

MAINE STATE LEGISLATURE

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L.D. 1247

DATE: 6/14/95

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UTILITIES AND ENERGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 894, L.D. 1247, Bill, "An Act to Create the Overhead High-voltage Line Safety Act"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 35-A MRSA c. 7-A is enacted to read:

CHAPTER 7-A

OVERHEAD HIGH-VOLTAGE LINE SAFETY ACT

§751. Short title

This Act may be known and cited as the "Overhead High-voltage Line Safety Act."

§752. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Covered equipment or items. "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 causes any portion of the equipment or item to come within 10 feet of an overhead

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2 high-voltage line during erection, construction, operation or
3 maintenance, including, but not limited to, equipment such as
4 cranes, derricks, power shovels, backhoes, dump trucks, drilling
5 rigs, pile drivers, excavating equipment, hay loaders, hay
6 stackers, combines, portable grain augers or elevators and items
7 such as ladders, scaffolds, boat masts and outriggers, houses or
8 other structures in transport and gutters, siding and other
9 construction materials.

10 2. Overhead high-voltage line. "Overhead high-voltage
11 line" means all above-ground bare or insulated electrical
12 conductors of voltage in excess of 600 volts, measured between
13 conductors or measured between a conductor and the ground, that
14 are owned or operated by an electric utility, except those
15 conductors that are:

16 A. Enclosed in a rigid metallic conduit or flexible armored
17 conduit; or

18 B. On the premises of mines that are subject to the
19 provisions of the Federal Mine Safety and Health Act of
20 1977, 30 United States Code, Section 801 and regulations
21 adopted pursuant to that Act by the federal Mine Safety and
22 Health Administration.

23 3. Person. "Person" means natural person, firm, business
24 association, company, partnership, corporation or other legal
25 entity.

26 4. Person responsible. "Person responsible" means the
27 person performing or controlling the job or activity that
28 necessitates the precautionary safety measures required by this
29 chapter.

30 5. Warning sign. "Warning sign" means a weather-resistant
31 sign of not less than 5 inches by 7 inches with at least 2
32 panels: a signal panel and a message panel. The signal panel
33 must contain the signal word "WARNING" in black lettering and a
34 safety alert symbol consisting of a black triangle with an orange
35 exclamation point, all on an orange background. The message
36 panel must contain the following words, either in black letters
37 on a white background or white letters on a black background:
38 "UNLAWFUL TO OPERATE THIS EQUIPMENT WITHIN 10 FEET OF OVERHEAD
39 HIGH-VOLTAGE LINES - Contact with power lines may result in death
40 or serious burns." A symbol or pictorial panel may also be
41 added. The warning sign language, lettering, style, colors, size
42 and format must meet the requirements of the American National
43 Standard Institute, Standard Z535.4-1991, Product Safety Signs
44 and Labels, or its successors.

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§753. Duty and responsibility

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It is the duty and responsibility of employers of persons and individuals who use any covered equipment or items, for the benefit of themselves or others, to acquaint themselves and their employees or agents using the equipment or items or engaged in the work operations or other activities with the provisions of this chapter and the rules prescribed and adopted pursuant to it.

§754. Prohibited activities

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The following activities are prohibited until the requirements of sections 756 and 757 are met.

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1. Perform work. A person may not individually or through an agent or as an agent or employee perform any work or activity on any land, building, highway or other premises that may cause:

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A. A person to be placed within 10 feet of an overhead high-voltage line; or

B. A tool or material used by a person to be brought within 10 feet of an overhead high-voltage line.

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2. Erect; construct; operate; maintain; transport; store. A person may not, 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 10 feet of an overhead high-voltage line, except as allowed in this subsection. The clearance from an overhead high-voltage line may be less than 10 feet but not less than 4 feet for the following covered equipment or items in the following circumstances:

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A. A sail boat on high water;

B. Covered equipment lawfully driven or transported on public streets and highways in compliance with the height restriction applicable to that street or highway; or

C. Refuse collection equipment wherever operated.

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3. Operate airplane or helicopter. A person may not, individually or through an agent or employee or as an agent or employee, operate or cause to be operated an airplane or helicopter within 20 feet of an overhead high-voltage line, except that no clearance is specified for licensed aerial spray applicators that may incidentally pass within the 20-foot limitation during normal operation.

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2 4. Store. A person may not, individually or through an
3 agent or employee or as an agent or employee, store or cause to
4 be stored, underneath or in proximity to an overhead high-voltage
5 line, any materials that are expected to be moved or handled by
6 covered equipment in a manner that could bring the materials or
7 the covered equipment within 10 feet of an overhead high-voltage
8 line.

