The California Vehicle Code and the Uniform Vehicle Code

J. Allen Davis

Follow this and additional works at: https://repository.uchastings.edu/hastings_law_journal

Recommended Citation
Available at: https://repository.uchastings.edu/hastings_law_journal/vol14/iss4/3
The California Vehicle Code and the Uniform Vehicle Code

By J. Allen Davis*

Both the California Vehicle Code and the Uniform Vehicle Code recommended for legislative enactment in all states have, during many years, been granted honorable status as admirable documents in the field of motor vehicle legislation. They experienced parallel and comparable evolution during the period 1923 to date.

It is the purpose of this article to trace the history of the two codes; to compare their major contents, and to evaluate their respective merits and demerits. This is not too difficult as the author has available all necessary documents and has personally participated as a member of numerous committees which aided in developing and sponsoring each of the codes.\(^1\) Obviously, due to limitation of time and length, this article must be restricted to those events and matters of the greatest importance.

History of the California and Uniform Vehicle Codes 1923-1962

The California Vehicle Act of 1923

In 1923, the California Legislature adopted an entirely new and revised vehicle act superseding the prior acts dating from 1905 through 1919.

The California Vehicle Act of 1923 was authored by Senator Arthur H. Breed, Sr., President Pro Tempore of the California State Senate, and became Chapter 266. Senator Breed was the author of practically all motor vehicle and highway legislation enacted in California during the period 1923 to 1931, inclusive. This act of 1923

\(^*\)J.D., Stanford Univ. 1914; Member, National Committee on Uniform Traffic Laws and Ordinances.

\(^1\) The author of the foregoing article served as legislative draftsman in the preparation of the 1923 edition of the California Vehicle Act and participated in the recodification in 1935. The author served as draftsman in preparation of the various editions of the Uniform Code by the committees of the National Conference of Commissioners on Uniform State Laws, 1924-27, and as legislative draftsman for the Committee on Uniformity of Law and Regulations of the National Conference on Street and Highway Safety, 1924, and of subsequent committees sponsoring the code during a period of thirty years until 1954.
represented modernized motor vehicle legislation and furnished the basis for more expansive motor vehicle legislation as developed thereafter. The act was logically arranged in thirteen titles.  

This act established the definition of certain terms such as "vehicle," "motor vehicle," "motorcycle," "person," "operator," "chauffeur," and others which are retained in subsequent revisions of the California acts and included in the Uniform Vehicle Code, subject to minor changes to this date, 1963.

The registration provisions in said act established the basic procedure for new and annual renewal of registration as carried forward into the laws of the present date.

The Legislature included an operators' and chauffeurs' license law, declaring minimum age limits, but without required examination as a prerequisite to the issuance of a license.

Standard provisions were included relative to equipment of vehicles suitable to the development of motor vehicles as of said date.

The rules of the road were based in part on custom, such as driving on the right and passing to the right of other vehicles approaching from the opposite direction. The speed provisions included the basic rule that speed should be reasonable and prudent, having regard to the traffic, surface and width of the highway. This feature has been embraced in substantially all subsequent motor vehicle laws. The speed limits in miles per hour were declared to be prima facie, rather than maximum limits. The limits in miles per hour were unduly restrictive in the modern view, stating a speed limit in open territory of 35 miles per hour.

The California Vehicle Act of 1923 included subject matters and certain basic rules later incorporated in the early draft of the Uniform Vehicle Code.

**Genesis of the Uniform Vehicle Code**

In 1923 the National Conference of Commissioners on Uniform State Laws appointed a special committee to prepare the draft of a uniform motor vehicle act for submission to the Commissioners.

---

2 I—Definition of Terms; II—Division of Motor Vehicles; III—Registration of Motor Vehicles; IV—Violation of Provisions Relating to Registration and Licenses, Penalties; V—Miscellaneous Notices Required; VI—Operators' and Chauffeurs' Licenses; VII—Registration and License Fees; VIII—Regulations Concerning the Construction and Equipment of Vehicles; IX—Regulation as to Operation of Vehicles; X—Miscellaneous Offenses; XI—Penalties; XII—Procedure Reports, Disposition of Fees, Fines, and Forfeitures; XIII—Title and Effect of Act.

3 CAL. VEH. CODE §§ 250, 400, 415, 450, 470, 670.

4 See Uniform Veh. Code Art. II.
The President of the Commissioners on Uniform State Laws, Nathan William MacChesney, named Gurney E. Newlin, of Los Angeles, as Chairman of said Committee. Mr. Newlin was one of the California Commissioners and in 1928 was elected President of the American Bar Association. J. Allen Davis was appointed as Assistant to the Committee and served as its legislative draftsman.

The Committee adopted certain policies that its draft of a proposed code should be prepared from the point of view of the owners and operators of motor vehicles, but having due regard for the views and advice of enforcement and administrative agencies, the judiciary, also civic and other groups concerned with motor vehicle legislation. Further, that the draft should be based upon the best and most generally accepted motor vehicle laws and regulations in effect in the United States.

