraction. [1983 c.338 §563]

**811.105 Speeds that are evidence of basic rule violation.** Any speed in excess of any of the following designated speeds is prima facie evidence of violation of the basic speed rule under ORS 811.100:

(1) Any speed posted by authority granted under ORS 810.180.

(2) If no speed is posted, any speed in excess of one of the following designated speeds is prima facie evidence of violation of the basic speed rule:

(a) Fifteen miles per hour when driving on an alley.

(b) Twenty miles per hour in a business district.

(c) Twenty miles per hour when passing school grounds or a school crosswalk if:

(A) Children are present; and

(B) Notice of the grounds or crosswalk is indicated plainly by traffic control devices conforming to the requirements established under ORS 810.200 and posted under authority granted by ORS 810.210.

(d) Twenty-five miles per hour in any residence district or public park.

(e) Fifty-five miles per hour in locations not otherwise described in this section. [1983 c.338 §564; 1985 c.16 §288]

**(Maximum Speeds)**

**811.110 Violation of fuel conservation maximum speed limit; penalty.** (1) A person commits the offense of violation of the fuel conservation maximum speed limit if:

(a) A fuel conservation maximum speed limit is established under ORS 810.180; and

(b) The person operates a vehicle at a speed in excess of the fuel conservation maximum speed limit.

(2) The following apply to the offense described in this section:

(a) A fuel conservation maximum speed limit established under ORS 810.180 is not subject to the basic speed rule under ORS 811.100 except where a special hazard or condition exists that requires a lower speed for compliance with the basic speed rule.

(b) In no event shall the division suspend or revoke a person's driving privileges in this state solely on the grounds that the person has incurred

one or more convictions of a violation of the fuel conservation maximum speed limit.

(3) The offense described in this section, violation of the fuel conservation maximum speed limit, is a Class C traffic infraction. [1983 c.338 §565]

**811.115 Violation of maximum speed for trucks and passenger transport vehicles; penalty.** (1) A person commits the offense of violation of the maximum speed for motor trucks and passenger transport vehicles if the person drives any of the following vehicles at a speed greater than fifty-five miles per hour on any highway:

(a) A motor truck with a registration weight of more than 8,000 pounds.

(b) A school bus.

(c) A school activity vehicle.

(d) A worker transport bus.

(e) A bus operated for transporting children to and from church or an activity or function authorized by a church.

(f) Any vehicle used in the transportation of persons for hire by a nonprofit entity as provided in ORS 767.025 (13).

(2) The following apply to this section:

(a) This section does not apply to ambulances.

(b) Notwithstanding any other provision of this section, the motor vehicles referred to in this section are subject to the provisions of the basic speed rule under ORS 811.100.

(3) The offense described in this section, violation of maximum speed for motor trucks and passenger transport vehicles, is a Class B traffic infraction. [1983 c.338 §566; 1985 c.420 §9]

**811.120 Violation of maximum speed limit on ocean shore; penalty.** (1) A person commits the offense of violating the maximum speed limit on the ocean shore if the person drives a vehicle or conveyance on any part of the ocean shore in this state at a speed greater than any of the following:

(a) Any maximum speed for ocean shores that is established and posted under ORS 810.180.

(b) If no speed is posted under ORS 810.180, 25 miles per hour.

(2) The following apply to this section:

(a) This section is subject to the provisions relating to ambulances and emergency vehicles under ORS 820.300 to 820.320.

Washington

## Chapter 34.04 RCW ADMINISTRATIVE PROCEDURE ACT

Sections			
34.04.010	Definitions.	34.04.240	Committee objections to agency action—Statement in register and WAC.
34.04.020	Adoption of rules of practice and procedure—Organizational description—Records of decisions, orders, and opinions open to public—Exceptions—Effect of failure to comply.	34.04.250	Recommendations and reports by committee to legislature.
34.04.022	Uniform procedural rules—Application—Conduct of contested cases.	34.04.260	Review and objection procedures—No presumption established.
34.04.025	Notices of intention to adopt rules—Opportunity to submit data—Proceedings on rule barred until twenty days after register distribution—Noncompliance, effect.	34.04.270	Agency review of own rules for conformity with federal law.
34.04.026	Specific reference to rule-making authority to be included—Alternatives—Format—Request for more specific reference.	34.04.280	Reports by agency to office of financial management—Compilation by office of financial management provided to legislative officers.
34.04.027	Failure to give twenty days notice of intended action—Effect.	34.04.290	Application of RCW 34.04.270 and 34.04.280.
34.04.030	Emergency rules and amendments.	34.04.900	Severability—1959 c 234.
34.04.040	Rules filed with code reviser—Register—Effective dates—Report.	34.04.901	Severability—1967 c 237.
34.04.045	Statement of proposed rule's purpose and how implemented—Contents—Distribution by agency.	34.04.910	General repeal and saving.
34.04.048	Withdrawal of proposed rules.	34.04.920	Effective dates—1959 c 234.
34.04.050	Code reviser to compile and edit rules, publish register—Removal of unconstitutional rules—Distribution of registers and codes—County law library trustees to maintain set—Judicial notice of rules.	34.04.921	Effective date—1967 c 237.
34.04.052	Scope of editing and revision of rules.	34.04.930	Operation of chapter if in conflict with federal law.
34.04.055	Regulations on filing and form of rules and notices.	34.04.931	Operation of 1967 amendatory act if in conflict with federal law.
34.04.057	Style, format, and numbering of rules—Agency compliance.	34.04.940	Savings—Authority of agencies to comply with chapter—Effect of subsequent legislation.
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34.04.060	Petition for adoption, amendment, repeal of rule—Agency action.		Hearings, procedures, rule making by various agencies to be in accordance with Administrative Procedure Act; Cf. the pertinent statute under which the particular agency is established.
34.04.070	Declaratory judgment on validity of rule—Small business economic impact statement action as part of record.		
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34.04.120	Contested cases—Adverse decisions and orders—Findings and conclusions.		
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34.04.133	Contested cases—Direct review by court of appeals.		
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34.04.140	Appeal to supreme court or court of appeals.		
34.04.150	Exclusions from chapter or parts of chapter.		
34.04.170	Provisions applicable to licenses and licensing.		
34.04.210	Joint administrative rules review committee—Members—Appointment—Terms—Vacancies.		
34.04.220	Review of proposed rules—Notice.		
34.04.230	Review of existing rules—Notice—Hearing.		

