

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1233\*  
Committee Substitute Favorable 6/3/96

Short Title: High-Voltage Line Safety Act.

(Public)

Sponsors:

Referred to:

May 17, 1996

A BILL TO BE ENTITLED

AN ACT TO ENACT THE OVERHEAD HIGH-VOLTAGE LINE SAFETY ACT AS  
RECOMMENDED BY THE JOINT LEGISLATIVE UTILITY REVIEW  
COMMITTEE.

The General Assembly of North Carolina enacts:

Section 1. 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 high-voltage lines.

**"§ 95-229.6. Definitions.**

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

- (1) 'Covered equipment' or 'covered items' means any mechanical  
equipment, hoisting equipment, antenna, or rigging; any part of which is  
capable of vertical, lateral, or swinging motion that could cause any

1 portion of the equipment or item to come closer than 10 feet to a high-  
2 voltage line during erection, construction, operation, or maintenance;  
3 including, but not limited to, equipment such as cranes, derricks, power  
4 shovels, backhoes, dump trucks, drilling rigs, pile drivers, excavating  
5 equipment, hay-loaders, haystackers, combines, irrigation equipment,  
6 portable grain augers or elevators, and mechanical cotton pickers.  
7 These terms also include items such as handheld tools, ladders,  
8 scaffolds, antennas, boat masts and outriggers, houses or other  
9 structures in transport, and gutters, siding, and other construction  
10 materials, the motion or manipulation of which could cause them to  
11 come closer than 10 feet to a high-voltage line.

12 (2) 'High-voltage line' means all aboveground electrical conductors of  
13 voltage in excess of 600 volts measured between conductor and ground.

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

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

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

37 **"§ 95-229.7. Duty and responsibility regarding use of equipment.**

38 It shall be the duty and responsibility of (i) employers of persons using any covered  
39 equipment or covered item for the benefit of the employers or others and (ii) individuals  
40 using any covered equipment or covered item for the benefit of themselves or others to  
41 acquaint themselves and their employees or agents who will be using the equipment or  
42 item or will be engaged in the work operations or other activities with the provisions of  
43 this Article.

1 "§ 95-229.8. Prohibited activities.

2 (a) Unless danger of contact with high-voltage lines has been guarded against as  
3 provided by G.S. 95-229.9, 95-229.10, and 95-229.11, the following actions are  
4 prohibited:

5 (1) No person shall, individually or through an agent or employee, perform,  
6 or require any other person to perform, any work or activity upon any  
7 land, building, highway, or other premises that will cause:

8 a. Such agent, employee, or other person to be placed within six  
9 feet of any overhead high-voltage line; or any part of any tool or  
10 material used by the agent, employee, or other person to be  
11 brought within six feet of any overhead high-voltage line, or

12 b. Any part of any covered equipment or covered item used by the  
13 individual, agent, employee, or other person to be brought within  
14 10 feet of any high-voltage line.

15 (2) No person shall, individually or through an agent or employee or as an  
16 agent or employee, erect, construct, operate, maintain, transport, or store  
17 any covered equipment or covered item within 10 feet of any high-  
18 voltage line, or such greater clearance as may be required under the  
19 circumstances by OSHA, except as provided herein. This prohibition  
20 shall not apply, however, to covered equipment as defined herein when  
21 lawfully driven or transported on public streets and highways in  
22 compliance with applicable height restrictions. The required clearance  
23 from high-voltage lines shall be not less than four feet when:

24 a. Covered equipment as defined herein is lawfully driven or  
25 transported on public streets and highways in compliance with  
26 the height restriction applicable thereto,

27 b. Refuse collection equipment is operating, or

28 c. Agricultural equipment is operating.

29 (3) No person shall, individually or through an agent or employee or as an  
30 agent or employee, operate or cause to be operated an airplane or  
31 helicopter within 20 feet of a high-voltage line, except that no clearance  
32 is specified for licensed aerial applicators that may incidentally pass  
33 within the 20-foot limitation during normal operation.