Consistent with said policies, the Committee first conducted a thorough analysis of the vehicle codes in effect in each of the forty-eight states and the District of Columbia. In 1924, said Committee prepared and widely circulated an extensive questionnaire in two parts covering all phases of then recognized major subject matters for inclusion in a uniform vehicle code. These questionnaires were submitted to numerous organizations, including the American Automobile Association, motor manufacturers and dealers associations, safety councils, other civic organizations and representatives of governmental agencies engaged in the administration and enforcement of the motor vehicle laws. Later, the replies as received were tabulated and carefully studied by the Committee.

During the meeting of the National Conference of Commissioners on Uniform State Laws in Philadelphia in July, 1924, the Committee did not submit the draft of a proposed code; rather, the Conference, as requested, discussed and determined the policy and scope of the proposed code and instructed the Committee to proceed with the preparation of the draft of a comprehensive motor vehicle act.

On December 15 and 16, 1924, the first National Conference on Street and Highway Safety met in Washington, D.C., upon the invitation of Secretary of Commerce Herbert Hoover. The first conference confined itself to consideration of certain fundamental principles and to the review and adoption of reports from eight committees. The Conference did not consider the text of any motor vehicle legislation but recommended the preparation of proposed state motor vehicle legislation adequate to cover such subjects as the licensing of drivers,
registration of motor vehicles, and the operation of vehicles on highways.

During the early part of 1925, Secretary Hoover appointed a Committee on Uniformity of Laws and Regulations of the National Conference on Street and Highway Safety. Mr. Hoover appointed as chairman of the committee Nathan William MacChesney, Vice President of the American Bar Association, and former President of the Commissioners on Uniform State Laws. In addition, Gurney Newlin and George B. Young, as Commissioners on Uniform State Laws, were appointed members of said committee. The membership of said committee, with later additions, consisted of a large number of distinguished men concerned with motor vehicles and highways.²

The committee met in Washington on June 3 and 4, 1925. At this meeting the Committee of the Commissioners on Uniform State Laws presented its tentative draft of a uniform vehicle code to the newly appointed Committee of the Conference on Street and Highway Safety. The latter committee approved the draft subject to a number of minor changes and it was referred to the drafting committee. Thus we note the cooperative undertaking in respect to the preparation of a uniform vehicle code by the National Conference of Commissioners on Uniform State Laws and the National Conference on Street and Highway Safety. This cooperation continued during many years.

Official action on the draft was taken as follows:

(1) It was approved by the Commissioners on Uniform State Laws at its meeting in Detroit, August 23-29, 1925.

(2) The uniform code as revised was presented to, and with additional changes, was approved by the second National Conference on Street and Highway Safety, March 23-25, 1926.

---

² Chester I. Long, President, American Bar Assoc.; Thomas H. MacDonald, Chief, Bureau of Public Roads; Frank Page, Chairman, State Highway Commission, North Carolina; James S. Kemper, Lumbermen's Mutual Casualty Co.; H. Walter Forster, Past President, National Safety Council; Orson D. Munn, President, Scientific American; Mike Holm, Secretary of State, Minnesota; Fred Zimmerman, Secretary of State, Wisconsin; Robbins B. Stoeckel, Commissioner of Motor Vehicles, Connecticut; C. L. Henry, General Counsel, American Electric Railway Assoc.; D. C. Fenner, Chairman, Motor Vehicle Conference Committee, New York; Major Roy F. Britton, President, Automobile Club of Missouri; Fred H. Caley, Secretary, Cleveland Automobile Club; Albert A. Carroll, Chief of Police, Grand Rapids, Michigan; M. C. Eldridge, Director of Traffic, Washington D.C.; Sidney J. Williams, Director, Public Safety Division, National Safety Council; Knight Dunlap, Professor of Experimental Psychology, Johns Hopkins University; Arthur W. Brady, President, Union Traction Company; General Charles C. Gaither, Commissioner of Police, Baltimore; David Beecroft, The Class Journal Co., New York. Mr. J. Allen Davis was appointed a member of the committee and its legislative draftsman.
(3) The Commissioners on Uniform State Laws considered and approved the revised draft of the code at its meeting in Denver in July, 1926.


The California Vehicle Act of 1923, as amended in 1925, and the Uniform Vehicle Code of 1926 include many provisions substantially identical, while other provisions are similar in substance.

The above-mentioned Committee on Uniformity of Laws and Regulations of the Conference on Street and Highway Safety continued to function during many years until succeeded by the present National Committee on Uniform Traffic Laws and Ordinances.

The Code was reviewed and revised by said committee in 1930 and again more extensively in 1934. The 1934 revised draft of the Code was approved by the fourth National Conference on Street and Highway Safety, May 23-25, 1934.

**Codification of the California Vehicle Code—1935**

The recodification of the California Vehicle Code as enacted in 1935 was based not only upon prior California motor vehicle legislation but also in part on the 1934 draft of the Uniform Vehicle Code. The two documents included many identical provisions, while others were similar in substance. A few subjects were dealt with in one code but omitted or abbreviated in the other; for example, the details in respect to the organization, powers and duties of administrative and enforcement agencies.