## SPEED RESTRICTIONS

**46.61.400 Basic rule and maximum limits.** (1) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(2) Except when a special hazard exists that requires lower speed for compliance with subsection (1) of this section, the limits specified in this section or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle on a highway at a speed in excess of such maximum limits.

(a) Twenty-five miles per hour on city and town streets;

(b) Fifty miles per hour on county roads;

(c) Sixty miles per hour on state highways.

The maximum speed limits set forth in this section may be altered as authorized in RCW 46.61.405, 46.61.410, and 46.61.415.

(3) The driver of every vehicle shall, consistent with the requirements of subsection (1) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions. [1965 ex.s. c 155 § 54; 1963 c 16 § 1. Formerly RCW 46.48.011.]

*Rules of court: Monetary penalty schedule—JTIR 6.2.*

*Saving of existing orders, etc., establishing speed limits—1963 c 16:* "This act shall not repeal or invalidate existing orders and resolutions of the state highway commission or existing resolutions and ordinances of local authorities establishing speed limits within their respective jurisdictions." [1963 c 16 § 7. Formerly RCW 46.48.016.] "This act" [1963 c 16], as amended, is codified as RCW 46.61.400 through 46.61.415, 46.61.425, and 46.61.440.

**46.61.405 Decreases by secretary of transportation.** Whenever the secretary of transportation shall determine upon the basis of an engineering and traffic investigation that any maximum speed hereinbefore set forth is greater than is reasonable or safe with respect to a state highway under the conditions found to exist at any intersection or upon any other part of the state highway system or at state ferry terminals, or that a general reduction of any maximum speed hereinbefore set forth would aid in the conservation of energy resources, the secretary may determine and declare a reasonable and safe lower maximum limit or a lower maximum limit which will reasonably conserve energy resources, for any state highway, the entire state highway system, or any portion thereof, which shall be effective when appropriate signs giving notice thereof are erected. The secretary may also fix and regulate the speed of vehicles on any state highway within the maximum speed limit allowed by this chapter for special occasions including, but not

limited to, local parades and other special events. Any such maximum speed limit may be declared to be effective at all times or at such times as are indicated upon the said signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective (a) when posted upon appropriate fixed or variable signs or (b) if a maximum limit is established for auto stages which is lower than the limit for automobiles, the auto stage speed limit shall become effective thirty days after written notice thereof is mailed in the manner provided in subsection (4) of RCW 46.61.410, as now or hereafter amended. [1977 ex.s. c 151 § 34; 1974 ex.s. c 103 § 1; 1970 ex.s. c 100 § 2; 1967 c 25 § 1; 1963 c 16 § 2. Formerly RCW 46.48.012.]

*Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.*

**46.61.410 Increases by secretary of transportation—Maximum speed limit for trucks—Auto stages—Signs and notices.** (1) Subject to subsection (2) below the secretary may increase the maximum speed limit on any highway or portion thereof to not more than seventy miles per hour in accordance with the design speed thereof (taking into account all safety elements included therein), or whenever the secretary determines upon the basis of an engineering and traffic investigation that such greater speed is reasonable and safe under the circumstances existing on such part of the highway. The greater maximum limit so determined shall be effective, when appropriate signs giving notice thereof are erected, or if a maximum limit is established for auto stages which is lower than the limit for automobiles, the auto stage speed limit shall become effective thirty days after written notice thereof is mailed in the manner provided in subsection (4) of this section.

Such maximum speed limit may be declared to be effective at all times or at such times as are indicated upon said signs or in the case of auto stages, as indicated in said written notice; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs or if a maximum limit is established for auto stages which is lower than the limit for automobiles, the auto stage speed limit shall become effective thirty days after written notice thereof is mailed in the manner provided in subsection (4) of this section.

(2) The maximum speed limit for vehicles over ten thousand pounds gross weight and vehicles in combination except auto stages shall not exceed sixty miles per hour and may be established at a lower limit by the secretary as provided in RCW 46.61.405, as now or hereafter amended.

(3) The word "trucks" used by the department on signs giving notice of maximum speed limits shall mean vehicles over ten thousand pounds gross weight and all vehicles in combination except auto stages.

(4) Whenever the secretary shall establish maximum speed limits for auto stages lower than the maximum limits for automobiles, the secretary shall cause to be mailed notice thereof to each auto transportation company holding a certificate of public convenience and necessity issued by the Washington utilities and transportation commission. The notice shall be mailed to the chief place of business within the state of Washington of each auto transportation company or if none then its chief place of business without the state of Washington. [1977 ex.s. c 151 § 35; 1974 ex.s. c 103 § 2; 1970 ex.s. c 100 § 1; 1969 ex.s. c 12 § 1; 1965 ex.s. c 155 § 55; 1963 c 16 § 3. Formerly RCW 46.48.013.]

*Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.*

**46.61.415 When local authorities may alter maximum limits.** (1) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering and traffic investigation that the maximum speed permitted under RCW 46.61.400 or 46.61.440 is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which

- (a) Decreases the limit at intersections; or
- (b) Increases the limit but not to more than sixty miles per hour; or
- (c) Decreases the limit but not to less than twenty miles per hour.

(2) Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed for all arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the maximum speed permitted under RCW 46.61.400(2) but shall not exceed sixty miles per hour.

(3) The secretary of transportation is authorized to establish speed limits on county roads and city and town streets as shall be necessary to conform with any federal requirements which are a prescribed condition for the allocation of federal funds to the state.

(4) Any altered limit established as hereinbefore authorized shall be effective when appropriate signs giving notice thereof are erected. Such maximum speed limit may be declared to be effective at all times or at such times as are indicated upon such signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs.

(5) Any alteration of maximum limits on state highways within incorporated cities or towns by local authorities shall not be effective until such alteration has been approved by the secretary of transportation. [1977 ex.s. c 151 § 36; 1974 ex.s. c 103 § 3; 1963 c 16 § 4. Formerly RCW 46.48.014.]

*Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.*

**46.61.425 Minimum speed regulation—Passing slow moving vehicle.** (1) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law: *Provided*, That a person following a vehicle driving at less than the legal maximum speed and desiring to pass such vehicle may exceed the speed limit, subject to the provisions of RCW 46.61.120 on highways having only one lane of traffic in each direction, at only such a speed and for only such a distance as is necessary to complete the pass with a reasonable margin of safety.

(2) Whenever the secretary of transportation or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any part of a highway unreasonably impede the normal movement of traffic, the secretary or such local authority may determine and declare a minimum speed limit thereat which shall be effective when appropriate signs giving notice thereof are erected. No person shall drive a vehicle slower than such minimum speed limit except when necessary for safe operation or in compliance with law. [1977 ex.s. c 151 § 37; 1969 c 135 § 1; 1967 c 25 § 2; 1963 c 16 § 6. Formerly RCW 46.48.015.]

*Rules of court: Monetary penalty schedule—JTIR 6.2.*

*Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.*

**46.61.427 Slow moving vehicle to pull off roadway.** On a two-lane highway where passing is unsafe because of traffic in the opposite direction or other conditions, a slow moving vehicle, behind which five or more vehicles are formed in a line, shall turn off the roadway wherever sufficient area for a safe turn-out exists, in order to permit the vehicles following to proceed. As used in this section a slow moving vehicle is one which is proceeding at a rate of speed less than the normal flow of traffic at the particular time and place. [1973 c 88 § 1.]

**46.61.428 Slow-moving vehicle permitted to drive on improved shoulders, when.** (1) The state department of transportation and local authorities are authorized to determine those portions of any two-lane highways under their respective jurisdictions on which drivers of slow-moving vehicles may safely drive onto improved shoulders for the purpose of allowing overtaking vehicles to pass and may by appropriate signs indicate the beginning and end of such zones.

(2) Where signs are in place to define a driving-on-shoulder zone as set forth in subsection (1) of this section, the driver of a slow-moving vehicle may drive onto and along the shoulder within the zone but only for the purpose of allowing overtaking vehicles to pass and then shall return to the roadway.

(3) Signs erected to define a driving-on-shoulder zone take precedence over pavement markings for the purpose of allowing the movements described in subsection (2) of this section. [1984 c 7 § 71; 1977 ex.s. c 39 § 1.]

*Severability—1984 c 7: See note following RCW 47.01.141.*

**46.61.430 Authority of secretary of transportation to fix speed limits on limited access facilities exclusive—Local regulations.** Notwithstanding any law to the contrary or inconsistent herewith, the secretary of transportation shall have the power and the duty to fix and regulate the speed of vehicles within the maximum speed limit allowed by law for state highways, designated as limited access facilities, regardless of whether a portion of said highway is within the corporate limits of a city or town. No governing body or authority of such city or town or other political subdivision may have the power to pass or enforce any ordinance, rule, or regulation requiring a different rate of speed, and all such ordinances, rules, and regulations contrary to or inconsistent therewith now in force are void and of no effect. [1977 ex.s. c 151 § 38; 1974 ex.s. c 103 § 4; 1961 c 12 § 46.48.041. Prior: 1955 c 177 § 5. Formerly RCW 46.48.041.]

**Federal requirements—Severability—1977 ex.s. c 151:** See RCW 47.98.070 and 47.98.080.

**46.61.435 Local authorities to provide "stop" or "yield" signs at intersections with increased speed highways—Designated as arterials.** The governing body or authority of any such city or town or political subdivision shall place and maintain upon each and every highway intersecting a highway where an increased speed is permitted, as provided in this chapter, appropriate stop or yield signs, sufficient to be read at any time by any person upon approaching and entering the highway upon which such increased speed is permitted and such city street or such portion thereof as is subject to the increased speed shall be an arterial highway. [1975 c 62 § 33; 1961 c 12 § 46.48.046. Prior: 1951 c 28 § 4; prior: 1937 c 189 § 66, part; RRS § 6360-66, part; 1927 c 309 § 5, part; 1921 c 96 § 41, part; 1919 c 59 § 13, part; 1917 c 155 § 20, part; 1915 c 142 § 34, part; RRS § 6362-5, part. Formerly RCW 46.48.046.]

**Severability—1975 c 62:** See note following RCW 36.75.010.

*Designation of city streets as arterials, stopping on entering:* RCW 46.61.195.

*Traffic control signals or devices upon city streets forming part of state highways:* RCW 46.61.085.

**46.61.440 Maximum speed limit when passing school or playground crosswalks.** Subject to RCW 46.61.400(1), and except in those instances where a lower maximum lawful speed is provided by this chapter or otherwise, it shall be unlawful for the operator of any vehicle to operate the same at a speed in excess of twenty miles per hour when operating any vehicle upon a highway either inside or outside an incorporated city or town when passing any marked school or playground crosswalk when such marked crosswalk is fully posted with standard school speed limit signs or standard playground speed limit signs. The speed zone at the crosswalk shall extend three hundred feet in either direction from the marked crosswalk. [1975 c 62 § 34; 1963 c 16 § 5; 1961 c 12 § 46.48.023. Prior: 1951 c 28 § 9; 1949 c 196 § 6, part; 1947 c 200 § 8, part; 1937 c 189 § 64, part; Rem. Supp. 1949 § 6360-64, part; 1927 c 309 § 3,

part; 1923 c 181 § 6, part; 1921 c 96 § 27, part; 1917 c 155 § 16, part; 1915 c 142 § 24, part; RRS § 6362-3, part; 1909 c 249 § 279, part; Rem. & Bal. § 2531, part. Formerly RCW 46.48.023.]

**Severability—1975 c 62:** See note following RCW 36.75.010.

**46.61.445 Due care required.** Compliance with speed requirements of this chapter under the circumstances hereinabove set forth shall not relieve the operator of any vehicle from the further exercise of due care and caution as further circumstances shall require. [1961 c 12 § 46.48.025. Prior: 1951 c 28 § 11; 1949 c 196 § 6, part; 1947 c 200 § 8, part; 1937 c 189 § 64, part; Rem. Supp. 1949 § 6360-64, part; 1927 c 309 § 3, part; 1923 c 181 § 6, part; 1921 c 96 § 27, part; 1917 c 155 § 16, part; 1915 c 142 § 24, part; RRS § 6362-3, part; 1909 c 249 § 279, part; Rem. & Bal. 2531, part. Formerly RCW 46.48.025.]

