

Model Act: Overhead High-Voltage Line Safety Act

Section 01.Scope

This chapter is enacted to promote the safety and protection of persons engaged in work or activity in the vicinity of high-voltage overhead lines. The chapter 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.

Section 02.Definitions

As used in this chapter: 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 the any portion of the equipment or item to come closer than ten 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, hay loaders, hay stackers, combines, portable grain augers or elevators, and mechanical cotton pickers and items such as ladders, scaffolds, antennas, boat masts and outriggers, houses or other structures in transport, and gutters, siding and other construction materials.

Overhead high-voltage line means all above-ground bare or insulated electrical conductors of voltage in excess of 600 volts measured between conductors or measured between a conductor and the ground, except those conductors that are (a) de-energized and grounded or (b) enclosed in rigid metallic conduit or flexible armored conduit.

Person means natural person, firm, business association, company, partnership, corporation or other legal entity.

Person responsible for the work to be done means the person performing or controlling the job or activity that necessitates the precautionary safety measures required by this act.

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

Section 03. Duty and Responsibility

It shall be the duty and responsibility of (a) employers of persons using any covered equipment or items for the benefit of the employers or others and (b) individuals using any covered equipment or items for the benefit of themselves or others to acquaint themselves and their employees or agents who will be using the equipment or items or will be engaged in the work operations or other activities with the provisions of this chapter and the regulations prescribed and promulgated pursuant to it.

Section 04. Prohibited Activities

A. Unless danger of contact with overhead high-voltage lines has been effectively guarded against by a combination of notice, work or activity control methods, and complementary precautionary safety measures, all in accordance with Sections 5 and 6, the following actions are prohibited.

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

a. any part of such individual, agent, employee or other person to be placed within ten feet of any overhead high voltage line, or

b. any part of any tool or material used by the individual, agent, employee or other person to be brought within ten feet of any overhead high voltage line.

2. No person shall, individually or through an agent or employee or as an agent or employee, erect, construct, operate, maintain, transport, or store any covered equipment or item within ten feet of any overhead high voltage line, except as herein allowed. The required clearance from high-voltage lines shall be not less than four feet when (a) boats are sailing on high water, (b) covered equipment as defined herein is lawfully driven or transported on public streets and highways in compliance with the height restriction applicable thereon, and (c) refuse collection equipment is operating.

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

4. No person shall, individually or through an agent or employee or as an agent or employee, store or cause to be stored any materials that are expected to be moved or handled by covered equipment underneath or in close proximity to an overhead high-voltage line.

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

B. If the line has been covered with temporary insulating sleeves or devices, in accordance with Section 6, the required clearance may be reduced from ten feet to four feet. If the line has been deenergized and grounded, in accordance with Section 6, the required clearance may be reduced from ten feet to not less than two feet. Under no circumstances shall the line or its covering be contacted. If the lines are temporarily raised or moved to accommodate the expected work of other activity, without also being insulated or deenergized and grounded, the required ten-foot clearance from the line shall not be reduced.

Section 05. Warning signs

A. No person shall, individually or through an agent or employee, or as an agent or employee, operate any covered equipment in the proximity of an overhead high voltage line unless there is posted and maintained warning signs placed as follows

1. A sign shall be located within the equipment and readily visible and legible to the operator of such equipment when at the controls of such equipment; and

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

B. Each day's failure to post or maintain signs required by this section shall be considered a separate offense.

C. If the Commissioner of Labor determines that a successor, substitute, or additional sign standard may or shall be used in place of the requirements listed in Section 2, a period of not less than eighteen months from such determination shall be allowed for any required replacement of signs.

Section 06. Notification

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

B. Every notice served by any person on an owner or operator of an overhead high voltage line pursuant to Section 05 shall contain the following information:

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

C. If the notification required by this chapter is made by telephone, a record of such notification shall be maintained by the owner or operator notified and the person giving the notice to document compliance with the requirements of this chapter.