An account of the preparation and enactment of the California Vehicle Code in 1935 is included in the text of an extensive history of California motor vehicle legislation by J. Allen Davis and Harry V. Cheshire, Jr., and included as a prefatory statement in West's Annotated California Vehicle Code. Said history refers to the appointment by the California legislative committee sponsoring the recodification in 1935 of an Advisory Committee on Motor Vehicle Legislation which included representatives from official agencies and civic organizations, including motor clubs, motor car dealers' associations and others. Said Advisory Committee, with changes in personnel, has served in California continuously since approximately 1917 and operates presently as an autonomous body widely representative of official and unofficial bodies concerned with motor vehicle legislation in this state. It serves in an advisory and cooperative capacity and reports to motor vehicle and transportation committees of the State Legislature.
The California Legislature extensively amended the California Vehicle Code during each session of the Legislature during the period 1937-1957. In 1959 the California Legislature recodified the California Vehicle Code in substantially different form and after extensive amendments in 1961, now has under consideration additional amendments introduced in the 1963 session.

Further Consideration of the Uniform Vehicle Code

In May, 1946, the President's Highway Safety Conference was held in Washington, D.C. It considered and accepted a series of extensive reports in the field of motor vehicle and highway administration, legislation, engineering and enforcement. A previously appointed committee under the chairmanship of the Honorable Owen J. Roberts, former Justice of the United States Supreme Court, presented a report comprising 100 pages on the Uniform Vehicle Code.6 It emphasized the need for exact uniformity in traffic rules of the road to be observed by motorists and the desirable uniformity, but permissible variance, as to the text in other portions of the Uniform Vehicle Code. This report classified the states, based upon an intensive study of the vehicle laws of every state, into three groups as to conformity with the Uniform Vehicle Code.

Group I—states which have adopted one or more Acts of the Uniform Vehicle Code. Total states—30; total Acts of the Uniform Code adopted—75.

Group II—states whose laws are based upon or include portions of one or more Acts of the Uniform Vehicle Code. Total states—13.


The report also contained a detailed comparison of the laws in the various states with the provisions of the Uniform Vehicle Code. National bodies have not, since 1946, made as intensive a comparison of the laws of the various states as contained in said report. Without doubt a similar study and comparison in 1963 would show different results.

The National Committee on Uniform Traffic Laws and Ordinances has periodically reviewed, revised and added to the Uniform Vehicle Code. In 1954 the five Acts were consolidated and rearranged in a

---


**General Comparison of California Vehicle Code and Uniform Vehicle Code**

This has reference to the California Vehicle Code of 1961, published by the Department of Motor Vehicles, as recodified and re-enacted in the 1959 Regular Session of the Legislature and as amended to the close of the 1961 Regular Session. Reference is also made to the Uniform Vehicle Code as revised in 1962 and recently published by the National Committee on Uniform Traffic Laws and Ordinances.

It is possible here to direct attention only to major subject matters dealt with in both codes, and to subjects dealt with in one code but not in the other code. It would require a massive document to present a section by section comparison in respect to those subjects common to both codes.

The California Vehicle Code is divided into nineteen divisions comprising chapters, articles and sections, bearing numbers 1 to 42273. The Uniform Vehicle Code is divided into nineteen chapters embracing articles and sections numbered from 1-101 to 19-107. In the Uniform Vehicle Code the section numbers indicate by the first one or two numerals, followed by a hyphen, the chapters in which they are located.

Unfortunately, the California Legislative Counsel Bureau, which prepared the California Vehicle Code recodification in 1959, did not conform with the numerical system embraced in the Uniform Vehicle Code or entirely with the sequence of subject headings recited in the chapter headings of the Uniform Vehicle Code. Division headings in the California Vehicle Code do not always conform with chapter headings in the Uniform Vehicle Code.

The California Vehicle Code, by reason of being divided into an excessive number of sections with arbitrary dispersal of provisions which should be read in proper sequence, is extremely cumbersome and has been severely criticized as creating difficulties for those who work with the Code, including administrative and enforcement officers and the courts.

The foregoing differences in the sequence and numbering of the two codes render it difficult to determine a reliable comparison. Also, the problem of precise comparison section by section would necessitate consideration of the difference in definitions of words and phrases in the California Vehicle Code and the Uniform Vehicle Code. A word
or phrase may have one meaning as used in the California Vehicle Code and a different meaning as used in the Uniform Vehicle Code.

Comparisons

CVC—Division 1—“Words and Phrases Defined”
UVC—Chapter 1—“Words and Phrases Defined”

As an aid in determining whether the two codes speak the same language, the author has made a careful comparison of the words and phrases defined in the two codes. The result is rather surprising.

In both codes 54 identical words and phrases are used, but about one-third of the definitions vary to such an extent as to result in different meanings in the two codes. In addition, the California Vehicle Code defines 52 words and phrases not defined in the Uniform Vehicle Code. The Uniform Vehicle Code defines 31 words and phrases not defined in the California Vehicle Code. This makes a total of 137 definitions, but note the above discrepancies.

The above variance in definitions is not conducive to uniformity in the meaning or effect of substantive provisions of the two codes. Thus any section by section comparison of the substantive and regulatory provisions of the two codes is rendered difficult by the absence of common uniform definitions.