*Duty to use due care:* RCW 46.61.400(1).

**46.61.450 Maximum speed, weight, or size in traversing bridges, elevated structures, tunnels, underpasses—Posting limits.** It shall be unlawful for any person to operate a vehicle or any combination of vehicles over any bridge or other elevated structure or through any tunnel or underpass constituting a part of any public highway at a rate of speed or with a gross weight or of a size which is greater at any time than the maximum speed or maximum weight or size which can be maintained or carried with safety over any such bridge or structure or through any such tunnel or underpass when such bridge, structure, tunnel, or underpass is sign posted as hereinafter provided. The secretary of transportation, if it be a bridge, structure, tunnel, or underpass upon a state highway, or the governing body or authorities of any county, city, or town, if it be upon roads or streets under their jurisdiction, may restrict the speed which may be maintained or the gross weight or size which may be operated upon or over any such bridge or elevated structure or through any such tunnel or underpass with safety thereto. The secretary or the governing body or authorities of any county, city, or town having jurisdiction shall determine and declare the maximum speed or maximum gross weight or size which such bridge, elevated structure, tunnel, or underpass can withstand or accommodate and shall cause suitable signs stating such maximum speed or maximum gross weight, or size, or either, to be erected and maintained on the right hand side of such highway, road, or street and at a distance of not less than one hundred feet from each end of such bridge, structure, tunnel, or underpass and on the approach thereto: *Provided*, That in the event that any such bridge, elevated structure, tunnel, or underpass is upon a city street designated by the transportation commission as forming a part of the route of any state highway through any such incorporated city or town the determination of any maximum speed or maximum gross weight or size which such bridge, elevated structure, tunnel, or underpass can withstand or accommodate shall not be enforceable at any speed, weight, or size less

than the maximum allowed by law, unless with the approval in writing of the secretary. Upon the trial of any person charged with a violation of this section, proof of either violation of maximum speed or maximum weight, or size, or either, and the distance and location of such signs as are required, shall constitute conclusive evidence of the maximum speed or maximum weight, or size, or either, which can be maintained or carried with safety over such bridge or elevated structure or through such tunnel or underpass. [1977 ex.s. c 151 § 39; 1961 c 12 § 46.48.080. Prior: 1937 c 189 § 70; RRS § 6360-70. Formerly RCW 46.48.080.]

Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

**46.61.455 Vehicles with solid or hollow cushion tires.** It shall be unlawful to operate any vehicle equipped or partly equipped with solid rubber tires or hollow center cushion tires, or to operate any combination of vehicles any part of which is equipped or partly equipped with solid rubber tires or hollow center cushion tires, so long as solid rubber tires or hollow center cushion tires may be used under the provisions of this title, upon any public highway of this state at a greater rate of speed than ten miles per hour. [1961 c 12 § 46.48.110. Prior: 1947 c 200 § 11; 1937 c 189 § 73; Rem. Supp. 1947 § 6360-73. Formerly RCW 46.48.110.]

**46.61.460 Special speed limitation on motor-driven cycle.** No person shall operate any motor-driven cycle at any time mentioned in RCW 46.37.020 at a speed greater than thirty-five miles per hour unless such motor-driven cycle is equipped with a head lamp or lamps which are adequate to reveal a person or vehicle at a distance of three hundred feet ahead. [1965 ex.s. c 155 § 57.]

**46.61.465 Exceeding speed limit evidence of reckless driving.** The unlawful operation of a vehicle in excess of the maximum lawful speeds provided in this chapter at the point of operation and under the circumstances described shall be prima facie evidence of the operation of a motor vehicle in a reckless manner by the operator thereof. [1961 c 12 § 46.48.026. Prior: 1951 c 28 § 12; 1949 c 196 § 6, part; 1947 c 200 § 8, part; 1937 c 189 § 64, part; Rem. Supp. 1949 § 6360-64, part; 1927 c 309 § 3, part; 1923 c 181 § 6, part; 1921 c 96 § 27, part; 1917 c 155 § 16, part; 1915 c 142 § 24, part; RRS § 6362-3, part; 1909 c 249 § 279, part; Rem. & Bal. § 2531, part. Formerly RCW 46.48.026.]

**46.61.470 Speed traps defined, certain types permitted—Measured courses, speed measuring devices, timing from aircraft.** (1) No evidence as to the speed of any vehicle operated upon a public highway by any person arrested for violation of any of the laws of this state regarding speed or of any orders, rules, or regulations of any city or town or other political subdivision relating thereto shall be admitted in evidence in any court at a subsequent trial of such person in case such evidence relates to or is based upon the maintenance or use of a

speed trap except as provided in subsection (2) of this section. A "speed trap," within the meaning of this section, is a particular section of or distance on any public highway, the length of which has been or is measured off or otherwise designated or determined, and the limits of which are within the vision of any officer or officers who calculate the speed of a vehicle passing through such speed trap by using the lapsed time during which such vehicle travels between the entrance and exit of such speed trap.

(2) Evidence shall be admissible against any person arrested or issued a notice of a traffic infraction for violation of any of the laws of this state or of any orders, rules, or regulations of any city or town or other political subdivision regarding speed if the same is determined by a particular section of or distance on a public highway, the length of which has been accurately measured off or otherwise designated or determined and either: (a) The limits of which are controlled by a mechanical, electrical, or other device capable of measuring or recording the speed of a vehicle passing within such limits; or (b) a timing device is operated from an aircraft, which timing device when used to measure the elapsed time of a vehicle passing over such a particular section of or distance upon a public highway indicates the speed of a vehicle.

(3) The exceptions of subsection (2) of this section are limited to devices or observations with a maximum error of not to exceed five percent using the lapsed time during which such vehicle travels between such limits, and such limits shall not be closer than one-fourth mile. [1981 c 105 § 1; 1961 c 12 § 46.48.120. Prior: 1937 c 189 § 74; RRS § 6360-74; 1927 c 309 § 7; RRS § 6362-7. Formerly RCW 46.48.120.]

