

**THE ROAD LAWS OF OREGON
AND THE
DECISIONS OF SUPREME
COURT, JANUARY TERM, 1881**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649277322

The road laws of Oregon and the decisions of Supreme Court, January term, 1881 by
Anonymous

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**THE ROAD LAWS OF OREGON
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DECISIONS OF SUPREME
COURT, JANUARY TERM, 1881**

Oregon. Laws, statutes, etc. Highway Law
PUBLISHED BY AUTHORITY.

THE
ROAD LAWS
OF OREGON

AND THE
Decisions of Supreme Court

JANUARY TERM, 1881.

Compiled by the Secretary of State.

1887.



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SALEM, OREGON:
FRANK C. BAKER, STATE PRINTER.
1887.

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HOUSE JOINT RESOLUTION NO. 10.

[Laws of 1887. page 368.]

Be it resolved by the House, the Senate concurring :

That the Secretary of State be and he is hereby authorized and directed to compile and prepare the road laws of this State as amended at this session of the legislature and cause 4000 copies to be printed and distribute as many thereof as may be necessary to the proper officers in this State.

Adopted by the senate February 9, 1887.

J. C. CARSON,
President of the Senate.

Concurred in by the house February 9, 1887.

J. T. GREGG,
Speaker of the House.

SEP 14 1925

PUBLICATION AND DISTRIBUTION OF ROAD LAWS OF OREGON.

AN ACT

To provide for the Publication, Distribution and Return of Road Laws.

Be it enacted by the Legislative Assembly of the State of Oregon:

Section 1. It shall be the duty of the Secretary of State to cause a complete copy of road laws, together with this Act, to be furnished the State Printer by the 1st day of November, A. D. 1866, and all subsequent amendments to said laws, at least one week after adjournment of the session at which such amendment or amendments may be passed. The copying herein provided for shall be paid for at the rate of fifteen cents per folio of one hundred words; and the Secretary shall audit the account thereof, and draw his warrant upon the treasury for the amount.

Section 2. It shall be the duty of the State Printer to publish said laws in a separate volume, in pamphlet form, to the number of 1,500, and have the same ready for distribution by the 1st day of December, A. D. 1866; and all subsequent amendments to road laws shall be published, ready for distribution, in the same manner, in at least thirty days after the close of each session so amending said laws, and on completion shall deliver the same to the Secretary of State.

Section 3. When delivered to the Secretary of State he shall distribute the same to the county clerks of the different counties of this State, in proportion to the number of road districts in each county, as soon as practicable thereafter.

Section 4. It shall be the duty of the county clerk of each county to furnish each road supervisor with a copy of said laws and amendments at their time of appointment.

Section 5. It shall be the duty of the supervisors, at the expiration of their terms of office to return said copy or copies of laws to

the county clerk with his report; and any failure on the part of supervisors to so return said laws shall forfeit and pay into the county treasury for road purposes the sum of two dollars for every such neglect.

Section 6. Inasmuch as there is no law for printing, distribution and returning road laws this Act shall take effect and be in force from and after its passage.

Approved October 24, 1866.

HOUSE JOINT RESOLUTION NO. 10.

Be it resolved by the House, the Senate concurring :

That the Secretary of State be and he is hereby authorized and directed to compile and prepare the road laws of this State, as amended at this session of the legislature, and cause 4,000 copies to be printed and distribute as many thereof as may be necessary to the proper officers in this State.

ROAD LAWS OF OREGON.

Be it enacted by the Legislative Assembly of the State of Oregon:

Section 1. That all county roads shall be under the supervision of the county court of the county wherein the said road is located, and no county road shall be hereafter established, nor shall any such road be altered or vacated in any county in this State, except by the authority of the county court of the proper county.

Section 2. All applications for laying out, altering or locating county roads shall be by petition to the county court of the proper county, signed by at least twelve householders of the county residing in the vicinity where said road is to be laid out, altered or located, which petition shall specify the place of beginning, the intermediate points, if any, and the place of termination of said road.

Section 3. When any petition shall be presented for the action of the county court for laying out, alteration or vacation of any county road, it shall be accompanied by satisfactory proof that notice has been given by advertisement, posted at the place of holding county court, and also in three public places in the vicinity of said road, or proposed road, thirty days previous to the presentation of said petition to the county court, notifying all persons concerned that application will be made to said county court at their next session for laying out, altering or vacating such road, as the case may be.