Definitions resemble little gremlins. They can cause a grievous amount of mischief. No definition originally a part of a code should be changed or a new one adopted without careful study to determine whether the revised or new definition modifies or reverses the meaning of the substantive provisions in which the defined words and phrases are used. For example, a substantial change in the definition of such terms as “vehicle,” “motor vehicle,” “highway,” or “right of way” may change the meaning of various chapters of the code in most unexpected and perhaps unintended manner. Also, it is surprising how frequently a definition is accepted which incorporates a substantive regulation. A special article might be written on the use and misuse of definitions.

CVC—Division 2—“Administration”
UVC—Chapter 2—“The Department of Motor Vehicles”

The California Vehicle Code, Division 2, is quite extensive and includes chapters relating to the Department of Motor Vehicles, the Department of the California Highway Patrol, the Reciprocity Commission, and administration and enforcement generally.

The Uniform Vehicle Code provides much more briefly for the
Department of Motor Vehicles, its organization, powers and duties and the administration of a division of highway safety and patrol.

CVC—Division 3—“Registration of Vehicles and Certificates of Title”

UVC—Chapter 3—“Certificates of Title and Registration of Vehicles”

Both codes require registration of motor vehicles, subject to exceptions, and provide for the issuance of license plates and registration certificates, also annual renewal, but differ substantially in other respects.

In California, one application results in issuance of the registration indices and a certificate of ownership on which appears the name of the owner and any lienholder defined as legal owner.

The Uniform Vehicle Code provides for separate procedures in obtaining registration and a certificate of title. It includes, by the addition of new Article III of Chapter 3, extensive provisions relating to security interests. California has not deemed these provisions either necessary or desirable and they are not included in the California Vehicle Code.

Both codes contain substantially similar provisions relating to annual renewal of registration, transfer of registration, and special plates for manufacturers and dealers.

The two codes differ widely in respect to the treatment accorded out-of-state commercial vehicles.

Non-residents

The California Vehicle Code in Division 3 includes Chapter 4 in reference to non-resident owners of motor vehicles with five articles titled as follows: Article 1—“Exemption of Nonresidents”; Article 2—“Foreign Commercial Vehicles”; Article 3—“Reciprocity”; Article 4—“Reciprocity with Bordering States”, and Article 5—“Proportionate Registration and Licensing.”

The Uniform Vehicle Code, by amendment in 1962, covered all of the above subject matter respecting non-residents by adding new Section 3-402.1.

The California Vehicle Code in Article 1 mentioned above and the Uniform Vehicle Code continue the well-established privilege that a non-resident owner of a private passenger vehicle may operate it without registration or payment of fees if the vehicle is properly reg-

---

7 Uniform Veh. Code §§ 3-301—3-309.
9 Uniform Veh. Code § 3-402.1(b).
istered in, and displays a valid registration plate or plates issued for such vehicle in, the place of residence of such owner, subject to substantially the same exceptions.

The additional portions of Uniform Vehicle Code\textsuperscript{10} which relate to foreign commercial vehicles, are extremely complicated and provide alternate methods of dealing with such commercial vehicles from out of state.

The method of drafting employed in this section is completely different from the drafting methods adopted in other portions of the code. For purposes of clarification the section should be divided substantially as set forth in the California Vehicle Code in the five articles enumerated above.

The Uniform Vehicle Code in said new section 3-402.1 vests certain powers in the commissioner, or, in the alternative, a reciprocity commission. A careful reading of subsection (h), which we quote below, raises a serious question as to whether the text represents an invalid attempt to delegate legislative power to the commissioner, an administrative officer, to determine the taxation or exemption from taxation of foreign commercial vehicles.

Section 3-402.1:

\textbf{(h) Declarations of extent of reciprocity}—In the absence of an agreement or arrangement with another jurisdiction, the (commissioner, reciprocity commission) may examine the laws and requirements of such jurisdiction and declare the extent and nature of exemptions, benefits and privileges to be extended to vehicles properly registered or licensed in such other jurisdiction, or to the owners of such vehicles, which shall, in the judgment of the (commissioner, reciprocity commission), be in the best interest of this State and the citizens thereof, and all of the same shall be determined on the basis and recognition of the benefits which accrue to the economy of this State from the uninterrupted flow of commerce.

The heading of the above subsection referring to the extent of reciprocity is completely misleading as the text does not provide for reciprocity or require a reciprocity agreement, but is a direct grant of authority to the commissioner to determine the extent and nature of exemptions to be extended to vehicles properly registered or licensed in such other jurisdiction. Said subsection (h) does not prescribe any adequate or definite standards to control the commissioner in determining the amount of, or the exemption from, tax to apply to the foreign commercial vehicle, and the suggested test in the latter portion of the subsection is quite nebulous. Most of the other sub-

\textsuperscript{10} Uniform Veh. Code § 3-402.1.
sections declare legislative standards and guides to govern reciprocal agreements and proportional registration.

There is no showing in the text or otherwise as to whether any state has adopted precisely the language of Section 3-402.1 (h).

*CVC—Division 5—“Occupational Licensing and Business Regulation”*

*UVC—Chapter 5—“Dealers, Wreckers and Rebuilders”*

The California Vehicle Code, Division 5, includes regulations pertaining to driving schools and driving instructors, lamp and brake testing stations, wreckers, manufacturers, transporters, dealers, and vehicle salesmen.