**46.61.475 Charging violations of speed regulations.** (1) In every charge of violation of any speed regulation in this chapter the complaint, also the summons or notice to appear, shall specify the approximate speed at which the defendant is alleged to have driven, also the maximum speed applicable within the district or at the location. [1965 ex.s. c 155 § 58.]

#### RECKLESS DRIVING, DRIVING WHILE INTOXICATED, VEHICULAR HOMICIDE AND ASSAULT

**46.61.500 Reckless driving—Penalty.** (1) Any person who drives any vehicle in wilful or wanton disregard for the safety of persons or property is guilty of reckless driving. Violation of the provisions of this section is a misdemeanor.

(2) The license or permit to drive or any nonresident privilege of any person convicted of reckless driving shall be suspended by the department for not less than thirty days. [1979 ex.s. c 136 § 85; 1967 c 32 § 67; 1965 ex.s. c 155 § 59.]

Rules of court: Bail in traffic offense cases—Mandatory appearance—JCrR 2.09.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Arrest of person involved in reckless driving: RCW 10.31.100.

of transportation to the clerk of any city or town that such street, or portion thereof, is no longer required as a part of the state highway system: *Provided further*, That any such certification that a street, or portion thereof, is no longer required as a part of the state highway system shall be made between the first and fifteenth of July following the determination by the department that such street or portion thereof is no longer required as a part of the state highway system, but this shall not prevent the department and any city or town from entering into an agreement that a city or town will accept responsibility for such a street or portion thereof at some time other than between the first and fifteenth of July of any year. [1979 ex.s. c 86 § 2; 1977 ex.s. c 151 § 57; 1973 c 95 § 3; 1961 c 13 § 47.24.010. Prior: 1959 c 160 § 1; 1957 c 83 § 2; 1955 c 179 § 2; 1949 c 220 § 5, part; 1945 c 250 § 1, part; 1943 c 82 § 10, part; 1937 c 187 § 61, part; Rem. Supp. 1949 § 6450-61, part.]

*Severability*—1979 ex.s. c 86: See note following RCW 13.24.040.

**47.24.020 Jurisdiction, control of such streets.** The jurisdiction, control, and duty of the state and city or town with respect to such streets shall be as follows:

(1) The department has no authority to change or establish any grade of any such street without approval of the governing body of such city or town, except with respect to limited access facilities established by the commission;

(2) The city or town shall exercise full responsibility for and control over any such street beyond the curbs and if no curb is installed, beyond that portion of the highway used for highway purposes. However, within incorporated cities and towns the title to a state limited access highway vests in the state, and, notwithstanding any other provision of this section, the department shall exercise full jurisdiction, responsibility, and control to and over such facility as provided in chapter 47.52 RCW;

(3) The department has authority to prohibit the suspension of signs, banners, or decorations above the portion of such street between the curbs or portion used for highway purposes up to a vertical height of twenty feet above the surface of the roadway;

(4) The city or town shall at its own expense maintain all underground facilities in such streets, and has the right to construct such additional underground facilities as may be necessary in such streets;

(5) The city or town has the right to grant the privilege to open the surface of any such street, but all damage occasioned thereby shall promptly be repaired either by the city or town itself or at its direction;

(6) The city or town at its own expense shall provide street illumination and shall clean all such streets, including storm sewer inlets and catch basins, and remove all snow, except that the state shall when necessary plow the snow on the roadway. In cities and towns having a population of fifteen thousand or less according to the latest determination of population by the office of financial management, the state, when necessary for public safety, shall assume, at its expense, responsibility for the

stability of the slopes of cuts and fills and the embankments within the right of way to protect the roadway itself. The state shall install, maintain, and operate all illuminating facilities on any limited access facility, together with its interchanges, located within the corporate limits of any city or town, and shall assume and pay the costs of all such installation, maintenance, and operation incurred after November 1, 1954;

(7) The department has the right to use all storm sewers on such highways without cost; and if new storm sewer facilities are necessary in construction of new streets by the department, the cost of the facilities shall be borne by the state and/or city as may be mutually agreed upon between the department and the governing body of the city or town;

(8) Cities and towns have exclusive right to grant franchises not in conflict with state laws, over, beneath, and upon such streets, but the department is authorized to enforce in an action brought in the name of the state any condition of any franchise which a city or town has granted on such street. No franchise for transportation of passengers in motor vehicles may be granted on such streets without the approval of the department, but the department shall not refuse to approve such franchise unless another street conveniently located and of strength of construction to sustain travel of such vehicles is accessible;

