

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H 4

HOUSE BILL 1233*
Committee Substitute Favorable 6/3/96
Committee Substitute #2 Favorable 6/12/96
Fourth Edition Engrossed 6/13/96

Short Title: High-Voltage Line Safety Act.

(Public)

Sponsors:

Referred to:

May 17, 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 in the vicinity of high-voltage overhead lines. This Article defines the conditions
13 under which work may be carried on safely and provides for the precautionary safety
14 arrangements to be taken when any person engages in work in proximity to overhead
15 high-voltage lines.

16 **"§ 95-229.6. Definitions.**

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

- 1 (1) 'Covered equipment' or 'covered items' means any mechanical
2 equipment, hoisting equipment, antenna, or rigging; any part of which is
3 capable of vertical, lateral, or swinging motion that could cause any
4 portion of the equipment or item to come closer than 10 feet to a high-
5 voltage line during erection, construction, operation, or maintenance;
6 including, but not limited to, equipment such as cranes, derricks, power
7 shovels, backhoes, dump trucks, drilling rigs, pile drivers, excavating
8 equipment, hay-loaders, haystackers, combines, irrigation equipment,
9 portable grain augers or elevators, and mechanical cotton pickers.
10 These terms also include items such as handheld tools, ladders,
11 scaffolds, antennas, and outriggers, houses or other structures in
12 transport, and gutters, siding, and other construction materials, the
13 motion or manipulation of which could cause them to come closer than
14 10 feet to a high-voltage line.
- 15 (2) 'High-voltage line' means all aboveground electrical conductors of
16 voltage in excess of 600 volts measured between conductor and ground.
- 17 (3) 'Person' means natural person, firm, business association, company,
18 partnership, corporation, or other legal entity.
- 19 (4) 'Person responsible for the work to be done' means the person
20 performing or controlling the job that necessitates the precautionary
21 safety measures required by this Article.
- 22 (5) 'Warning sign' means a weather-resistant sign of not less than five
23 inches by seven inches with at least two panels: a signal panel and a
24 message panel. The signal panel shall contain the signal word
25 'WARNING' in black lettering and a safety alert symbol consisting of a
26 black triangle with an orange exclamation point, all on an orange
27 background. The message panel shall contain the following words,
28 either in black letters on a white background or white letters on a black
29 background: 'UNLAWFUL TO OPERATE THIS EQUIPMENT
30 WITHIN TEN FEET OF OVERHEAD HIGH-VOLTAGE LINES –
31 Contact with power lines can result in death or serious burns.' A symbol
32 or pictorial panel may also be added. Such warning sign language,
33 lettering, style, colors, size, and format shall meet the requirements of
34 the American National Standard ANSI Z535.4-1991, Product Safety
35 Signs and Labels, or its successor or such equally effective standard as
36 may be approved for use by the Commissioner of Labor. In the event of
37 a conflict with regard to the appearance or content of the warning sign,
38 the standard approved by the Commissioner of Labor shall take
39 precedence over any description or standard set out in this subdivision.

40 **"§ 95-229.7. Prohibited activities.**

41 (a) Unless danger of contact with high-voltage lines has been guarded against as
42 provided by G.S. 95-229.8, 95-229.9, and 95-229.10, the following actions are
43 prohibited:

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

1 appurtenances, which support any overhead utility lines of any type or
2 nature, including high-voltage, low-voltage, telephone, cable television,
3 fire alarm, or other lines.

4 (b) If the high-voltage line has been insulated or de-energized and grounded, in
5 accordance with G.S. 95-229.10, the required clearances specified in subdivisions (1),
6 (2), and (4) of subsection (a) of this section may be reduced to not less than two feet.
7 Under no circumstances shall the line or its covering be contacted. If the line is
8 temporarily raised or moved to accommodate the expected work, without also being
9 insulated or de-energized and grounded, the required clearances from the line, specified
10 in subsection (a) of this section, shall not be reduced.