The Uniform Vehicle Code, Chapter 5, is much narrower in scope and includes provisions requiring that dealers be licensed, and regulating and licensing used parts dealers, wreckers and rebuilders.

*CVC—Division 6—“Drivers’ Licenses”*

*UVC—Chapter 6—“Operators’ and Chauffeurs’ Licenses”*

The California Vehicle Code, Division 6, and the Uniform Vehicle Code, Chapter 6, both relate to operators’ and chauffeurs’ licenses which are substantially in agreement as to scope and requirements relating to the licensing, discipline and other provisions pertaining to operators and chauffeurs, except as noted below.

The California Vehicle Code, Division 6, was amended rather extensively in 1961 to discontinue the distinction between operators and chauffeurs and to set up classes of drivers.

We note that bills have been introduced in the 1963 session to revise or repeal some of the provisions adopted in 1961.

The two codes concur on the administrative agency’s rather broad powers in determining the standards to be applied in respect to examinations for drivers’ licenses and in respect to suspension and revocation of licenses. Thus the success of the driver’s license provisions depend in large measure on the standards and their application determined by the administrative authorities.

**Chemical Tests for Intoxication**

The Uniform Vehicle Code,11 by amendment in 1962, provides for revocation of the driver’s license in the event of his refusal to submit to chemical tests.

The above section should read in connection with Uniform Vehicle Code Section 11-902, “Persons under the influence of intoxicating liquor.”

---

11 *Uniform Veh. Code § 6-205.1.*
The California Vehicle Code,\textsuperscript{12} prohibits drunk driving but does not include the statutory test for intoxication or the implied consent law included in the sections of the Uniform Vehicle Code.

Unfortunately, this discrepancy between the Uniform Vehicle Code and the California Vehicle Code is commonly misunderstood. Thus I offer an explanation.

Numerous enforcement agencies in California, in the absence of statute, give chemical tests for intoxication. In California the courts have determined the admissibility of evidence of intoxication based upon chemical tests and have recognized the previous Uniform Vehicle Code standard test of 0.15 per cent or more by weight of alcohol in a person’s blood as creating a presumption that the person was under the influence of intoxicating liquor.

Neither the motoring public generally nor the motor clubs have made complaint of the above procedure in California. So far as we are aware, California police agencies have not urged the enactment of all the Uniform Vehicle Code provisions on chemical tests. On the other hand, during a period of years, the California Advisory Committee on Motor Vehicle Legislation approved and its representatives, including the author of this article, repeatedly presented to the California Legislature the standard percentage test for intoxication (0.15 per cent) previously included in the Uniform Vehicle Code. The Legislature rejected such proposals.

The California Advisory Committee on Motor Vehicle Legislation has never specifically approved an implied consent law as in Uniform Vehicle Code Section 6-205.1. It is believed that there are valid objections to compulsory tests for intoxication on the basis of implied consent as imposed in the Uniform Vehicle Code.

The policy question is whether the Legislature should adopt any presumption that because a person operates a motor vehicle he must therefore be deemed to consent to a chemical test on the basis of the belief of an enforcement officer that the motorist is under the influence of intoxicating liquor and that the motorist must either submit to the test or suffer revocation of his license. In reality, the motorist has no option. He must submit to the test. If he refuses, his license is revoked.

It is surprising that the Commissioners on Uniform State Laws and the American Bar Association sanctioned the law of implied consent.

It is a device subject to legislative abuse and may result in extreme embarrassment to the legal profession.

_CVC—Division 7—“Financial Responsibility Laws”_
_UVC—Chapter 7—“Financial Responsibility”_

The California Vehicle Code and Uniform Vehicle Code financial responsibility chapters and articles are in close agreement both as to the scope of subject matters dealt with and their specific provisions. Both codes include requirements for security following accidents and require proof of ability to respond in damages under other named conditions.

The California Vehicle Code does not include a Division 8. The Uniform Vehicle Code includes Chapter 8, “Owners of For-Rent Vehicles,” relating to their liability and required proof of financial responsibility. This subject is dealt with in the California Vehicle Code in Division 9, Chapter 1, Article 2.13

_CVC—Division 9—“Civil Liability”_
_UVC—Chapter 9—“Civil Liability”_

The California Vehicle Code, Division 9, includes Chapter 1, “Civil Liability of Owners and Operators of Vehicles.” This relates to the liability of public agencies, private owners, liability for damage to highway, and service of process. Said Division 9, Chapter 2, relates to civil liability of persons signing license applications of minors. The Uniform Vehicle Code deals with this subject under drivers’ licenses, Section 6-107.


_CVC—Division 10—“Accidents and Accident Reports”_
_UVC—Chapter 10—“Accidents and Accident Reports”_


In 1962, the National Committee on Uniform Traffic Laws and Ordinances revised Chapter 10 of the Uniform Vehicle Code by amending thirteen of the fifteen section in said chapter. No sound reasons have been advanced for the adoption of said amendments. In the main, they are minor, but render it difficult to maintain state laws in conformance with the Code.