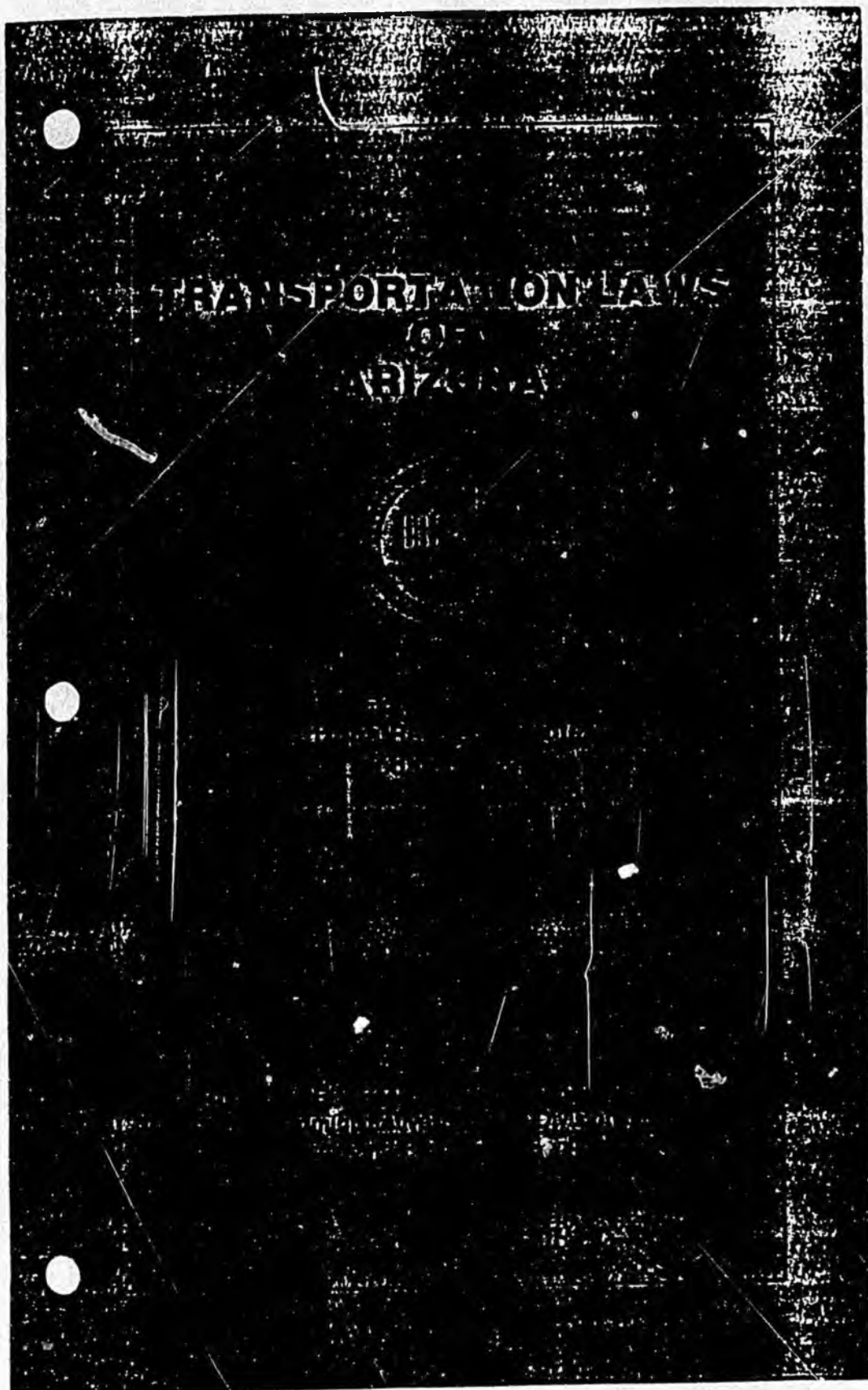
(9) Every franchise or permit granted any person by a city or town for use of any portion of such street by a public utility shall require the grantee or permittee to restore, repair, and replace to its original condition any portion of the street damaged or injured by it;

(10) The city or town has the right to issue overload or overweight permits for vehicles to operate on such streets or roads subject to regulations printed and distributed to the cities and towns by the department;

(11) Cities and towns shall regulate and enforce all traffic and parking restrictions on such streets, but all regulations adopted by a city or town relating to speed, parking, and traffic control devices on such streets not identical to state law relating thereto are subject to the approval of the department before becoming effective. All regulations pertaining to speed, parking, and traffic control devices relating to such streets heretofore adopted by a city or town not identical with state laws shall become null and void unless approved by the department heretofore or within one year after March 21, 1963;

(12) The department shall erect, control, and maintain at state expense all route markers and directional signs, except street signs, on such streets;

(13) The department shall install, operate, maintain, and control at state expense all traffic control signals, signs, and traffic control devices for the purpose of regulating both pedestrian and motor vehicular traffic on, entering upon, or leaving state highways in cities and towns having a population of fifteen thousand or less according to the latest determination of population by the office of financial management. Such cities and towns may submit to the department a plan for traffic control signals, signs, and traffic control devices desired by



shall suspend the driving privilege of such person for the period of time ordered by the judge.

C. When a person convicted of a violation of this section has been previously convicted of a violation of this section, section 13-1102 or 13-1103, subsection A, paragraph 1, in the driving of a vehicle, 28-692 or 28-708 within a period of twenty-four months, such person is guilty of a class 1 misdemeanor and shall not be eligible for probation, pardon, parole, commutation or suspension of sentence or release on any other basis until such person has served not less than twenty days in jail. The judge shall require the surrender to him of any operator's or chauffeur's license of such convicted person and shall immediately forward to the department the license with the abstract of conviction. The department upon receipt thereof shall revoke the driving privilege of such person. The dates of the commission of the offense shall be the determining factor in applying this rule. A second or subsequent violation for which a conviction occurs as provided in this section shall not include a conviction for an offense arising out of the same series of acts. No judge may grant probation to or suspend the imposition or execution of a jail sentence or fail to secure the surrender to him of any license of any person for such a second or subsequent conviction.

D. The court may, upon pronouncement of any jail sentence under this section, provide in the sentence that the defendant may be permitted, if he is employed and can continue his employment, to continue such employment for not more than twelve hours per day nor more than six days per week, and the remaining day, days or parts of days shall be spent in jail until the sentence is served. He shall be allowed out of jail only long enough to complete his actual hours of employment and no longer.

#### **ARTICLE 6 -- SPEED RESTRICTIONS**

##### **23-701. Reasonable and prudent speed; prima facie evidence; exceptions; classification**

A. A person shall not drive a vehicle on a highway at a speed greater than is reasonable and prudent under the circumstances, conditions and actual and potential hazards then existing. In every event, speed shall be so controlled as may be necessary to avoid colliding with any object, person, vehicle or other conveyance on, entering or adjacent to the highway in compliance with legal requirements and the duty of all persons to exercise reasonable care for the protection of others.

B. Except as provided in subsections C and D or where a special hazard requires a lesser speed, any speed in excess of these speeds is prima facie evidence that the speed is too great and therefore unreasonable:

1. Fifteen miles per hour approaching school crossing.
2. Twenty-five miles per hour in any business or residential district.
3. Sixty-five miles per hour in other locations.

C. The speed limits set forth in this section may be altered as authorized in sections 28-702 and 28-703.

D. The maximum speed as provided in this section shall be reduced to that which is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing, such as when:

1. Approaching and crossing an intersection or railroad crossing.
2. Approaching and going around a curve.
3. Approaching a hill crest.
4. Travelling upon any narrow or winding roadway.
5. Special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

E. A person shall not drive a motor vehicle at a speed that is less than that which is reasonable and prudent under existing conditions.

