

Driver Awareness

Transportation safety has many aspects, but most can be summed up by saying whether driving, walking or cycling, be courteous to others, keep your mind on what you are doing, obey speed limits and traffic laws, watch the road and look out for other users, whether they are looking out for you or not. But let's look at the laws and reasons why this makes for a safer, more pleasant experience.

We know the increased danger posed by speeding traffic, but to walkers or bicyclists, even relatively slow motor vehicles pose a danger and make walking or riding uncomfortable. Because of the increased danger to pedestrians as speeds increase, the law now allows the speed limit to be reduced five miles per hour below the statutory limit (from 25 to 20 mph) on low-volume traffic routes in order to encourage use by pedestrians and bicyclists. The purpose is to provide a tool by which to reduce the number and severity of accidents involving motorized and non-motorized vehicles/pedestrians. For many people, walking or bicycling around traffic driving 20 MPH is comfortable. As a reminder, 20 MPH is also the speed for school zones.

The law now also recognizes harm from careless driving. Careless driving is simply driving in a way that endangers, or is likely to endanger, a person or property. The law has been amended so that careless driving which a police officer notes appears to have contributed to the serious physical injury or death of a "vulnerable road user" may result in stiff penalties, which can include a large fine as well as loss of driving privileges. The term vulnerable road user is relatively new. It includes pedestrians, skateboarders, roller skaters, in-line skaters, scooter users, bicyclists or a person riding an animal. If you are driving around any of those road users, be careful, give them extra room, and be on the watch for sudden moves, especially when the users are children or youth.

The law goes further to what is called vehicular assault of a bicyclist or pedestrian. If a driver recklessly drives in such a way that there is contact between the person's vehicle and a bicycle or a pedestrian which causes physical injury to the bicyclist or the pedestrian, they are guilty of vehicular assault.

Let me also remind readers about Oregon's crosswalk law, which applies to both marked and unmarked crosswalks. The law states that a person is crossing the street "when any part or extension" of the individual's body, wheelchair, cane, crutch, bicycle

or leashed animal enters the roadway. Simply put, if you see someone at a street intersection attempting to cross the street, you need to stop to let them cross.

While these laws deal with drivers as they interact with bicyclists and walkers, laws also address how bicyclists relate to other bicyclists and cars. Specifically, bicycle riders must ride in the same direction as motor vehicles. Riding facing on-coming vehicles, whether bicycles or cars, is unsafe and unlawful. If you ride, go with the flow.

Our laws require drivers to signal when turning, changing lanes, stopping or suddenly decelerating and there is new evidence that doing so is more than merely a courtesy to others. According to research by the Society of Automotive Engineers, neglecting to signal results in about 2 million roadway collisions annually. That's even more than those linked to distracted driving. Bicycle riders are also required by law to signal when turning or stopping.

These are the laws. But it is up to every one of us to be safe, courteous and lawful every time we use our streets and sidewalks.

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801.608 “Vulnerable user of a public way.” “Vulnerable user of a public way” means a pedestrian, a highway worker, a person riding an animal or a person operating any of the following on a public way, crosswalk or shoulder of the highway:

- (1) A farm tractor or implement of husbandry;
- (2) A skateboard;
- (3) Roller skates;
- (4) In-line skates;
- (5) A scooter; or
- (6) A bicycle. [2007 c.784 §2; 2009 c.301 §1]

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 811.135 is amended to read:

811.135. (1) A person commits the offense of careless driving if the person drives any vehicle upon a highway or other premises described in this section in a manner that endangers or would be likely to endanger any person or property.

(3) In addition to any other penalty imposed for an offense committed under this section, if the court determines that the commission of the offense described in this section contributed to the serious physical injury or death of a vulnerable user of a public way, the court shall:

- (a) Impose a sentence that requires the person to:
 - (A) Complete a traffic safety course; and
 - (B) Perform between 100 and 200 hours of community service, notwithstanding ORS 137.129. The community service must include activities related to driver improvement and providing public education on traffic safety;
- (b) Impose, but suspend on the condition that the person complete the requirements of paragraph (a) of this subsection:

- (A) A fine of up to \$12,500, notwithstanding ORS 153.018; and
 - (B) A suspension of driving privileges as provided in ORS 809.280; and
 - (c) Set a hearing date up to one year from the date of sentencing.
- (4) At the hearing described in subsection (3)(c) of this section, the court shall:
- (a) If the person has successfully completed the requirements described in subsection (3)(a) of this section, dismiss the penalties imposed under subsection (3)(b) of this section; or
 - (b) If the person has not successfully completed the requirements described in subsection (3)(a) of this section:
 - (A) Grant the person an extension based on good cause shown; or
 - (B) Impose the penalties under subsection (3)(b) of this section.
- (5) When a court imposes a suspension under subsection (4) of this section, the court shall prepare and send to the Department of Transportation an order of suspension of driving privileges of the person. Upon receipt of an order under this subsection, the department shall take action as directed under ORS 809.280.
- (6) The police officer issuing the citation for an offense under this section shall note on the citation if the cited offense **appears to have** contributed to the serious physical injury or death of a vulnerable user of a public way.