13 _CAL. VEH. CODE §§ 17150-17159._
The following article and other headings identify subjects covered in both codes, although not entirely in the same sequence: (1) obedience to and effect of traffic laws; (2) traffic signs, signals and markings; (3) driving on right side, overtaking and passing; (4) right of way; (5) pedestrians’ rights and duties; (6) turning and stopping and turning signals; (7) speed laws; (8) special stops required; (9) stopping, standing and parking; (10) reckless driving, driving under the influence of narcotic and other drugs, and drunk driving; (11) operation of bicycles; (12) streetcars and safety zones; and (13) miscellaneous regulations.

The California Vehicle Code includes “Vehicular Crossings”14 which relates to the operation of vehicles on toll bridges and toll highway crossings, which subject is not included in the Uniform Vehicle Code. The California Vehicle Code also includes a special chapter on parking lots15 which isn’t in the Uniform Vehicle Code.

The Uniform Vehicle Code includes a special subject, “Homicide by Vehicle.”16 Substantially the same offense is defined in the California Penal Code under the heading “Manslaughter.”17

Numerous rules of the road included in both codes are identical or nearly so, while others are quite different.

The Uniform Vehicle Code has been revised and amended in recent years to such an extent as to create substantially different speed laws, right-of-way rules, and many others as compared to the California Vehicle Code. Some of these differences are discussed later.

The following subjects are common to both codes: (1) lighting equipment; (2) brakes; and (3) other equipment, including horns, mirrors and windshields. In addition, the California Vehicle Code covers air pollution control devices, which subject is also dealt with in the California Health and Safety Code.18 It also includes a section on refrigeration equipment which defines and regulates refrigerator

---

14 CAL. VEH. CODE §§ 23250-23255.
15 CAL. VEH. CODE §§ 22950, 22951.
16 UNIFORM VEH. CODE § 11-903.
17 CAL. PEN. CODE § 191.
18 CAL. HEALTH & S. CODE § 24378.
vans,\textsuperscript{19} while the Uniform Vehicle Code includes the subject of air-conditioning equipment used to cool the driver's and passenger's compartment of any motor vehicle.\textsuperscript{20}

The Uniform Vehicle Code sections on brakes were extensively revised in 1962, also many of the sections on lamps, with any indication as to the source of such revised or amended provisions, or whether they have ever been enacted in any of the state vehicle codes.

\textit{CVC—Division 13—"Towing and Loading Equipment"}

California Vehicle Code, Division 13, includes a large number of articles and sections in very great detail relating to loads on vehicles of different materials and methods of securing them.\textsuperscript{21} This subject matter is not dealt with in the Uniform Vehicle Code, except in one or two sections.

\textit{UVC—Chapter 13—"Inspection of Vehicles"}

Many of the provisions of the nine sections in said chapter are included, but widely dispersed, in the California Vehicle Code, except that the latter does not require periodic inspection at designated stations for a fee.

The California Advisory Committee on Motor Vehicle Legislation has repeatedly studied and rejected plans for such periodic compulsory inspection of vehicles for a fee. The California Legislature has repeatedly rejected such legislation. However, the California Legislature caused the Assembly Committee on Transportation and Commerce to conduct an extensive study of this subject matter during the period 1961-63. The report of said committee was rendered on January 7, 1963.\textsuperscript{22} The committee findings and conclusions are set forth in said report, pages 68 and 69. Briefly, the committee found that there is no statistical answer to the question, "How many accidents are prevented by motor vehicle inspection?"

\textit{CVC—Division 15—"Size, Weight and Load"}
\textit{UVC—Chapter 14—"Size, Weight and Load"}

Although the two codes cover substantially the same subject matters under the heading "Size, Weight and Load," a section by section comparison would be required to identify differences in the regulations.
THE HASTINGS LAW JOURNAL

UVC—Chapter 15—“Respective Powers of State and Local Authorities”

The same subjects dealt with in this chapter are included, but widely dispersed, in the California Vehicle Code.

CVC—Division 17—“Offenses and Prosecution”
UVC—Chapter 16—“Parties and Procedure Upon Arrest”

Both codes include substantially the same provisions relating to parties and procedure upon arrest, penalties, records and reports of conviction, and other details of enforcement.

Résumé

The foregoing general comparison of the California Vehicle Code and the Uniform Vehicle Code shows the tremendous number of general and specific subject matters covered in the two codes and some measure of the differences between the two.

Further, the foregoing comparison gives some indication of the difficulty that would be encountered in making a section by section comparison. Substantially the same difficulty would be encountered in attempting to make an accurate comparison of the Uniform Vehicle Code with the vehicle codes and laws in other states.

The Merits and Demerits of the California Vehicle Code and the Uniform Vehicle Code

This article has amply demonstrated many of the meritorious characteristics of the California Vehicle Code and the Uniform Vehicle Code. They include legislative measures deemed essential on many subjects pertinent to the use of vehicles on highways. They provide for the administration and enforcement of traffic laws and define them in great detail. They are in large measure enabling acts. They grant wide authority in the field of traffic engineering. They authorize state and local authorities to determine and apply standards and tests as to drivers, vehicles and equipment. They delegate wide powers to local authorities to modify code provisions by establishing speed zones, special methods of turning, and the placement of traffic signs, signals and markings. The codes are indeed most comprehensive. But are they entirely meritorious? The answer is No. In recent years the codes have exhibited trends contrary to the aim of expediting traffic with safety.