34 (4) No person shall, individually or through an agent or employee or as an  
35 agent or employee, store or cause to be stored any materials that are  
36 expected to be moved or handled by covered equipment or any covered  
37 item within 10 feet of a high-voltage line.

38 (5) No person shall, individually or through an agent or employee or as an  
39 agent or employee, provide or cause to be provided additional clearance  
40 by either (i) raising, moving, or displacing any overhead utility lines of  
41 any type or nature including high-voltage, low-voltage, telephone, cable  
42 television, fire alarm, or other lines or (ii) pulling or pushing any pole,  
43 guy, or other structural appurtenance.

1           (6) No person shall, individually or through an agent or employee or as an  
2 agent or employee, excavate or cause to be excavated any portion of any  
3 foundations of structures, including guy anchors or other structural  
4 appurtenances, which support any overhead utility lines of any type or  
5 nature, including high-voltage, low-voltage, telephone, cable television,  
6 fire alarm, or other lines.

7           (b) If the high-voltage line has been insulated or de-energized and grounded, in  
8 accordance with G.S. 95-229.11, the required clearances specified in subdivisions (1),  
9 (2), and (4) of subsection (a) of this section may be reduced to not less than two feet.  
10 Under no circumstances shall the line or its covering be contacted. If the line is  
11 temporarily raised or moved to accommodate the expected work or other activity, without  
12 also being insulated or de-energized and grounded, the required clearances from the line,  
13 specified in subsection (a) of this section, shall not be reduced.

14           (c) If the line has been insulated or de-energized and grounded, in accordance with  
15 G.S. 95-229.11, the required clearance may be reduced from 10 feet to not less than two  
16 feet. Under no circumstances shall the line or its covering be contacted. If the lines are  
17 temporarily raised or moved to accommodate the expected work or other activity, without  
18 also being insulated or de-energized and grounded, the required 10-foot clearance from  
19 the line shall not be reduced.

20 **"§ 95-229.9. Warning signs.**

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

24           (1) A sign shall be located within the equipment and readily visible and  
25 legible to the operator of such equipment when at the controls of such  
26 equipment; and

27           (2) Signs shall be located on the outside of equipment so as to be readily  
28 visible and legible at 12 feet to other persons engaged in the work  
29 operations.

30           (b) If the Commissioner of Labor determines that a successor, substitute, or  
31 additional sign standard may or shall be used in place of the requirements listed in G.S.  
32 95-229.6, a period of not less than 18 months from such determination shall be allowed  
33 for any required replacement of signs.

34 **"§ 95-229.10. Notification.**

35           (a) When any person desires to carry on any work or activity in closer proximity to  
36 any high-voltage line than permitted by this Article, the person responsible for the work  
37 or activity to be done shall notify the owner or operator of the high-voltage line prior to  
38 the time the work or activity is to be commenced. Such notification shall occur at the  
39 earliest practical time; however, such notification shall occur not less than 48 hours,  
40 excluding Saturday, Sunday, and legal State and federal holidays, prior to the intended  
41 work. In emergency situations, including police, fire, and rescue emergencies, such  
42 notification shall occur as soon as possible under the circumstances. In cases where the  
43 person or business entity responsible for doing the work is doing so under contract or

1 agreement with a government entity, and the government entity and the owner or operator  
2 of the lines have already made satisfactory mutual arrangements, further arrangements for  
3 that particular activity are not required.

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

6 (1) The name, address, and telephone number of the individual serving such  
7 notice;

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

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

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

13 (5) The type, duration, and extent of the proposed work or activity;

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

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

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

18 (c) If the notification required by this Article is made by telephone, a record of the  
19 information in subsection (b) of this section shall be maintained by the owner or operator  
20 notified and the person giving the notice to document compliance with the requirements  
21 of this Article.

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

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

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

28 a. May become members of the association;

29 b. May participate in and receive the services furnished by the  
30 association; and

31 c. Shall pay their proportionate share of the cost for the services  
32 furnished.