SECTION 2. ORS 153.061 is amended to read:

153.061. (1) Except as provided in subsection (2) of this section, a defendant who has been issued a violation citation must either:

- (a) Make a first appearance by personally appearing in court at the time indicated in the summons; or
- (b) Make a first appearance in the manner provided in subsection (3) of this section before the time indicated in the summons.

(2) If a defendant has been issued a violation citation for careless driving under ORS 811.135 on which a police officer noted that [*a vulnerable user of a public way suffered serious physical injury or death*] **the cited offense appears to have contributed to the serious physical injury or death of a vulnerable user of a public way**, the defendant must make a first appearance by personally appearing in court at the time indicated in the summons.

(3) A defendant who has been issued a violation citation may make a first appearance in the matter before the time indicated in the summons by one of the following means:

- (a) The defendant may submit to the court a written or oral request for a trial.
- (b) The defendant may enter a plea of no contest by delivering to the court the summons, a check or money order in the amount of the base fine set forth in the summons, and a statement of matters in explanation or mitigation of the violation charged. The delivery of a statement of matters in explanation or mitigation under the provisions of this paragraph constitutes a waiver of trial and consent to the entry of a judgment forfeiting the base fine based on the statement and any other testimony or written statements that may be presented to the court by the citing officer or other witnesses.
- (c) The defendant may execute the appearance, waiver of trial and plea of guilty that appears on the summons and deliver the summons and a check or money order in the amount of the base fine set forth in the summons to the court. The defendant may attach a statement of matters in explanation or mitigation of the violation.

(4) The court may require that a defendant requesting a trial under subsection (3)(a) of this section deposit the base fine specified under ORS 153.125 to 153.145 or such other amount as the court determines appropriate if the defendant has failed to appear in any court on one or more other charges in the past. If the defendant does not deposit the amount specified by the court, the defendant must personally appear in court at the time indicated in the summons. The

amount deposited by the defendant may be applied against any fine imposed by the court, and any amount not so applied shall be refunded to the defendant at the conclusion of the proceedings.

(5) If the defendant personally appears in court at the time indicated in the summons and enters a plea of guilty, the judge shall consider any statement in explanation or mitigation made by the defendant.

(6) The court may require a defendant to appear personally in any case, or may require that all defendants appear in specified categories of cases.

(7) If a defendant has entered a no contest plea or guilty plea in the manner provided in subsection (3)(b) or (c) of this section, and the court determines that the base fine amount is not adequate by reason of previous convictions of the defendant, the nature of the offense charged or other circumstances, the court may require that a trial be held unless an additional fine amount is paid by the defendant before a specified date. Notice of an additional fine amount under this subsection may be given to the defendant by mail. In no event may the court require a total fine amount in excess of the maximum fine established for the violation by statute.

(8) If a defendant fails to make a first appearance on a citation for a traffic violation, as defined by ORS 801.557, fails to make a first appearance on a citation for a violation of ORS 471.430, or fails to appear at any other subsequent time set for trial or other appearance, the driving privileges of the defendant are subject to suspension under ORS 809.220.

SECTION 3. The amendments to ORS 153.061 and 811.135 by sections 1 and 2 of this 2011 Act apply to offenses that occur on or after the effective date of this 2011 Act.

811.060 Vehicular assault of bicyclist or pedestrian; penalty. (1) For the purposes of this section, “recklessly” has the meaning given that term in ORS 161.085.

(2) A person commits the offense of vehicular assault of a bicyclist or pedestrian if:

(a) The person recklessly operates a vehicle upon a highway in a manner that results in contact between the person’s vehicle and a bicycle operated by a person, a person operating a bicycle or a pedestrian; and

(b) The contact causes physical injury to the person operating a bicycle or the pedestrian.

161.085 Definitions with respect to culpability. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires otherwise:

(1) “Act” means a bodily movement.

(2) “Voluntary act” means a bodily movement performed consciously and includes the conscious possession or control of property.

(3) “Omission” means a failure to perform an act the performance of which is required by law.

(4) “Conduct” means an act or omission and its accompanying mental state.