9 5. Provide additional clearance. A person may not,
10 individually or through an agent or employee or as an agent or
11 employee, provide or cause to be provided additional clearance by:

12 A. Raising, moving or displacing an overhead utility line
13 of any type or nature, including high-voltage, low-voltage,
14 telephone, cable television, fire alarm or other line; or

15 B. Pulling or pushing a pole, guy or other structural
16 appurtenance.

17 **§755. Clearance reduced**

18 If the overhead high-voltage line is covered with a
19 mechanical barrier, in accordance with section 758, the required
20 clearance under section 754, subsections 1 and 2 may be reduced
21 to the designed working dimensions of the mechanical barrier. If
22 the line is de-energized and grounded, in accordance with section
23 758, subsection 5, the required clearance under section 754,
24 subsection 1 and 2 is reduced from 10 feet to 2 feet. Under no
25 circumstances may the overhead high-voltage line or its covering
26 be contacted. If the overhead high-voltage lines are temporarily
27 raised or moved to accommodate the expected work or other
28 activity, without also being insulated or de-energized and
29 grounded, the required clearance under section 754, subsections 1
30 and 2 may not be reduced.

31 **§756. Warning signs**

32 A person may not, individually or through an agent or
33 employee or as an agent or employee, operate covered equipment in
34 the proximity of an overhead high-voltage line unless there are
35 posted and maintained warning signs as follows:

36 1. In covered equipment. A sign must be located in the
37 covered equipment and readily visible and legible to the operator
38 of the covered equipment when at the controls of the covered
39 equipment; and

40 2. Outside covered equipment. Signs must be located on the
41 outside of covered equipment in numbers and locations that are

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2 readily visible and legible at a distance of 12 feet by people
3 engaged in the work operations.

4 **§757. Notification**

6 **1. Notification.** When a person is going to carry on any
7 work or activity in closer proximity to an overhead high-voltage
8 line than permitted by this chapter, the person responsible for
9 the work or activity must notify the owner or operator of the
10 overhead high-voltage line prior to the time the work or activity
11 is to be commenced. Notification must be at least 72 hours in
12 advance of the work or activity, excluding Saturday, Sunday and
13 legal state and federal holidays, except in emergency situations
14 that include police, fire and rescue emergencies, in which case
15 notification must be made as soon as possible. When the person
16 responsible for the work activity is under contract or agreement
17 with a government entity and the government entity and the owner
18 or operator of the overhead high-voltage lines have already made
19 satisfactory mutual arrangements, further arrangements for that
20 particular activity are not required.

22 **2. Information.** A notice served by a person on an owner or
23 operator of an overhead high-voltage line pursuant to this
24 section must contain the following information:

- 26 A. The name of the individual serving the notice;
- 28 B. The location of the proposed work or activity;
- 30 C. The name, address and telephone number of the person
32 responsible for the work or activity;
- 34 D. The field telephone number at the site of the work or
35 activity, if one is available;
- 36 E. The type and extent of the proposed work or activity;
- 38 F. The name of the person for whom the proposed work or
39 activity is being performed;
- 40 G. The time and date of the notice; and
- 42 H. The date and time when the work or activity is to begin.

44 **3. Telephone notification.** If the notification required by
45 this section is made by telephone, a record of the notification
46 must be maintained by the owner or operator of the overhead
47 high-voltage line and by the person giving the notice to document
48 compliance with the requirements of this section.

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2 4. Address and telephone. To facilitate the notification
4 required by this section, every owner or operator of overhead
6 high-voltage lines that does not participate in an association
8 for mutual receipt of notification of activities close to
10 overhead high-voltage lines shall file with the commission the
12 addresses and telephone numbers of the contact persons or offices
14 of the owner or operator of overhead high-voltage lines in the
16 State to whom all notifications concerning proposed work in the
18 service territory of the owner or operator is directed. The
20 information must be maintained by the commission in a manner
22 determined by the commission.

24 5. Form association. Owners or operators of overhead
26 high-voltage lines may form and operate an association providing
28 for mutual receipt of notification of activities close to
30 overhead high-voltage lines in a specified area. In areas where
32 an association is formed, the following must occur:

34 A. Notification of work activities to the association must
36 be effected as set forth in this section;

38 B. Owners or operators of overhead high-voltage lines in
40 the area:

42 (1) May become members of the association;

44 (2) May participate in and receive the services
46 furnished by the association; and

48 (3) Shall pay their proportionate share of the cost
50 for the services furnished;

C. The association whose members or participants have
overhead high-voltage lines within the State shall file a
list containing the name, address and telephone number of
each owner or operator of overhead high-voltage lines within
the area of an association with the commission; and

D. If notification is made by telephone, record must be
maintained by the association to document compliance with
the requirements of this section.