The California Vehicle Code and the Uniform Vehicle Code are the victims of the great American illusion that enactment of more and
more penal statutes and the imposition of more severe penalties will cause citizens to be increasingly law abiding.

The American Bar Association and the State Bar Association, also university law departments, should recognize this fallacy and strive to overcome the trend to completely regiment every individual. There are those who advocate measures which would result in a police state.

Let us consider the California Vehicle Code. Prior to 1959 the California Vehicle Code was drafted as a document to be read and easily understood by motorists, administrative and enforcement officers and by traffic judges, some of whom are not lawyers. The 1959 recodification was drafted by a technical lawyer as a thoroughly technical document not readily intelligible to the motorist, the administrative or enforcement officer, and difficult for lawyers long conversant with motor vehicle legislation. There are many, including traffic enforcement officers, who would favor restoring the 1957 code with its long familiar section numbers and greater simplicity.

The California Vehicle Code in 1959 and 1961, as published by the Department of Motor Vehicles, includes supplemental tables listing the criminal offenses declared therein. A check of the 1961 code indicates the inclusion of at least 606 felonies and misdemeanors, all punishable as crimes by fine or imprisonment, or both fine and imprisonment.

The Department of Motor Vehicles, in publishing the 1961 California Vehicle Code, included an appendix which enumerates additional statutes applicable to the use of highways or the operation of motor vehicles in the other California codes.

In addition, there are hundreds of city traffic ordinances in California, which are fairly standard although not entirely uniform, with a multiplicity of penal provisions. Moreover, it is a misdemeanor to disobey any regulatory traffic sign, signal or marking. Thousands have been installed on streets and highways.

 Owners and operators of motor vehicles, when driving on the streets and highways in California, are subject to a minimum of a thousand penal laws describing felonies and misdemeanors. The judicial ruling that every citizen is presumed to know the law is one of the greatest absurdities of the twentieth century. Perhaps the lawmakers should be indicted and convicted of contriving the punishment of every citizen. But observe that the members of the California Legislature have provided that their vehicles shall display special series license plates for purposes of identification and prestige.

Cognizance should also be taken of the following:

 Every legislative session witnesses the enactment of an ever-
increasing number of new provisions and amendments to the California Vehicle Code conducive to greater confusion on the part of those who use our streets and highways.

In 1959, by actual count, a total of 274 sections of the California Vehicle Code were amended, added, repealed, or repealed and added. In 1961, the California Legislature increased this count to 412 sections, and the present session indicates that it will exceed the cumulative record of the past six or more years.

But this is not all. It may be shocking to many, but an objective and independent agency, the National Highway Users Conference, Western Division, after carefully checking with state fiscal departments, reported that the motor vehicles fines and forfeitures in the State of California exceed $50,000,000 annually. Obviously, the California Vehicle Code is responsible for a new form of taxation. Additional survey is necessary to determine the total number of traffic arrests and convictions, including forfeiture of bail each year, but it is roughly estimated that one-fourth of all drivers are convicted of traffic crimes annually.

It is surprising that enforcement agencies and traffic judges are required to devote so much attention and effort to the apprehension and levy of monetary penalties on drivers charged with minor infractions of the traffic rules when thousands of criminals convicted of serious felonies—murder, robbery, burglary and so forth—are annually released from state penitentiaries to commit additional crimes against the people of the state.

According to many who are conversant with the California record of traffic arrests, fines and forfeitures, the result has been to create a vested interest enjoyed by some city councils, enforcement, and even judicial agencies in the continuation and increase in citations issued and fines imposed on those who drive motor vehicles.

Those who read this article may legitimately ask what all of this has to do with facilitating the operation of vehicles with safety on our streets and highways.

Meanwhile, the National Committee on Uniform Traffic Laws and Ordinances, presently charged with responsibility for the Uniform Vehicle Code, has lost some of its major guide lines with resulting serious detriment to the code as a standard for uniform motor vehicle legislation.

It is important to identify some of the reasons for the proliferation of traffic laws and the reasons why the Uniform Vehicle Code has lost some of its prior merit.
Previously we referred to the President’s Highway Safety Conference in 1946 which adopted an Action Program proposing sound remedial measures to decrease loss of life and property on streets and highways. The Conference and its Committee on Traffic Laws and Ordinances endorsed the Uniform Vehicle Code without reservation or any suggested changes. The Action Program adopted by said Conference in 1946 reads in part:

Laws and Ordinances.

The Conference emphasizes the importance of uniformity in State and local traffic laws and regulations, and recommends adoption by all States and municipalities of the standards set forth in the Uniform Vehicle Code and the Model Traffic Ordinance.

Specific recommendations to these ends are as follows:

(1) That States recognize the need for uniformity in text for the rules applicable to traffic movements, and for uniformity in substance as to all other provisions of the Uniform Vehicle Code; and that the laws of each State follow the Uniform Vehicle Code arrangement and sequence.

(7) That uniformity in the administration, interpretation, and enforcement of uniform traffic laws and ordinances is of the utmost importance.

