

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S 1

SENATE BILL 1256*

Short Title: High-Voltage Line Safety Act.

(Public)

Sponsors: Senators Hoyle; and Carpenter.

Referred to: Commerce.

May 22, 1996

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE OVERHEAD HIGH-VOLTAGE LINE SAFETY ACT AS
3 RECOMMENDED BY THE JOINT LEGISLATIVE UTILITY REVIEW
4 COMMITTEE.

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 95 of the General Statutes is amended by adding the
7 following new Article to read:

8 **"ARTICLE 19A.**

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

10 **"§ 95-229.5. Purpose; scope.**

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

16 **"§ 95-229.6. Definitions.**

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

- 18 (1) 'Covered equipment' or 'covered items' means any mechanical
19 equipment, hoisting equipment, antenna, boat mast, or rigging; any part
20 of which is capable of vertical, lateral, or swinging motion that could
21 cause any portion of the equipment or item to come closer than 10 feet

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

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

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

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

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

39 **§ 95-229.7. Duty and responsibility regarding use of equipment.**

40 It shall be the duty and responsibility of (i) employers of persons using any covered
41 equipment or covered item for the benefit of the employers or others and (ii) individuals
42 using any covered equipment or covered item for the benefit of themselves or others to
43 acquaint themselves and their employees or agents who will be using the equipment or

1 item or will be engaged in the work operations or other activities with the provisions of
2 this Article.

3 **"§ 95-229.8. Prohibited activities.**

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

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

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

14 b. Any part of any covered equipment or covered item used by the
15 individual, agent, employee, or other person to be brought within
16 10 feet of any high-voltage line.

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

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

29 b. Refuse collection equipment is operating, or

30 c. Agricultural equipment is operating.

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

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

40 (5) No person shall, individually or through an agent or employee or as an
41 agent or employee, provide or cause to be provided additional clearance
42 by either (i) raising, moving, or displacing any overhead utility lines of
43 any type or nature including high-voltage, low-voltage, telephone, cable

1 television, fire alarm, or other lines or (ii) pulling or pushing any pole,
2 guy, or other structural appurtenance.

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

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

15 **"§ 95-229.9. Warning signs.**

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

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

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

25 (b) If the Commissioner of Labor determines that a successor, substitute, or
26 additional sign standard may or shall be used in place of the requirements listed in G.S.
27 95-229.6, a period of not less than 18 months from such determination shall be allowed
28 for any required replacement of signs.

29 **"§ 95-229.10. Notification.**

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

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

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

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

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

- 20 (1) Notification to the association shall be effected as set forth in this
21 section.
- 22 (2) Owners or operators of high-voltage lines in the area:
 - 23 a. May become members of the association;
 - 24 b. May participate in and receive the services furnished by the
25 association; and
 - 26 c. Shall pay their proportionate share of the cost for the services
27 furnished.
- 28 (3) The association whose members or participants have high-voltage lines
29 within a county shall file a list containing the name, address, and
30 telephone number of every member and participating owner or operator
31 of high-voltage lines with the clerk of superior court.
- 32 (4) If notification is made by telephone, an adequate record of the
33 information required by subsection (b) of this section shall be
34 maintained by the association to document compliance with the
35 requirements of this Article.

36 "**§ 95-229.11. Precautionary safety arrangements.**

37 (a) Installation or performance of precautionary safety arrangements shall be
38 performed by the owner or operator of high-voltage lines only after mutually satisfactory
39 arrangements have been negotiated between the owner or the operator of the lines, or
40 both, and the person responsible for the work or activity to be done. The negotiations
41 shall proceed promptly and in good faith with the goal of accommodating the requested
42 work or activity consistent with the owner's or operator's service needs and the intent to
43 protect the public from the danger of contact with high-voltage lines as far as is

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

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

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

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

38 (e) Precautionary safety arrangements may include:

39 (1) Placement of temporary mechanical barriers separating and preventing
40 contact between material, equipment, other objects, or persons and high-
41 voltage lines;

42 (2) Temporary de-energization and grounding;

43 (3) Temporary relocation or raising of the high-voltage lines; or

- 1 (4) Other such measures found to be appropriate in the judgment of the
2 owner or operator of the high-voltage lines.
- 3 (f) The actual expense incurred by any owner or operator of high-voltage lines in
4 taking precautionary measures as set out in subsections (a) through (e) of this section,
5 including the wages of its workers involved in making safety arrangements, shall be paid
6 by the person responsible for the work or activity to be done, except if:
- 7 (1) Any owner or operator of an overhead high-voltage line has located its
8 facilities within a public highway or street right-of-way and the work is
9 performed by or for the Department of Transportation or a city, county,
10 or town, the actual expenses shall be the responsibility of the owner or
11 operator of the overhead high-voltage lines, unless the owner or
12 operator can provide evidence of prior rights or there is a prior written
13 agreement specifying cost responsibility. However, if it is determined
14 by the Department of Transportation or a city, county, or town that the
15 temporary safety arrangements are for the sole convenience of its
16 contractor, the actual expense shall be the responsibility of the
17 contractor;
- 18 (2) The owner or operator of the high-voltage lines has not installed the line
19 in conformance with an applicable edition of the National Electrical
20 Safety Code. In that case, the liability of the person responsible for the
21 work or activity shall be limited to the amount required to accommodate
22 the work or activity over and above the amount required to bring the
23 installation into compliance with the National Electrical Safety Code; or
- 24 (3) In the case of property used for residential purposes, such actual
25 expenses shall be limited to those in excess of one thousand dollars
26 (\$1,000).

27 **"§ 95-229.12. Indemnification.**

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

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

40 **"§ 95-229.13. Exemptions.**

41 (a) This Article shall not apply to the construction, reconstruction, operation, and
42 maintenance of overhead electrical or communication circuits or conductors and their
43 supporting structures and associated equipment of the following systems, provided that

1 such work on any of the following systems is performed by the employees of the owner
2 or operator of the systems or independent contractors engaged on behalf of the owner or
3 operator of the systems to perform the work, and the owner of the system has a valid
4 joint-use contract or agreement with the owner of the high-voltage lines:

5 (1) Rail transportation systems;

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

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

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

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

13 **"§ 95-229.14. Application.**

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

27 **"§ 95-229.15. Severability.**

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

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