§758. Precautionary safety arrangements

1. Precautionary safety arrangements. Installation or
performance of precautionary safety arrangements must be
performed by the owner or operator of overhead high-voltage lines
only after mutually satisfactory arrangements are negotiated
between the owner or the operator of the overhead high-voltage
lines and the person responsible for the work or activity to be

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2 done. The negotiations must proceed promptly and in good faith
3 with the goal of accommodating the work or activity consistent
4 with the owner's or operator's service needs and the intent to
5 protect the public from the danger of contact with overhead
6 high-voltage lines.

7 2. **Appropriate for work.** The precautionary safety measures
8 must be appropriate for the work or activity for which the owner
9 or operator of overhead high-voltage lines has received
10 notification. During negotiations, the person responsible for
11 the work or activity may change the notification of intended
12 activities to include different or limited work or activities so
13 as to reduce the precautionary safety measures required to
14 accommodate the work or activities. The precautionary safety
15 measures may not violate the requirements of the National
16 Electrical Safety Code.

17 3. **Agreement for payment.** Agreements for payments of the
18 costs of precautionary safety measures are governed by the
19 following provisions.

20 A. If the owner or operator of the overhead high-voltage
21 line has standard rates that apply to the provision of
22 precautionary safety arrangements, the owner or operator of
23 the overhead high-voltage line is not required to provide
24 precautionary safety measures until payment has been made by
25 the person requesting the safety measures or an agreement
26 for payment has been reached.

27 B. If the owner or operator of the overhead high-voltage
28 line does not have standard rates, the owner or operator of
29 the overhead high-voltage lines is not required to provide
30 the precautionary safety arrangements until an agreement for
31 payment has been made, except that, if there is a dispute
32 over the amount to be charged by the owner or operator of
33 the overhead high-voltage lines for providing the
34 arrangements, the owner or operator shall commence providing
35 precautionary safety measures as if an agreement had been
36 reached. If an agreement for payment has not been reached
37 within 14 days from the completion of precautionary safety
38 measures, the owner or operator and the person or business
39 entity responsible for the work activities shall resolve the
40 dispute by arbitration or other legal means.

41 4. **Initiate; timely fashion.** Unless otherwise agreed, the
42 owner or operator of the overhead high-voltage lines shall
43 initiate the agreed upon precautionary safety arrangements within
44 3 working days after the date of agreement for payment, if
45 required, has been reached or within 5 working days of notice
46 that the work activity is being done without an agreement. Once
47 the work activity is being done without an agreement, the
48 owner or operator shall initiate the agreed upon precautionary
49 safety arrangements within 3 working days after the date of
50 agreement for payment, if required, has been reached or within
5 working days of notice that the work activity is being done
without an agreement.

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2 initiated, the owner or operator of the overhead high-voltage
3 lines shall complete the work promptly and without interruption,
4 consistent with the owner's or operator's service needs. If the
5 owner or operator of the overhead high-voltage lines fails to
6 provide the agreed upon precautionary safety arrangements within
7 the period agreed upon, the owner or operator of the overhead
8 high-voltage lines is liable for costs or loss of production of
9 the person or business entity requesting the precautionary safety
10 arrangements in order to work in proximity to overhead
11 high-voltage lines, except that no liability exists during times
12 of emergency, such as storm repair.

13 5. Inclusion. Precautionary safety arrangements may
14 include:

15 A. Placement of temporary mechanical barriers separating
16 and preventing contact between material, equipment or
17 persons and overhead high-voltage lines;

18 B. Temporary de-energization and grounding;

19 C. Temporary relocation or raising of the overhead
20 high-voltage lines; or

21 D. Any other measures that are appropriate in the judgment
22 of the owner or operator of the overhead high-voltage lines.

23 6. Expense. The actual expense incurred by an owner or
24 operator of overhead high-voltage lines in taking precautionary
25 measures, including wages of its workers involved in making
26 safety arrangements, must be paid by the person responsible for
27 the work or activity to be done except when:

28 A. Prior arrangements for payment are made between a
29 government entity for whom the work is to be done and the
30 owner or operator of the overhead high-voltage line; or

31 B. The owner or operator of the overhead high-voltage line
32 has not installed the overhead high-voltage line in
33 conformance with the applicable edition of the National
34 Electrical Safety Code. If the overhead high-voltage line
35 is not installed in conformance with the applicable edition
36 of the National Electrical Safety Code, the liability of the
37 person responsible for the work or activity is limited to
38 the amount required to accommodate the work or activity
39 minus the amount required to bring the installation into
40 compliance with the National Electrical Safety Code.