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

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

1. Notification to the association shall be effected as set forth in this section.
2. Owners or operators of high-voltage overhead lines in the area:
 - a. may become members of the association;
 - b. may participate in and receive the services furnished by the association;
 - c. shall pay their proportionate share of the cost for the services furnished.
3. The association whose members or participants have high voltage overhead lines within a county shall file a list containing the name, address, and telephone number of every member and participating public utility with the county clerk.
4. If notification is made by telephone, an adequate record shall be maintained by the association to document compliance with the requirements of this chapter.

Section 07. Precautionary Safety Arrangements

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

B. The precautionary safety measures shall be appropriate for the work or activity of which the owner or operator of high-voltage lines has received notification. During mutual negotiations, the person responsible for the work or activity may change the notification of intended activities to include different or limited work or activities so as to reduce the precautionary safety measures required to accommodate such work or activities. The precautionary safety measures shall not violate the requirements of the National Electrical Safety Code.

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

D. Unless otherwise agreed, the owner or operator of the lines shall initiate the agreed-upon precautionary safety arrangements within three working days after the date of agreement for payment, if required, has been reached. Once initiated, the owner or operator shall complete the work promptly and without interruption, consistent with the owner's or operator's service needs. Should the owner or operator of the lines fail to provide the agreed-upon precautionary safety measures in a timely manner, the owner or operator of the lines shall be liable for costs or loss of production of the person or business entity requesting assistance to work in close proximity to high voltage overhead lines, except that no such liability shall exist during times of emergency, such as storm repair and the like.

E. Precautionary safety arrangements may include:

1. placement of temporary mechanical barriers separating and preventing contact between material, equipment, or persons and overhead high voltage lines,
2. temporary deenergization and grounding,
3. temporary relocation or raising of the lines, or
4. other such measures found to be appropriate in the judgment of the owner or operator of the lines.

F. The actual expense incurred by any owner or operator of overhead high voltage lines in taking precautionary measures as set out in subsections A-D of this section, including the wages of its workers involved in making safety arrangements, shall be paid by the person responsible for the work or activity to be done, except if:

1. prior arrangements for payment have been made between a government entity for whom the work is to be done and the owner or operator of the line; or
2. the owner or operator of the line has not installed the line in conformance with the applicable edition of the National Electric Safety Code. In this latter case, the liability of the person responsible for the work or activity shall be limited to the amount required to accommodate the work or activity over and above the amount required to bring the installation into compliance with the National Electrical Safety Code.

Section 08. Enforcement of chapter

A. The provisions of this chapter shall be considered as safety and health standards of the State. Any person who is found to cause, permit or allow work or other activity in violation of any provision of this chapter shall be guilty of a misdemeanor and, upon such finding or conviction, shall be punished by a fine not exceeding One Thousand Dollars or imprisonment not exceeding twelve months or both. If imposed, such fines shall be transferred to the Commissioner of Labor for use in public electrical safety training programs.

B. The provisions of this chapter shall be enforced as to employers by the Commissioner of Labor. In the case of a violation of this chapter over which the Commissioner of Labor does not have enforcement powers, enforcement shall fall under the jurisdiction of the court of the district in which the violation occurred.

Section 09. Indemnification

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

1. the responsible party causes, permits, or allows any work or activity in violation of any provision of this chapter; and
2. as a result, a physical or electrical contact with a high-voltage overhead line occurs.

Section 10. Exemptions

A. This chapter shall not apply to the construction, reconstruction, operation, and maintenance of overhead electrical or communication circuits or conductors and their supporting structures and associated equipment of the following systems, provided that such work on any of the following systems is performed by the employees of the owner or operator of the systems or independent contractors engaged on behalf of the owner or operator of the systems to perform the work:

1. rail transportation systems,
2. electrical generating, transmission, or distribution systems,
3. communication systems, including cable television, or
4. any other publicly or privately owned system.

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

Section 11. Application

The provisions of this chapter shall not be construed either to abrogate or diminish any rights, duties, defenses or remedies existing under law or to create or expand any rights, duties, defenses, or remedies existing under law, except that the following is expressly allowed under this chapter:

1. An action may be brought to enforce the requirements of this chapter, as provided for herein.
2. An action may be brought by an owner or operator of an overhead high voltage power line to recover the cost of precautionary safety arrangements or for damage to it facilities as provided for herein.

Section 12. Severability

The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not effect any part of what remains.