

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1233\*

Short Title: High-Voltage Line Safety Act.

(Public)

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Sponsors: Representatives Dickson; McComas and Reynolds.

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Referred to: Public Utilities.

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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, 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 a 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, hay-loaders, haystackers,

1 combines, irrigation equipment, portable grain augers or elevators, and  
2 mechanical cotton pickers. These terms also include items such as  
3 handheld tools, ladders, scaffolds, antennas, boat masts and outriggers,  
4 houses or other structures in transport, and gutters, siding, and other  
5 construction materials, the motion or manipulation of which could  
6 cause them to come closer than 10 feet to a high-voltage line.

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

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

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

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

36 **"§ 95-229.7. Duty and responsibility regarding use of equipment.**

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

43 **"§ 95-229.8. Prohibited activities.**

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

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

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

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

14           (2) No person shall, individually or through an agent or employee or as an  
15 agent or employee, erect, construct, operate, maintain, transport, or  
16 store any covered equipment or covered item within 10 feet of any  
17 high-voltage line, or such greater clearance as may be required under  
18 the circumstances by OSHA, except as provided herein. This  
19 prohibition shall not apply, however, to covered equipment as defined  
20 herein when lawfully driven or transported on public streets and  
21 highways in compliance with applicable height restrictions. The  
22 required clearance from high-voltage lines shall be not less than four  
23 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  
32 clearance is specified for licensed aerial applicators that may  
33 incidentally pass 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  
37 covered 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  
40 clearance by either (i) raising, moving, or displacing any overhead  
41 utility lines of any type or nature including high-voltage, low-voltage,  
42 telephone, cable television, fire alarm, or other lines or (ii) pulling or  
43 pushing any pole, 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  
3 any 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  
6 television, fire alarm, or other lines.

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

13 **"§ 95-229.9. Warning signs.**

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

17           (1) A sign shall be located within the equipment and readily visible and  
18 legible to the operator of such equipment when at the controls of such  
19 equipment; and

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

23           (b) If the Commissioner of Labor determines that a successor, substitute, or  
24 additional sign standard may or shall be used in place of the requirements listed in G.S.  
25 95-229.6, a period of not less than 18 months from such determination shall be allowed  
26 for any required replacement of signs.

27 **"§ 95-229.10. Notification.**

28           (a) When any person desires to carry on any work or activity in closer proximity  
29 to any high-voltage line than permitted by this Article, the person responsible for the  
30 work or activity to be done shall notify the owner or operator of the high-voltage line  
31 prior to the time the work or activity is to be commenced. Such notification shall occur  
32 at the earliest practical time; however, such notification shall occur not less than 48  
33 hours, excluding Saturday, Sunday, and legal State and federal holidays, prior to the  
34 intended work. In emergency situations, including police, fire, and rescue emergencies,  
35 such notification shall occur as soon as possible under the circumstances. In cases  
36 where the person or business entity responsible for doing the work is doing so under  
37 contract or agreement with a government entity, and the government entity and the  
38 owner or operator of the lines have already made satisfactory mutual arrangements,  
39 further arrangements for that particular activity are not required.

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

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

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

- 1           (3) The name, address, and telephone number of the person responsible
- 2           for the work or activity;
- 3           (4) The field telephone number of the site of such work or activity, if one
- 4           is available;
- 5           (5) The type, duration, and extent of the proposed work or activity;
- 6           (6) The name of the person for whom the proposed work or activity is
- 7           being performed;
- 8           (7) The time and date of the notice; and
- 9           (8) The approximate date and time when the work or activity is to begin.

10       (c) If the notification required by this Article is made by telephone, a record of

11 the information in subsection (b) of this section shall be maintained by the owner or

12 operator notified and the person giving the notice to document compliance with the

13 requirements of this Article.

14       (d) 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 lines in a specified area. In areas where an association is formed, the following

17 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 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           lines within a county shall file a list containing the name, address, and
- 28           telephone number of every member and participating owner or
- 29           operator of high-voltage lines with the clerk of superior court.
- 30           (4) If notification is made by telephone, an adequate record of the
- 31           information required by subsection (b) of this section shall be
- 32           maintained by the association to document compliance with the
- 33           requirements of this Article.

34 **"§ 95-229.11. Precautionary safety arrangements.**

35       (a) Installation or performance of precautionary safety arrangements shall be

36 performed by the owner or operator of high-voltage lines only after mutually

37 satisfactory arrangements have been negotiated between the owner or the operator of the

38 lines, or both, and the person responsible for the work or activity to be done. The

39 negotiations shall proceed promptly and in good faith with the goal of accommodating

40 the requested work or activity consistent with the owner's or operator's service needs

41 and the intent to protect the public from the danger of contact with high-voltage lines as

42 far as is reasonable and cost-effective. The person responsible for the work or activity

43 may perform the work only after satisfactory mutual arrangements, including

44 coordination of work and construction schedules, have been made between the owner or

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

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

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

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

35 (e) Precautionary safety arrangements may include:

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

43 (f) The actual expense incurred by any owner or operator of high-voltage lines in  
44 taking precautionary measures as set out in subsections (a) through (e) of this section.

1 including the wages of its workers involved in making safety arrangements, shall be  
2 paid by the person responsible for the work or activity to be done, except if:

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

24 **"§ 95-229.12. Indemnification.**

25 A person responsible for the work to be done shall indemnify the owner or operator  
26 of the high-voltage lines and third parties, if any, for all damages to facilities, injuries to  
27 persons, and all costs, expenses, and liabilities incurred by the owner or operator of the  
28 lines, or both, and third parties, if any, as a result of any contact with the high-voltage  
29 lines if:

- 30 (1) The person responsible for the work causes, permits, or allows any  
31 work or activity in violation of any provision of this Article or an agent  
32 or employee of a person responsible for the work performs work which  
33 furtheres the work or activity of a person responsible for the work and  
34 which is in violation of any provision of this Article; and
- 35 (2) As a result, a physical or electrical contact with a high-voltage line  
36 occurs.

37 **"§ 95-229.13. Exemptions.**

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

- 1 (1) Rail transportation systems;
- 2 (2) Electrical generating, transmission, or distribution systems;
- 3 (3) Communications systems, including cable television; or
- 4 (4) Any other publicly or privately owned system, including traffic
- 5 signals.

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

10 **"§ 95-229.14. Application.**

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

24 **"§ 95-229.15. Severability.**

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

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