(9) That aggressive action to further the enactment of the Uniform Vehicle Code and Model Traffic Ordinance by the State and municipalities is an important function of the national, State and local coordinating bodies as described and recommended in the Plan of Action beginning on page 13.

The above recommendations have been repeatedly endorsed at innumerable conferences during the intervening years.

The President’s Highway Safety Conference in 1946, and succeeding annual conferences, quite properly and necessarily have focused attention on traffic accidents and remedial measures, particularly in the fields of enforcement, engineering and education. Although not intended or foreseen, this emphasis on remedial measures has stimulated large numbers of professional and amateur lifesavers in the field of traffic regulation to insist upon measures extraneous to and far in excess of the Action Program sponsored by the President’s Highway Safety Conference. The attitude and policy has developed that motorists must be placed in a legalistic straitjacket and severely punished for any technical or other infraction. The ever-increasing number of regulations and the multiplicity of signs, signals and markings, sometimes
installed on a trial-and-error basis, have put motorists in the category of guinea pigs.

Regretfully, many have observed that the annual traffic safety conferences, convened with the best of intentions by successive California governors, have afforded excellent opportunities for the crackpots to propose fantastic measures for the entrapment and punishment of those who are guilty of driving motor vehicles.

The foregoing explains, in part, the tremendous increase in motor vehicle legislation in California and elsewhere in recent years.

Recent Uniform Vehicle Code Amendments

The National Committee on Uniform Traffic Laws and Ordinances in 1956 and 1962 departed from the objectives, policies and procedures to which the Committee adhered during the prior thirty years.

At two meetings in 1962, the Committee, by a bare majority vote and over the vigorous protest of a large minority, operated in violation of its governing rules in adopting approximately ninety amendments to the Uniform Vehicle Code.

(1) The Committee failed to conduct adequate studies of existing state traffic laws.

(2) The Committee almost completely disregarded the policy that the Uniform Vehicle Code should be based upon the best prevailing traffic laws. The Committee failed to distinguish between measures of proven merit and experimental legislation or to segregate and clearly identify the latter in a supplement to the code as suggested by some committee members.

(3) The Committee overlooked its major function to promote uniformity in traffic laws and regulations. The Committee disregarded the fact that states which have adopted the code or large portions of it rightly expect some stability in the code, especially in the rules of the road.

(4) The Committee failed to recognize the practical impossibility of persuading the legislatures of fifty states to amend their existing laws to include ninety amendments either immediately or in the future.

The 1962 edition of the Uniform Vehicle Code indicates new or amended sections of the code but fails to identify the text of the amendments.

Members of the Committee representing the Traffic Institute at Northwestern University were responsible for practically all of the extensive changes in the rules of the road. Attorneys at the Northwestern Traffic Institute advocate that the rules of the road shall be
drafted exclusively as penal statutes. They preach a false legal doctrine that other rules of the road shall apply in civil negligence actions but fail to explain how a motorist can comply with two conflicting sets of driving regulations. The Traffic Institute insists upon placing arbitrary, rigid and archaic rules of the road in the code as in effect in various state laws in the 1910-1920 decade.

In 1956 the Traffic Institute was responsible for changing the Uniform Vehicle Code prima facie speed law to fixed maximum limits irrespective of conditions. Also, it secured the amendment creating a presumption of guilt in the event of a collision in the yield right-of-way rule. It advocates and has secured some rules granting an absolute right of way to drivers on a through highway and elsewhere.

A driver who stops at a through highway and then proceeds must yield the right of way to all other vehicles "during the time when such driver is moving across or within the intersection."

Driver "A" turning left must guarantee that no collision will occur. If he fails to yield the right of way to vehicles coming from the opposite direction, he is guilty of a crime, even though he stopped in the intersection after making his turn to avoid running over a pedestrian in a crosswalk.

Such rules are detrimental to the cause of safety as they encourage an arrogant and reckless assumption of the right to proceed irrespective of the safety of others. Obviously, the purpose of such amendments included in the code is to make it easy for enforcement officers to make arrests and to secure convictions.

Under many of the rules, as amended in the code in 1962, a driver may be convicted of a crime although not in anywise chargeable with negligence. For example, the rule on backing a vehicle has read: "The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety." In 1962 the word "reasonable" was deleted. This means that the driver backing a vehicle must guarantee safety and if anyone is injured, the driver is guilty of a crime even though the person injured was solely at fault.

One last example. The Uniform Vehicle Code, since early drafts, has required that the driver of a vehicle shall give a signal of intention to turn the vehicle "in the event any other traffic may be affected


UNIFORM VEH. CODE § 11-403(c).

UNIFORM VEH. CODE § 11-403(b).

UNIFORM VEH. CODE § 11-402.

UNIFORM VEH. CODE § 11-1102.
by such movement." In 1962, the National Committee amended the section by deleting the words which are italicized. This has the absurd effect that a driver who turns right or left, or from one lane to another, and who fails to give a signal is guilty of a crime, although miles away from any other traffic. There has been no showing that any such rule is in effect anywhere in the United States.

The above and other amendments to the Uniform Vehicle Code in 1962 have dealt a serious blow to the objective of uniformity in the rules of the road throughout the United States.

---