

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 987

Short Title: High-Voltage Line Safety Act.

(Public)

Sponsors: Senator Johnson.

Referred to: Public Utilities.

April 28, 1993

A BILL TO BE ENTITLED

AN ACT TO ENACT THE OVERHEAD HIGH-VOLTAGE LINE SAFETY ACT.

The General Assembly of North Carolina enacts:

Section 1. Effective January 1, 1994, Chapter 95 of the General Statutes is amended by adding the following new Article to read:

**"ARTICLE 19A.**

**"OVERHEAD HIGH-VOLTAGE LINE SAFETY ACT.**

**"§ 95-229.5. Purpose; scope.**

The purpose of this Article is to promote the safety and protection of persons engaged in work or activity in the vicinity of high-voltage overhead lines. This Article defines the conditions under which work may be carried on safely and provides for the precautionary safety arrangements to be taken when any person engages in work or other activity in proximity to overhead voltage lines.

**"§ 95-229.6. Definitions.**

As used in this Article, unless the context requires otherwise:

- (1) 'Covered equipment or items' means any mechanical equipment, hoisting equipment antenna, or boat mast or rigging; any part of which is capable of vertical, lateral, or swinging motion that could cause any portion of the equipment or item to come closer than 10 feet to an overhead high-voltage line during erection, construction, operation, or maintenance; including, but not limited to, equipment such as cranes, derricks, power shovels, backhoes, dump trucks, drilling rigs, pile drivers, excavating equipment, hayloaders, hay stackers, combines, irrigation equipment, portable grain augers or elevators, and

1 mechanical cotton pickers and items such as ladders, scaffolds,  
2 antennas, boat masts and outriggers, houses or other structures in  
3 transport, and gutters, siding, and other construction materials.

4 (2) 'Overhead high-voltage line' means all above-ground bare or insulated  
5 electrical conductors of voltage in excess of 600 volts measured  
6 between conductor and the ground, except those conductors that are (i)  
7 de-energized and grounded or (ii) enclosed in suitable mechanical  
8 protection in accordance with the requirements of the National  
9 Electrical Safety Code or the National Electrical Code.

10 (3) 'Person' means natural person, firm, business association, company,  
11 partnership, corporation, or other legal entity.

12 (4) 'Person responsible for the work to be done' means the person  
13 performing or controlling the job or activity that necessitates the  
14 precautionary safety measures required by this Article.

15 (5) 'Warning sign' means a weather-resistant sign of not less than five  
16 inches by seven inches with at least two panels: a signal panel and a  
17 message panel. The signal panel shall contain the signal word  
18 'WARNING' in black lettering and a safety alert symbol consisting of  
19 a black triangle with an orange exclamation point, all on an orange  
20 background. The message panel shall contain the following words,  
21 either in black letters on a white background or white letters on a black  
22 background: 'UNLAWFUL TO OPERATE THIS EQUIPMENT  
23 WITHIN TEN FEET OF OVERHEAD HIGH-VOLTAGE LINES –  
24 Contact with power lines can result in death or serious burns.' A  
25 symbol or pictorial panel may also be added. Such warning sign  
26 language, lettering, style, colors, size, and format shall meet the  
27 requirements of the American National Standard ANSI Z535.4-1991,  
28 Product Safety Signs and Labels, or its successor or such equally  
29 effective standard as may be approved for use by the Commissioner of  
30 Labor.

31 **"§ 95-229.7. Duty and responsibility regarding use of equipment.**

32 It shall be the duty and responsibility of (i) employers of persons using any  
33 covered equipment or items for the benefit of the employers or others and (ii)  
34 individuals using any covered equipment or items for the benefit of themselves or others  
35 to acquaint themselves and their employees or agents who will be using the equipment  
36 or items or will be engaged in the work operations or other activities with the provisions  
37 of this Article and the rules adopted pursuant to it.

38 **"§ 95-229.8. Prohibited activities.**

39 (a) Unless danger of contact with overhead high-voltage lines has been  
40 effectively guarded against by a combination of notice, work, or activity control  
41 methods, and complementary precautionary safety measures, all in accordance with  
42 G.S. 95-229.9, 95-229.10, 95-229.11, the following actions are prohibited:

- 1           (1) No person shall, individually or through an agent or employee,  
2 perform, or require any other person to perform, any work or activity  
3 upon any land, building, highway, or other premises that will cause:  
4           a. Any part of such individual, agent, employee, or other person to  
5 be placed within 10 feet of any overhead high-voltage line, or  
6           b. Any part of any tool or material used by the individual, agent,  
7 employee, or other person to be brought within 10 feet of any  
8 overhead high-voltage line.
- 9           (2) No person shall, individually or through an agent or employee or as an  
10 agent or employee, erect, construct, operate, maintain, transport, or  
11 store any covered equipment or item within 10 feet of any overhead  
12 high-voltage line, except as herein allowed. The required clearance  
13 from high-voltage lines shall be not less than four feet when:  
14           a. Boats are sailing on high water,  
15           b. Covered equipment as defined herein is lawfully driven or  
16 transported on public streets and highways in compliance with  
17 the height restriction applicable thereon, or  
18           c. Refuse collection equipment is operating.
- 19           (3) No person shall, individually or through an agent or employee or as an  
20 agent or employee, operate or cause to be operated an airplane or  
21 helicopter within 20 feet of an overhead high-voltage line, except that  
22 no clearance is specified for licensed aerial applicators that may  
23 incidentally pass within the 20-foot limitation during normal operation.
- 24           (4) No person shall, individually or through an agent or employee or as an  
25 agent or employee, store or cause to be stored any materials that are  
26 expected to be moved or handled by covered equipment or any item  
27 within 10 feet of an overhead high-voltage line.
- 28           (5) No person shall individually or through an agent or employee or as an  
29 agent or employee, provide, or cause to be provided, additional  
30 clearance by either (i) raising, moving, or displacing any overhead  
31 utility lines of any type or nature including high-voltage, low-voltage,  
32 telephone, cable television, fire alarm, or other lines or (ii) pulling or  
33 pushing any pole, guy, or other structural appurtenance.
- 34           (6) No person shall, individually or through an agent or employee or as an  
35 agent or employee, excavate or cause to be excavated any portion of  
36 any foundations of structures, including guy anchors or other structural  
37 appurtenances, which support any overhead utility lines of any type or  
38 nature, including high-voltage, low-voltage, telephone, cable  
39 television, fire alarm, or other lines.
- 40           (b) If the line has been covered with temporary insulating sleeves or devices, in  
41 accordance with G.S. 95-229.10, the required clearance may be reduced from 10 feet to  
42 four feet. If the line has been de-energized and grounded, in accordance with G.S. 95-  
43 229.10, the required clearance may be reduced from 10 feet to not less than two feet.  
44 Under no circumstances shall the line or its covering be contacted. If the lines are

1 temporarily raised or moved to accommodate the expected work of other activity,  
2 without also being insulated or de-energized and grounded, the required 10-foot  
3 clearance from the line shall not be reduced.

4 **"§ 95-229.9. Warning signs.**

5 (a) No person shall, individually or through an agent or employee, or as an agent  
6 or employee, operate any covered equipment in the proximity of an overhead high-  
7 voltage line unless warning signs are posted and maintained as follows:

8 (1) A sign shall be located within the equipment and readily visible and  
9 legible to the operator of such equipment when at the controls of such  
10 equipment; and

11 (2) Signs shall be located on the outside of equipment in such numbers  
12 and locations as to be readily visible and legible at 12 feet to other  
13 persons engaged in the work operations.

14 (b) Each day's failure to post or maintain signs required by this section shall be  
15 considered a separate offense.

16 (c) If the Commissioner of Labor determines that a successor, substitute, or  
17 additional sign standard may or shall be used in place of the requirements listed in G.S.  
18 95-229.6, a period of not less than 18 months from such determination shall be allowed  
19 for any required replacement of signs.

20 **"§ 95-229.10. Notification.**

21 (a) When any person desires to carry on any work or activity in closer proximity  
22 to any overhead high-voltage line than permitted by this Chapter, the person responsible  
23 for the work or activity to be done shall notify the owner or operator of the high-voltage  
24 line prior to the time the work or activity is to be commenced. Such notification shall  
25 occur at least 72 hours in advance of the work or activity, excluding Saturday, Sunday,  
26 and legal State and federal holidays, except in emergency situations, including police,  
27 fire, and rescue emergencies, in which case such notification shall occur as soon as  
28 possible under the circumstances. In cases where the person or business entity  
29 responsible for doing the work is doing so under contract or agreement with a  
30 government entity, and the government entity and the owner or operator of the lines  
31 have already made satisfactory mutual arrangements, further arrangements for that  
32 particular activity are not required.

33 (b) Every notice served by any person on an owner or operator of an overhead  
34 high-voltage line shall contain the following information:

35 (1) The name of the individual serving such notice;

36 (2) The location of the proposed work or activity;

37 (3) The name, address, and telephone number of the person responsible  
38 for the work or activity;

39 (4) The field telephone number of the site of such work or activity, if one  
40 is available;

41 (5) The type and extent of the proposed work or activity;

42 (6) The name of the person for whom the proposed work or activity is  
43 being performed;

44 (7) The time and date of the notice; and

1           (8)   The approximate date and time when the work or activity is to begin.