33 (3) The association whose members or participants have high-voltage lines  
34 within a county shall file a list containing the name, address, and  
35 telephone number of every member and participating owner or operator  
36 of high-voltage lines with the clerk of superior court.

37 (4) If notification is made by telephone, an adequate record of the  
38 information required by subsection (b) of this section shall be  
39 maintained by the association to document compliance with the  
40 requirements of this Article.

41 **"§ 95-229.11. Precautionary safety arrangements.**

42 (a) Installation or performance of precautionary safety arrangements shall be  
43 performed by the owner or operator of high-voltage lines only after mutually satisfactory

1 arrangements have been negotiated between the owner or the operator of the lines, or  
2 both, and the person responsible for the work or activity to be done. The negotiations  
3 shall proceed promptly and in good faith with the goal of accommodating the requested  
4 work or activity consistent with the owner's or operator's service needs and the intent to  
5 protect the public from the danger of contact with high-voltage lines as far as is  
6 reasonable and cost-effective. The person responsible for the work or activity may  
7 perform the work only after satisfactory mutual arrangements, including coordination of  
8 work and construction schedules, have been made between the owner or operator of the  
9 high-voltage lines and the person responsible for the work or activity. The owners or  
10 operators of high-voltage lines shall make the final determination as to which  
11 arrangements are most feasible and appropriate under the circumstances; provided,  
12 however, that the utility may determine that no arrangements can be made that would  
13 allow the proposed activity to be carried out in a reasonably safe manner or at reasonable  
14 cost taking into account the cost to its customers, and the owner or operator of high-  
15 voltage lines may refuse to enter into an agreement on that basis.

16 (b) The precautionary safety measures shall be appropriate, reasonable, and cost-  
17 effective for the work or activity of which the owner or operator of high-voltage lines has  
18 received notification. During mutual negotiations, the person responsible for the work or  
19 activity may change the notification of intended activity to include different or limited  
20 work or activity so as to reduce the precautionary safety measures required to  
21 accommodate such work or activity. The precautionary safety measures shall not violate  
22 the requirements of the current edition of the National Electrical Safety Code.

23 (c) The owner or operator of the high-voltage lines is not required to provide the  
24 precautionary safety arrangements until an agreement for payment has been made; except  
25 that, if the amount of payment is in dispute, the owner or operator shall commence with  
26 providing precautionary safety measures as if agreement had then been reached and the  
27 undisputed amount shall be paid according to the agreement reached as to that amount. If  
28 agreement for payment of the disputed amount has not been reached within 14 days from  
29 completion of precautionary safety measures, the owner or operator and the person or  
30 business entity responsible for doing the work may resolve the dispute by arbitration or  
31 other legal means.

32 (d) Unless otherwise agreed, the owner or operator of the high-voltage lines shall  
33 initiate the precautionary safety arrangements agreed upon within five working days after  
34 the agreement for payment has been reached as required in subsection (c) of this section,  
35 but no earlier than the agreed construction date coordinated between the parties. Once  
36 initiated, the owner or operator shall complete the work promptly and without  
37 interruption, consistent with the owner's or operator's service needs. Should the owner or  
38 operator of the high-voltage lines fail to provide the precautionary safety measures agreed  
39 upon in a timely manner, the owner or operator of the high-voltage lines shall be liable  
40 for costs or loss of production of the person or business entity requesting assistance to  
41 work in close proximity to high-voltage lines, except that no such liability shall exist  
42 during times of emergency, such as storm repair and the like.

43 (e) Precautionary safety arrangements may include:

- 1           (1) Placement of temporary mechanical barriers separating and preventing  
2 contact between material, equipment, other objects, or persons and high-  
3 voltage lines;  
4           (2) Temporary de-energization and grounding;  
5           (3) Temporary relocation or raising of the high-voltage lines; or  
6           (4) Other such measures found to be appropriate in the judgment of the  
7 owner or operator of the high-voltage lines.