(5) “To act” means either to perform an act or to omit to perform an act.

(6) “Culpable mental state” means intentionally, knowingly, recklessly or with criminal negligence as these terms are defined in subsections (7), (8), (9) and (10) of this section.

(7) “Intentionally” or “with intent,” when used with respect to a result or to conduct

described by a statute defining an offense, means that a person acts with a conscious objective to cause the result or to engage in the conduct so described.

(8) “Knowingly” or “with knowledge,” when used with respect to conduct or to a circumstance described by a statute defining an offense, means that a person acts with an awareness that the conduct of the person is of a nature so described or that a circumstance so described exists.

(9) “Recklessly,” when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(10) “Criminal negligence” or “criminally negligent,” when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person fails to be aware of a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. [1971 c.743 §7; 1973 c.139 §2]

Note: See second note under 161.015.

Forget distracted driving. A new study says there’s a far more serious problem that’s responsible for as many as 2 million accidents annually.

When’s the last time you used your own turn signals? According to research by the Society of Automotive Engineers, drivers either neglect to use their signals when changing lanes – or fail to turn the signals off – 48% of the time. And when making a turn the failure rate is around 25%. That works out to 2 billion times a day drivers fail to use signals, or 750 billion times annually.

A lack of courtesy? Laziness? Poor training? Whatever the reason, the SAE study says the problem results in about 2 million roadway collisions annually. That’s more than twice the 950,000 accidents linked to distracted driving, which has become one of the central topics of the U.S. Department of Transportation under Sec. Ray LaHood.

“This is a first of its kind report on a subject that amazingly, has never been studied,” said Richard Ponziani, P.E., President of RLP Engineering and author of the report. Yet, despite the fact that turn signals are simple, ubiquitous and “extremely effective,” there is an epidemic lack of compliance even though “all drivers have an ongoing duty to use it, just as they have a duty to stop at a stop sign or at a red light.”

814.440 Failure to signal turn; exceptions; penalty. (1) A person commits the offense of failure to signal for a bicycle turn if the person does any of the following:

(a) Stops a bicycle the person is operating without giving the appropriate hand and arm signal continuously for at least 100 feet before executing the stop.

(b) Executes a turn on a bicycle the person is operating without giving the appropriate hand and arm signal for the turn for at least 100 feet before executing the turn.

(c) Executes a turn on a bicycle the person is operating after having been stopped without giving, while stopped, the appropriate hand and arm signal for the turn.

(2) A person is not in violation of the offense under this section if the person is operating a bicycle and does not give the appropriate signal continuously for a stop or turn because circumstances require that both hands be used to safely control or operate the bicycle.

(3) The appropriate hand and arm signals for indicating turns and stops under this section are those provided for other vehicles under ORS 811.395 and 811.400.

P 5 of Oregon Bicyclist Manual: You and a companion may ride side by side on the road, but only if you don't impede other traffic. If traffic doesn't have enough room to pass you safely, ride single file.

If there is no shoulder or bike lane, and the travel lane is narrow, ride closer to the center of the lane. This will prevent motorists from passing you when there isn't room. You should also take the lane when you're traveling the same speed as traffic. This will keep you out of motorists' blind spots and reduce conflicts with right-turning traffic.

811.400 Failure to use appropriate signal for turn, lane change, stop or exit from roundabout; penalty. (1) A person commits the offense of failure to use an appropriate signal for a turn, lane change or stop or for an exit from a roundabout if the person does not make the appropriate signal under ORS 811.395 by use of signal lamps or hand signals and the person is operating a vehicle that is:

(a) Turning, changing lanes, stopping or suddenly decelerating; or

(b) Exiting from any position within a roundabout.

(2) This section does not authorize the use of only hand signals to signal a turn, change of lane, stop or deceleration when the use of signal lights is required under ORS 811.405.

811.405 Failure to signal with lights; exceptions; penalty. (1) A person commits the offense of failure to signal with lights when required if a person is operating a vehicle and does not use the vehicle lighting equipment described under ORS 811.395 to signal when turning, changing lanes, stopping or suddenly decelerating under any of the following circumstances:

(a) During limited visibility conditions.

(b) At any time the person is operating a vehicle or combination of vehicles in which the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of the vehicle is greater than 24 inches.

(c) At any time the person is operating a vehicle or combination of vehicles in which the distance from the center of the top of the steering post to the rear limit of the body or load is greater than 14 feet.

(2) This section does not require the driver of a moped or bicycle that is not equipped with lighting equipment to use lighting equipment when required by this section. A driver of such moped or bicycle shall signal by means of appropriate hand and arm signals described under ORS 811.395 without violation of this section.