##### **28-701.01 Definitions**

In this article, unless the context otherwise requires:

**28-701.01. Definitions**

1. "Freeway" means a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement of access, and which is declared to be such by the director of the department of transportation.

**28-701.02. Excessive speed**

A. A person shall not:

1. Exceed thirty-five miles per hour approaching a school crossing.
2. Exceed the posted speed limit in a business or residential district by more than twenty miles per hour, or if no speed limit is posted, forty-five miles per hour.
3. Exceed eighty-five miles per hour in other locations.

B. A person who violates subsection A is guilty of a class 3 misdemeanor.

C. A person charged with a violation of this section may not be issued a civil complaint for a violation of section 28-701 if the civil complaint alleges a violation arising out of the same circumstances.

**28-702. Establishment of state speed zones**

When the director determines upon the basis of an engineering and traffic investigation that any maximum speed limit is greater or less than is reasonable or safe under the conditions found to exist upon any part of a state highway, the director may determine and declare a reasonable and safe maximum speed limit for such location, which shall be effective when appropriate signs giving notice thereof are erected. A maximum speed limit, as declared pursuant to this section, may be declared to be effective at all times or at such times as are indicated on the speed limit signs. Varying speed limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds. Such varying limits shall be effective when posted upon appropriate fixed or variable signs.

**28-702.01. Maximum speed limit; authority for order increasing; waste of a finite resource; fine; sanction**

A. No maximum speed limit on any public highway in this state shall be in excess of fifty-five miles per hour notwithstanding any other higher maximum speed limit previously established pursuant to any other provision of law. This shall not be construed as altering any existing maximum speed limit which is less than fifty-five miles per hour or to prevent the appropriate jurisdiction from establishing, altering, or lowering any maximum speed limit which is less than fifty-five miles per hour within its respective jurisdiction.

B. The speed limit for all types of motor vehicles shall be fifty-five miles per hour on any portion of any public highway that has four or more traffic lanes, the opposing lanes of which are physically separated other than by striping, which portion of highway has had a speed limit for all types of motor vehicles of fifty-five miles or more on November 1, 1973.

C. The director may order that this maximum speed limit be increased up to seventy-five miles per hour on an individual highway or on all highways in the state if the governor declares by proclamation that an emergency does not exist and that the receipt of federal highway funds would not be withheld.

D. It is unlawful for any person to drive a motor vehicle at a speed in excess of fifty-five miles per hour, or in excess of a higher maximum speed if changed as set forth under subsection C of this section.

E. If a person is charged with violating the provisions of subsection D of this section and the speed at which the defendant is alleged to have driven as provided in section 28-707, subsection A is sixty-five miles per hour or less or the court finds that the defendant violated subsection D of this section and that the speed at which the defendant drove was not in excess of sixty-five miles per hour the offense shall be designated as the waste of a finite resource currently in short supply, which is a petty offense.

F. If a person is charged with violating the provisions of subsection D of this section and the speed at which the defendant is alleged to have driven as provided in section 28-707, subsection A is more than sixty-five miles per hour and the court so finds the offense shall be designated as unlawful speed which is a class 3 misdemeanor.

G. If a person is convicted of a petty offense under this section:

1. No department or agency of this state shall consider such violation for the purpose of determining whether such person's operator's or chauffeur's license should be suspended or revoked.

2. An insurer shall not consider the violation as a moving traffic violation against the person for the purpose of establishing rates of motor vehicle insurance charged by the insurer nor shall the insurer cancel or refuse to renew any policy of insurance for such a violation.

3. The fine shall not exceed fifteen dollars plus the penalty assessment imposed pursuant to section 41-2403.

4. No report may be made under section 28-1061, subsection B.

**28-702.02. Authority to change speed signs on freeways**

When the director determines upon the basis of an engineering and traffic survey that the safe and orderly movement of traffic upon any state highway which is a freeway will be facilitated by the establishment of variable speed limits, the department may erect, regulate, and control signs upon the state highway which is a freeway, or any portion thereof, which signs shall be so designed as to permit display of different speed limits at various times of the day or night. Such signs shall be of sufficient size and clarity to give adequate notice of the applicable speed limit. The speed limit upon the freeway at a particular time and place shall be that which is then and there displayed upon such sign.

**28-702.03. Maximum speed limit on Interstate system highway; out of state violation**

If a resident of this state is convicted of violating the maximum speed limit of fifty-five miles per hour on the interstate system highways of another state, but the speed at which the person is alleged to have driven is sixty-five miles per hour or less:

1. No department or agency of this state may consider the violation for the purpose of determining whether the person's operator's or chauffeur's license should be suspended or revoked.

2. An insurer shall not consider the violation as a moving traffic violation against the person for the purpose of establishing rates of motor vehicle insurance charged by the insurer nor shall the insurer cancel or refuse to renew any policy of insurance for such a violation.

**28-703. When local authorities may and shall alter maximum limits**

A. When local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that the maximum speed permitted under this article is greater or less than is reasonable or safe under the conditions found to exist upon any part of a street or highway, the local authority subject to subsection D may determine and declare a reasonable and safe maximum speed limit at such location and based on such investigation may:

1. Decrease the limit at intersections.

2. Increase the limit within any business or residence district, but not to more than sixty-five miles per hour.

3. Decrease the limit outside any business or residence district.

4. Increase or decrease the limits on streets adjacent to school grounds.

B. Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed for all arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the maximum speed permitted under this article for a business or residence district.

C. Any altered limit established as provided for in this section shall be effective at all times, or during hours of darkness, or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.

D. Alteration of maximum limits on state highways or extensions thereof in a municipality by local authorities shall not be effective until the alteration has been approved by the director.

E. Not more than six such alterations as provided for in this section shall be made per mile along a street or highway, except in the case of reduced limits at intersections, and the difference between adjacent limits shall not be more than ten miles per hour except for school crossings.

**28-703.01. End of speed zone; signs required**

The agency or authority establishing a speed zone under the provisions of sections 28-702 or 28-703 shall be responsible for erecting, at the beginning of each such zone a sign designating the maximum allowable speed within the zone, and at the end thereof a sign bearing either the word "end" and "resume speed" or setting forth the new maximum speed limit.