41 §759. Enforcement

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2 The provisions of this chapter are considered safety and
3 health standards of the State. A person who causes, permits or
4 allows work or other activity in violation of the provisions of
5 this chapter may be assessed a civil penalty not exceeding \$1,000
6 for each day the violation continues.

7 Civil penalties may be recovered in a civil action in the
8 name of the State brought in the Superior Court for the county
9 where the violation is alleged to have occurred or where the
10 violation resides or has its principal office. Interest accrues
11 on the penalties at a rate of 1 1/2% per month except that the
12 interest is suspended during the pendency of an appeal.

14 **§760. Indemnification**

15 A person is liable to the owner or operator of the overhead
16 high-voltage line and 3rd parties, if any, for all damages to
17 facilities, injuries to persons and all costs, expenses and
18 liabilities incurred by the owner or operator of the overhead
19 high-voltage lines and 3rd parties, if any, as a result of any
20 contact with an overhead high-voltage line if the person causes,
21 permits or allows any work or activity in violation of a
22 provision of this chapter and, as a result, a physical or
23 electrical contact with an overhead high-voltage line occurs.

24 **§761. Exemptions**

25 **1. Overhead electrical; communication circuits;**
26 **conductors.** This chapter does not apply to any person while
27 engaged in the construction, reconstruction, operation and
28 maintenance of overhead electrical or communication circuits or
29 conductors and their supporting structures and associated
30 equipment, if the person is an employee of the owner or operator
31 of the overhead electrical or communication circuits or
32 conductors or an independent contractor engaged on behalf of the
33 owner or operator of the overhead electrical or communication
34 circuits or conductors, including, but not limited to, employees
35 of and independent contractors working for the following:

36 A. Any business operating rail transportation systems;

37 B. Any business operating electrical generating,
38 transmission or distribution systems;

39 C. Any business operating communication systems; or

40 D. Any business operating cable television systems.

41 **2. Agricultural activities.** The provisions of sections 756
42 and 757 do not apply to a person operating agricultural equipment

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for agricultural purposes. If the equipment is likely to be routinely brought within 10 feet of an overhead high-voltage line, the owner or operator of the equipment must in each calendar year, prior to using the equipment, provide the owner or operator of the high-voltage line with the information required in section 757, subsection 2.

3. Water and sewer system operators. This chapter does not apply to any employee or independent contractor engaged on behalf of:

- A. A water utility;
- B. A sewer district or sanitary district; or
- C. A municipal sewer department.'

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

The Public Utilities Commission will incur some minor additional costs to administer the notification provisions pertaining to certain overhead high-voltage lines. These costs can be absorbed within the commission's existing budgeted resources.

This bill may increase the number of civil cases filed in the court system. The additional workload and administrative costs associated with the minimal number of new cases filed can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may also increase General Fund revenue by minor amounts.'

STATEMENT OF FACT

This amendment replaces the bill. This amendment preserves the major provisions of the bill but makes a variety of technical changes to the bill and the following substantive changes:

1. Provides that owners and operators of overhead high-voltage lines who have standard rates for providing precautionary safety measures are not required to provide precautionary safety measures unless payment has been made or agreement for payment reached;
2. Provides an exemption from the requirements of the Maine Revised Statutes, Title 35-A, chapter 7-A for persons operating agricultural equipment for agricultural purposes. If the equipment will routinely be brought within 10 feet of an overhead

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high-voltage line, the owner or operator of the equipment must
annually give notice to the owner or operator of the high-voltage
line;

3. Provides an exemption from the requirements of Title
35-A, chapter 7-A for water utilities, sewer districts, sanitary
districts and municipal sewer departments;

4. Provides that the Public Utilities Commission must keep a
list of the contact persons or offices of electric utilities that
do not participate in an association for mutual receipt of
calls. Under the bill, this function was assigned to the
Superior Court system; and

5. Removes the provision requiring that any fines collected
for violations of the requirements imposed by the bill be
deposited with the Department of Labor for use in safety training
programs. Under the amendment, the fines are deposited in the
General Fund.

This amendment also adds a fiscal note to the bill.