Section 4. *Upon the presentation of such petition, and proof that notice has been given as provided in the last section, the county court may appoint three disinterested householders of the county as viewers of said road and a skillful surveyor to survey the same, and shall issue an order directing said viewers and surveyor, on a day to be named in said order, or, on their failing to meet on said day, within five days thereafter, to view, survey and lay out or alter said road; *provided*, that all roads viewed, surveyed and re-

*Amended October 24, 1882.

corded by order of any county court of this State subsequent to October 29, 1870, and the said road has not been defeated by remonstrance, as now provided by law, or has not been made or declared vacated by existing laws, shall be and the same are hereby declared public highways.

Section 5. That it shall be the duty of the viewers and surveyor appointed as aforesaid, after receiving at least five days' previous notice by one of the petitioners, to meet at the time and place specified in the order of the county court aforesaid, or within five days thereafter, and after taking an oath or affirmation, faithfully and impartially to discharge the duties of their appointments, respectively, shall take to their assistance two suitable persons as chain-bearers, and one marker, and proceed to view, survey and lay out or alter said road as prayed for in the petition as near as in their opinion a good road can be made at a reasonable expense, taking into consideration the utility, convenience and inconvenience and expense which will result to individuals as well as to the public, if such road shall be established and opened, or altered; and the surveyor shall survey such road under the direction of the views, [viewers], and cause the same to be conspicuously marked throughout, noting the corners and distances; all trees on the line of such road shall be marked on each of the sides corresponding with the direction of the road with three notches cut through the bark and at least one inch into the wood, and all trees adjacent to the line shall be plainly blazed on the side facing the road. The beginning and termination of such road, and the termination of each mile thereon shall be designated by a tree, if one is to be found at that point—if not, then by a stone containing at least 1,728 solid inches, if such stones can be found in the vicinity—if not, then by a post of durable wood at least four inches square and three and a half feet long, firmly planted not less than eighteen inches in the ground. When posts are used two bearing trees shall be chosen, the course and distance of each of which from the post, the diameter of the tree and the kind of wood shall be noted by the surveyor. If no stones can be obtained, and no trees suitable for bearing trees can be found, the surveyor shall cause a mound to be erected of compact earth around the post eighteen inches high and four feet square. The beginning and terminating points of the road whether trees, posts or stones, shall be marked by the letter "R." The termination of each mile shall be marked by a figure indicating the number of the mile from the beginning of the road followed by the letter "M." The marks required by this section, if occurring on stones, shall be cut legibly at least one-eighth of an inch deep; if occurring on trees or posts, they shall be plainly cut at least one-fourth of an inch deep in the solid wood, the bark having first been

removed. All bearing trees shall be marked on the side facing the post to which they correspond, with a figure and letter the same as that on the post, cut into the solid wood in the same manner as other trees are required to be marked. The surveyor shall also make out and deliver to one of the viewers without delay a correct, certified return of the survey of said road and the plat of the same; and the viewers or a majority of them shall make and sign a report in writing stating their opinion in favor of or against the establishment or alteration of such road, and set forth the reasons of the same; which report, together with the plat and survey of said road or alteration, shall be delivered to the county clerk by one of the viewers on or before the third day of the session of the county court then next ensuing; and it shall be the duty of the county court on receiving the report of the viewers aforesaid, to cause the same to be publicly read on two different days of the same meeting; and if no remonstrance with a greater number of remonstrators than there are names on the petition (the names on the remonstrance to be confined to the vicinity of the proposed road), or petitions for damages be filed, and the court being satisfied that such road will be of public utility, the report of the viewers being forwarded thereto, the court shall cause said report, survey and plat to be recorded, and from thenceforth said road shall be considered a public highway, and the court shall issue an order directing said road to be opened.

Section 6. That in all cases where an oath or affirmation is required to be taken by any person, under the provisions of this chapter, the same may be administered by the surveyor or by one of the viewers, who have previously been sworn or affirmed.

Section 7. If any person through whose lands any county road may be viewed and marked out shall feel that he or she would be injured by the opening of the same, such person may make complaint thereof in writing to the county court at the time the report of the viewers appointed to view such road is received; and if such complaint be made the county court shall appoint three disinterested householders of the county, who shall meet at such time as may be designated by the county court or at such time as may be agreed upon by such householders, and after having been duly sworn or affirmed to discharge their duty faithfully and impartially, shall proceed and view said proposed road the whole distance through the premises of the complainant and assess and determine how much less valuable such premises of the complainant would be rendered by the opening of said road and they shall report the same in writing to the county court at the next regular term.

Section 8. If the county county [court] is satisfied that the amount of damages so assessed is just and equitable and that the