**28-703.02. Establishing speed on multiple-lane highways**

On multiple-lane highways and freeways with two or more separate roadways different prima facie speed limits may be established for different roadways under any of the procedures specified in sections 28-702, 28-703 and 28-703.01.

**28-704. Minimum speed regulation**

A. No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

B. Whenever the director or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the director or such local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

**28-705. Special speed limitation on motor-driven cycles**

No person shall operate any motor-driven cycle at any time mentioned in section 28-922 at a speed greater than thirty-five miles per hour unless such motor-driven cycle is equipped with a head lamp or lamps which are adequate to reveal a person or vehicle at a distance of three hundred feet ahead.

**28-706. Special speed limitations**

A. No person shall drive any vehicle equipped with solid rubber or cushion tires at a speed greater than a maximum of ten miles per hour.

B. No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to the bridge or structure, when the structure is signposted as provided in this section.

C. The director upon request from any local authority shall, or upon his own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if he thereupon finds that the structure cannot with safety to itself withstand vehicles traveling at the speed otherwise permissible under this article he shall determine and declare the maximum speed of vehicles which the structure can withstand, and shall cause or permit suitable signs stating such maximum speed to be erected and maintained at a distance of three hundred feet before each end of the structure.

D. Upon the trial of any person charged with a violation of this section, proof of determination of the maximum speed by the director and the existence of the signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety to the bridge or structure.

**28-707. Charging violations and rule in civil actions**

A. In every charge of violation of any speed regulation in this article, the complaint and the summons or notice to appear shall specify the speed at which the defendant is alleged to have driven and the maximum speed applicable within the district or at the location.

B. The provision of this article declaring maximum speed limitations shall not be construed to relieve the plaintiff in any civil action, other than a civil action to impose a civil sanction, from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

**28-708. Racing on highways; classification**

A. No person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record on a street or highway, and no person shall in any manner participate in any such race, competition, contest, test or exhibition.

B. Drag race is defined as the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit.

C. Racing is defined as the use of one or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing.

D. A person who violates this section is guilty of a class 2 misdemeanor. If a person is convicted of a second or subsequent violation within twenty-four months of a first conviction, such person is guilty of a class 2 misdemeanor and shall not be eligible for probation, pardon, parole, commutation or suspension of sentence or release on any other basis until such person has served not less than ten days in jail.

E. The court may, upon pronouncement of any jail sentence under this section, in cases of extreme hardship provide in the sentence that the defendant may be permitted, if he is employed and can continue his employment, to continue such employment for not more than twelve hours per day nor more than six days per week, and the remaining day, days or parts of days shall be spent in jail until the sentence is served. He shall be allowed out of jail only long enough to complete his actual hours of employment and no longer.

F. When any person is convicted of a violation of the provisions of this section, the judge may, upon a first conviction, and shall upon a second or subsequent conviction for an offense committed within a period of twenty-four months require the surrender to him of any operator's or chauffeur's license of such person and immediately forward same to the department with the abstract of conviction. Upon a first conviction the judge may order the suspension of the driving privileges of such person for a period not to exceed ninety days. The department upon receipt of the license, abstract of conviction, and order of the court, in the case of a first conviction, shall suspend the driving privileges of such person for the period of time ordered by the judge. In the case of a second or subsequent conviction for an offense committed within a period of twenty-four months, the department upon receipt of the license and the abstract of conviction shall revoke the driving privileges of such person.

G. The director may give authorization in writing for any organized and properly controlled event otherwise prohibited by this section to utilize a highway or part of a highway. The authorization shall specify the time of the event, the highway or part of a highway to be utilized, and any special conditions the director may require for the particular event.

Alaska State Legislature

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HOUSE SPECIAL COMMITTEE  
ON STATE LOANS

HOUSE FINANCE SUBCOMMITTEE ON  
ADMINISTRATION, REVENUE  
AND THE GOVERNOR'S OFFICE

To: Senator Jack Coghill  
Chair, Senate Transportation Committee  
From: Rep. Rick Uehling  
Subject: HB 552. "An Act relating to setting speed limits and  
neighborhood speed zones"  
Date: April 12, 1986

HB 552 would require DOT to consider the presence of neighborhoods, schools, parks, and pedestrian traffic when setting speed limits. I refer to this concept as Neighborhood Speed Zones.

Our State law charges DOT with setting speed limits but the Legislature has never given DOT any indication of what factors it should consider when setting speed limits. As a result, speed limits are decided according to DOT internal policies referred to by DOT as 'policies and procedures'. At the heart of these 'policies and procedures' is the use of the '85% percentile'. DOT sets speed limits on highways and other roadways under its jurisdiction at the rate at which 85% of the drivers are currently driving.

DOT only gives lip service to the consideration of neighborhood and pedestrian safety factors when setting speed limits. DOT always uses the '85% percentile' to overrule local resident's safety concerns about speed limits. Residents have no where to turn because DOT decisions are based upon their internal policies and there are no statutory or regulatory (AAC) guidelines.

HB 552 will give Legislative direction to DOT about setting speed limits and opens the process by which DOT sets speed limits by providing local governments, community councils and community organizations a right to a public hearings. It is important to note that HB 552 does not attempt to set speed limits in neighborhoods or take any authority away from the Commissioner of DOT, he retains final authority to set speed limits.

With the State spending hundreds of millions of dollars on new roads across the State, it is more important now than ever that there be some protections built into the system for our neighborhoods. Neighborhood Speed Zones (HB552) will be an important protection, not just for the safety of our Streets in Anchorage, but throughout the state as well.

Changes were made by the House State Affairs Committee to insure that DOT responds to the concerns of local government and

neighborhood organizations by providing for public notice and the holding of public hearings.

The House Transportation Committee Substitute reorganizes the structure of the House State Affairs Committee in a clarifying manner to with regard to the local hearing process.

The House Finance Committee changed the the words "arterial roadways" (p.1,ln.13) to 'other roadways' to insure that 'collector roads' for which DOT sets speed limits are also covered in this legislation.

The House made a technical amendment on the floor (p.2,ln.2) to correct a House Finance oversight and changed the words 'neighborhood organization' (p.2,ln.4) to 'community organization.

With regard to the fiscal note placed on this legislation by DOTPF of \$47,000, I support the House Finance fiscal note of zero.