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

- 12           (1) Any owner or operator of an overhead high-voltage line has located its  
13 facilities within a public highway or street right-of-way and the work is  
14 performed by or for the Department of Transportation or a city, county,  
15 or town, the actual expenses shall be the responsibility of the owner or  
16 operator of the overhead high-voltage lines, unless the owner or  
17 operator can provide evidence of prior rights or there is a prior written  
18 agreement specifying cost responsibility. However, if it is determined  
19 by the Department of Transportation or a city, county, or town that the  
20 temporary safety arrangements are for the sole convenience of its  
21 contractor, the actual expense shall be the responsibility of the  
22 contractor;  
23           (2) The owner or operator of the high-voltage lines has not installed the line  
24 in conformance with an applicable edition of the National Electrical  
25 Safety Code. In that case, the liability of the person responsible for the  
26 work or activity shall be limited to the amount required to accommodate  
27 the work or activity over and above the amount required to bring the  
28 installation into compliance with the National Electrical Safety Code; or  
29           (3) In the case of property used for residential purposes, such actual  
30 expenses shall be limited to those in excess of one thousand dollars  
31 (\$1,000).

32 **"§ 95-229.12. Indemnification.**

33           With the exception of a person performing work at the person's own property, a  
34 person responsible for the work to be done shall indemnify the owner or operator of the  
35 high-voltage lines and third parties, if any, for all damages to facilities, injuries to  
36 persons, and all costs, expenses, and liabilities incurred by the owner or operator of the  
37 lines, or both, and third parties, if any, as a result of any contact with the high-voltage  
38 lines if:

- 39           (1) The person responsible for the work fails to give notice as provided in  
40 G.S. 95-229.10 and causes, permits, or allows any work or activity in  
41 violation of any provision of this Article or an agent or employee of a  
42 person responsible for the work performs work which furthers the work

1           or activity of a person responsible for the work and which is in violation  
2           of any provision of this Article; and

3           (2) As a result, a physical or electrical contact with a high-voltage line  
4           occurs.

5 **"§ 95-229.13. Exemptions.**

6           (a) This Article shall not apply to the construction, reconstruction, operation, and  
7 maintenance of overhead electrical or communication circuits or conductors and their  
8 supporting structures and associated equipment of the following systems, provided that  
9 such work on any of the following systems is performed by the employees of the owner  
10 or operator of the systems or independent contractors engaged on behalf of the owner or  
11 operator of the systems to perform the work, and the owner of the system has a valid  
12 joint-use contract or agreement with the owner of the high-voltage lines:

13           (1) Rail transportation systems;

14           (2) Electrical generating, transmission, or distribution systems;

15           (3) Communications systems, including cable television; or

16           (4) Any other publicly or privately owned system, including traffic signals.

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

21 **"§ 95-229.14. Application.**

22           Nothing in this Article shall relieve any person from complying with any safety rule,  
23 regulation, or statute. The provisions of this Article shall not be construed either to  
24 abrogate or diminish any rights, duties, defenses, or remedies existing under law or to  
25 create or expand any rights, duties, defenses, or remedies existing under law. A violation  
26 of this Article shall not create a presumption of contributory negligence. An action may  
27 be brought by an owner or operator of a high-voltage line to recover the cost of  
28 precautionary safety arrangements or for damage to its facilities. Nothing contained in  
29 this Article shall be construed to alter, amend, restrict, or limit the liability of any person  
30 for violation of that person's duty under current law in the construction, maintenance, and  
31 supply of electricity; nor shall any person be relieved from liability as a result of  
32 violations of standards under existing law regarding the construction, maintenance, and  
33 supply of electricity, where such violations of existing standards of care are found to be a  
34 cause of damage to property, personal injury, or death.

35 **"§ 95-229.15. Severability.**

36           The provisions of this Article are severable. If any part of this Article is declared  
37 invalid or unconstitutional, such declaration shall not affect the remainder."

38           Sec. 2. This act becomes effective October 1, 1996.