2           (c)   If the notification required by this Chapter is made by telephone, a record of  
3 the information in subsection (b) of this section shall be maintained by the owner or  
4 operator notified and the person giving the notice to document compliance with the  
5 requirements of this Chapter.

6           (d)   To facilitate the notification required by this Chapter, every owner or operator  
7 of overhead high-voltage lines that does not participate in an association for mutual  
8 receipt of notification of activities close to high-voltage overhead lines shall file with  
9 the clerk of the circuit court in each county and city in which its lines are located the  
10 address and telephone numbers of the person or office, in the State, to whom all  
11 notifications concerning proposed work in that county or city should be directed. Such  
12 information shall be maintained by the clerk in his office in a manner to be determined  
13 at his discretion.

14           (e)   Owners or operators of high-voltage lines may form and operate an  
15 association providing for mutual receipt of notification of activities close to high-  
16 voltage overhead lines in a specified area. In areas where an association is formed, the  
17 following shall occur:

18               (1)   Notification to the association shall be effected as set forth in this  
19 section.

20               (2)   Owners or operators of high-voltage overhead lines in the area:

21                   a.   May become members of the association;

22                   b.   May participate in and receive the services furnished by the  
23 association; and

24                   c.   Shall pay their proportionate share of the cost for the services  
25 furnished.

26               (3)   The association whose members or participants have high-voltage  
27 overhead lines within a county shall file a list containing the name,  
28 address, and telephone number of every member and participating  
29 public utility with the county clerk.

30               (4)   If notification is made by telephone, an adequate record shall be  
31 maintained by the association to document compliance with the  
32 requirements of this Chapter.

33   **"§ 95-229.11. Precautionary safety arrangements.**

34           (a)   Installation or performance of precautionary safety arrangements shall be  
35 performed by the owner or operator of high-voltage lines only after mutually  
36 satisfactory arrangements have been negotiated between the owner or the operator of the  
37 lines (or both) and the person responsible for the work or activities to be done. The  
38 negotiations shall proceed promptly and in good faith with the goal of accommodating  
39 the requested work or activity consistent with the owner's or operator's service needs  
40 and the intent to protect the public from the danger of contact with overhead voltage  
41 lines as far as practical. The person responsible for the work or activity may perform  
42 the work only after satisfactory mutual arrangements, including coordination of work  
43 and construction schedules, have been made between the electric utility operating lines  
44 and the person responsible for the work or activity. The owners or operators of high-

1 voltage lines shall make the final determination as to which arrangements are most  
2 feasible and appropriate under the circumstances; provided, however, that the utility  
3 may determine that no arrangements can be made that would allow the proposed  
4 activity to be carried out in a reasonably safe manner or at reasonable cost taking into  
5 account the cost to its customers, and the owner or operator of high-voltage lines may  
6 refuse to enter into an agreement on that basis.

7 (b) The precautionary safety measures shall be appropriate for the work or  
8 activity of which the owner or operator of high-voltage lines has received notification.  
9 During mutual negotiations, the person responsible for the work or activity may change  
10 the notification of intended activities to include different or limited work or activities so  
11 as to reduce the precautionary safety measures required to accommodate such work or  
12 activities. The precautionary safety measures shall not violate the requirements of the  
13 current edition of the National Electrical Safety Code or the National Electrical Code.

14 (c) The owner or operator of the lines is not required to provide the precautionary  
15 safety arrangements until an agreement for payment has been made; except that, if there  
16 is a dispute over the amount to be charged by the owner or operator of the lines for  
17 providing the arrangements, the owner or operator shall commence with providing  
18 precautionary safety measures as if agreement had then been reached. If agreement for  
19 payment has not been reached within 14 days from completion of precautionary safety  
20 measures, the owner or operator and the person or business entity responsible for doing  
21 the work shall resolve the dispute by arbitration or other legal means.

22 (d) Unless otherwise agreed, the owner or operator of the lines shall initiate the  
23 agreed-upon precautionary safety arrangements within five working days after the date  
24 of payment, if required, but no earlier than the agreed construction date coordinated  
25 between the parties. Once initiated, the owner or operator shall complete the work  
26 promptly and without interruption, consistent with the owner's or operator's service  
27 needs. Should the owner or operator of the lines fail to provide the agreed-upon  
28 precautionary safety measures in a timely manner, the owner or operator of the lines  
29 shall be liable for costs or loss of production of the person or business entity requesting  
30 assistance to work in close proximity to high-voltage overhead lines, except that no such  
31 liability shall exist during times of emergency, such as storm repair and the like.