11 **"§ 95-229.8. Warning signs.**

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

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

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

21 This subsection shall not apply to handheld tools and handheld equipment which by their
22 size or configuration cannot accommodate the warning signs specified in G.S. 95-
23 229.6(5).

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

28 **"§ 95-229.9. Notification.**

29 (a) When any person desires to carry on any work in closer proximity to any high-
30 voltage line than permitted by G.S. 95-229.7(a), the person responsible for the work to be
31 done shall notify the owner or operator of the high-voltage line prior to the time the work
32 is to be commenced. Such notification shall occur at the earliest practical time; however,
33 such notification shall occur not less than 48 hours, excluding Saturday, Sunday, and
34 legal State and federal holidays, prior to the intended work. In emergency situations,
35 including police, fire, and rescue emergencies, such notification shall occur as soon as
36 possible under the circumstances. In cases where the person or business entity
37 responsible for doing the work is doing so under contract or agreement with a
38 government entity, and the government entity and the owner or operator of the lines have
39 already made satisfactory mutual arrangements, further arrangements for that particular
40 work are not required.

41 (b) Every notice served by any person on an owner or operator of a high-voltage
42 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;
- 4 (3) The name, address, and telephone number of the person responsible for
5 the work;
- 6 (4) The field telephone number of the site of such work, if one is available;
- 7 (5) The type, duration, and extent of the proposed work;
- 8 (6) The name of the person for whom the proposed work is being
9 performed;
- 10 (7) The time and date of the notice; and
- 11 (8) The approximate date and time when the work is to begin.
- 12 (c) If the notification required by this Article is made by telephone, a record of the
13 information in subsection (b) of this section shall be maintained by the owner or operator
14 notified and the person giving the notice to document compliance with the requirements
15 of this Article.
- 16 (d) Owners or operators of high-voltage lines may form and operate an association
17 providing for mutual receipt of notification of activities close to high-voltage lines in a
18 specified area. In areas where an association is formed, the following shall occur:
- 19 (1) Notification to the association shall be effected as set forth in this
20 section.
- 21 (2) Owners or operators of high-voltage lines in the area:
- 22 a. May become members of the association;
- 23 b. May participate in and receive the services furnished by the
24 association; and
- 25 c. Shall pay their proportionate share of the cost for the services
26 furnished.
- 27 (3) The association whose members or participants have high-voltage lines
28 within a county shall file a list containing the name, address, and
29 telephone number of every member and participating owner or operator
30 of high-voltage lines with the clerk of superior court.
- 31 (4) If notification is made by telephone, an adequate record of the
32 information required by subsection (b) of this section shall be
33 maintained by the association to document compliance with the
34 requirements of this Article.

35 **"§ 95-229.10. Precautionary safety arrangements.**

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

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

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

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

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

37 (e) Precautionary safety arrangements may include:

- 38 (1) Placement of temporary mechanical barriers separating and preventing
39 contact between material, equipment, other objects, or persons and high-
40 voltage lines;
- 41 (2) Temporary de-energization and grounding;
- 42 (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 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 shall be limited to the amount required to accommodate the work
22 over and above the amount required to bring the installation into
23 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 **"§ 95-229.11. Exemptions.**

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

35 (1) Rail transportation systems;

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

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

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

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

43 **"§ 95-229.12. Application.**

1 Nothing in this Article shall relieve any person from complying with any safety rule,
2 regulation, or statute not imposed by this Article. A violation of this Article shall not
3 constitute negligence or contributory negligence, nor give rise to any cause of action
4 based upon injury to persons or property. An action may be brought by an owner or
5 operator of a high-voltage line to recover the cost of precautionary safety arrangements or
6 for damage to its facilities. Nothing contained in this Article shall be construed to alter,
7 amend, restrict, or limit the liability of any person for violation of that person's duty
8 under law; nor shall any person be relieved from liability as a result of violations of
9 standards under existing law where such violations of existing standards of care are found
10 to be a cause of damage to property, personal injury, or death.

11 **"§ 95-229.13. Severability.**

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

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