32 (e) Precautionary safety arrangements may include:

- 33 (1) Placement of temporary mechanical barriers separating and preventing  
34 contact between material, equipment, or persons and overhead high-  
35 voltage lines,
- 36 (2) Temporary de-energization and grounding,
- 37 (3) Temporary relocation or raising of the lines, or
- 38 (4) Other such measures found to be appropriate in the judgment of the  
39 owner or operator of the lines.

40 (f) The actual expense incurred by any owner or operator of overhead high-  
41 voltage lines in taking precautionary measures as set out in subsections (a) through (d)  
42 of this section, including the wages of its workers involved in making safety  
43 arrangements, shall be paid by the person responsible for the work or activity to be  
44 done, except if:

- 1           (1) Prior arrangements for payment have been made between a  
2 government entity for whom the work is to be done and the owner or  
3 operator of the line; or
- 4           (2) The owner or operator of the line has not installed the line in  
5 conformance with an applicable edition of the National Electrical  
6 Safety Code or the National Electrical Code. In this latter case, the  
7 liability of the person responsible for the work or activity shall be  
8 limited to the amount required to accommodate the work or activity  
9 over and above the amount required to bring the installation into  
10 compliance with the National Electrical Safety Code.

11 **"§ 95-229.12. Enforcement of Chapter.**

12       (a) The provisions of this Article shall be considered as safety and health  
13 standards of the State. Any person who is found to cause, permit, or allow work or  
14 other activity in violation of any provision of this Article shall be guilty of a  
15 misdemeanor and, upon such finding or conviction, shall be punished by a fine not  
16 exceeding one thousand dollars (\$1,000) or imprisonment not exceeding 12 months or  
17 both.

18       (b) The provisions of this Article shall be enforced as to employers by the  
19 Commissioner of Labor. In the case of a violation of this Article over which the  
20 Commissioner of Labor does not have enforcement powers, enforcement shall fall under  
21 the jurisdiction of the court of the district in which the violation occurred.

22 **"§ 95-229.13. Indemnification.**

23       A responsible party is strictly liable to the owner or operator of the high-voltage line  
24 and third parties, if any, for all damages to facilities, injuries to persons, and all costs,  
25 expenses, and liabilities incurred by the owner and/or operator of the lines and third  
26 parties, if any, as a result of any contact if:

- 27           (1) The responsible party causes, permits, or allows any work or activity  
28 in violation of any provision of this Article or an agent or the  
29 employee of a responsible party performs work which furthers the  
30 work or activity of a responsible party and which is in violation of any  
31 provision of this Article; and
- 32           (2) As a result, a physical or electrical contact with a high-voltage  
33 overhead line occurs.

34 **"§ 95-229.14. Exemptions.**

35       (a) This Article shall not apply to the construction, reconstruction, operation, and  
36 maintenance of overhead electrical or communication circuits or conductors and their  
37 supporting structures and associated equipment of the following systems, provided that  
38 such work on any of the following systems is performed by the employees of the owner  
39 or operator of the systems or independent contractors engaged on behalf of the owner or  
40 operator of the systems to perform the work, and the owner of the system has a valid  
41 joint-use contract or agreement with the owner of the high-voltage line:

- 42           (1) Rail transportation systems,  
43           (2) Electrical generating, transmission, or distribution systems,  
44           (3) Communication systems, including cable television, or

1           (4) Any other publicly or privately owned system.

2           (b) This Article also shall not apply to electrical or communications circuits or  
3 conductors on the premises of coal or other mines which are subject to the provision of  
4 the Federal Mine Safety and Health Act of 1977 (30 U.S.C. § 801 et seq.) and  
5 regulations adopted pursuant to that Act by the Mine Safety and Health Administration.

6 **"§ 95-229.15. Application.**

7           The provision of this Article shall not be construed either to abrogate or diminish  
8 any rights, duties, defenses, or remedies existing under law or to create or expand any  
9 rights, duties, defenses, or remedies existing under law, except that the following is  
10 expressly allowed under this Article:

11           (1) An action may be brought to enforce the requirements of this Article,  
12 as provided for herein.

13           (2) An action may be brought by an owner of operator of an overhead  
14 high-voltage power line to recover the cost of precautionary safety  
15 arrangements or for damage to its facilities as provided for herein.

16 **"§ 95-229.16. Severability.**

17           The provisions of this act are severable. If any part of the act is declared invalid or  
18 unconstitutional, such declaration shall not affect any part of what remains."

19           Sec. 2. This act is effective upon ratification.