

§ 59.1.406 - § 59.1-414 OVERHEAD HIGH VOLTAGE LINE SAFETY ACT*
NOTE: This is statutory law, not a regulation, but is directly enforceable.

CODE OF VIRGINIA
Chapter 30
OVERHEAD HIGH VOLTAGE LINE SAFETY ACT

§ 59.1-406 Scope

This chapter (§ 59.1-406 et seq.) is enacted to promote the safety and protection of persons engaged in work or activity in the vicinity of overhead high voltage lines. The chapter defines the conditions under which work may be carried on safely and provides for the safety arrangements to be taken when any person engages in work or other activity in proximity to overhead high voltage lines.

§ 59.1-407 Definitions

As used in this chapter:

"Covered equipment" means any mechanical equipment or hoisting equipment, any part of which is capable of vertical, lateral or swinging motion that could cause the equipment to be operated within ten feet of an overhead high voltage line, including but not limited to cranes, derricks, power shovels, drilling rigs, excavating equipment, hay loaders, hay stackers, combines, grain augers and mechanical cotton pickers.

"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 de-energized and grounded or that are 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.

"Warning sign" means a weather-resistant sign of not less than five inches by seven inches with a yellow background and black lettering reading as follows: "WARNING -- UNLAWFUL TO OPERATE THIS EQUIPMENT WITHIN TEN FEET OF OVERHEAD HIGH VOLTAGE LINES" or such other equally effective warning signs as may be approved for use by the Virginia Safety and Health Codes Board or the Commissioner of Labor and Industry.

§ 59.1-408 Prohibited activities

Unless danger of contact with overhead high voltage lines has been guarded against as provided by § 59.1-410:

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: (i) such agent, employee or other person to be placed within six feet (1.8 meters) of any overhead high voltage line; or (ii) any part of any tool or material used by the agent, employee or other person to be brought within six feet (1.8 meters) of any overhead high voltage line.

2. No person shall, individually or through an agent or employee or as an agent or employee, operate any covered equipment within ten feet (3.1 meters) of any overhead high voltage line or such greater clearance as may be required under the circumstances by the occupational safety and health regulations adopted by the Safety and Health Codes Board pursuant to Chapter 3 (§ 40.1-22 et seq.) of

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Title 40.1 and enforced by the Commissioner of Labor and Industry. This prohibition shall not apply, however, to covered equipment as defined herein when lawfully driven or transported on public streets and highways in compliance with the height restriction imposed by § 46.2-1110.

§ 59.1-409 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 a warning sign placed as follows:

1. Within the equipment and readily visible and legible to the operator of such equipment when at the controls of such equipment; and
2. 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. It shall be the duty and responsibility of the owner, lessee, or employer of any covered equipment to acquaint themselves and their employees who will be operating the equipment or will be engaged in the work operations with the provisions of this chapter and the regulations prescribed and promulgated pursuant to it.

§ 59.1-410 Temporary safety arrangements

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 to be done shall notify the owner or operator of the high voltage line in the manner prescribed in § 59.1-411 at least forty-eight hours, excluding Saturday, Sunday and legal state and federal holidays, or in emergency situations, including police, fire and rescue emergencies, as soon as possible under the circumstances, prior to the time work is to be commenced. The work shall be performed only after satisfactory mutual arrangements have been negotiated between the owner or the operator of the lines or both and the person responsible for the work to be done. The negotiations shall proceed promptly and in good faith with the goal of accommodating the requested work consistent with the owner's or operator's service needs and the duty to protect the public from the danger of overhead high voltage lines. The owner or operator of the lines shall initiate the agreed upon safety arrangements within five working days and shall complete the work promptly and without interruption, consistent with the owner's or operator's service needs. Arrangements may include (i) placement of temporary mechanical barriers separating and preventing contact between material, equipment, or persons and overhead high voltage lines, (ii) temporary de-energization and grounding, (iii) temporary relocation or raising of the lines, or (iv) other such measures found to be appropriate in the judgment of the owner or operator of the lines.

B. The actual expense incurred by any owner or operator of overhead high voltage lines in taking precautionary measures as set out in subsection A of this section, including the wages of its workers involved in making safety arrangements, shall be paid by the person responsible for the work to be done or a person subject to the following exceptions:

1. In the case of property used for residential purposes, such actual expenses shall be limited to those in excess of \$1,000;
2. Whenever any owner or operator of an overhead high voltage line has located its facilities within a public highway or street right-of-way and the work is performed by or for the Department of Transportation or a city, county or town, the actual expenses shall be the responsibility of the owner or operator of the overhead high voltage lines, unless the owner or operator can provide evidence of prior rights or there is a prior written agreement specifying cost responsibility; and

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3. Whenever it is determined by the Department of Transportation or a city, county or town that the temporary safety arrangements are for the sole convenience of its contractor, the actual expense shall be the responsibility of the contractor.

C. When requested by a person, an owner or operator of a high voltage line shall provide within a reasonable period of time an estimate of the scope and cost of any required safety arrangements.

§ 59.1-411 Notification

A. Every notice served by any person on an owner or operator of an overhead high voltage line pursuant to

§ 59.1-410 shall contain the following information:

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

B. 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.

To facilitate notification required by this chapter, every operator of overhead high voltage lines shall publish a phone number or numbers which, when called, will serve to provide initial notification of the need to arrange for the temporary safety arrangements pursuant to this chapter.

§ 59.1-412 Enforcement of chapter

The provisions of this chapter shall be considered as safety and health standards of the Commonwealth and enforced as to employers pursuant to § 40.1-49.4 by the Commissioner of Labor and Industry.

In the case of violations of this chapter over which the Commissioner of Labor and Industry does not have enforcement powers pursuant to § 40.1-49.4, a civil penalty of up to \$1,000 may be imposed at the discretion of the general district court for the jurisdiction in which the offense occurred.

§ 59.1-413 Exemptions

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: (i) rail transportation systems, (ii) electrical generating, transmission or distribution systems, (iii) communication systems, including cable television, or (iv) any other publicly or privately owned system provided that such work on any of the foregoing 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 system to perform the work.

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

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Act of 1977 (30 U.S.C. § 801 et seq.) and regulations adopted pursuant to that Act by the Mine Safety and Health Administration.

§ 59.1-414 Application

Except in conjunction with the enforcement of and in accordance with this chapter or an action by an owner or operator of an overhead high voltage power line to recover the cost of temporary safety arrangements or for damage to its facilities as provided for in this chapter, 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 in addition to rights, duties, defenses or remedies existing under law, nor shall any violation of this chapter constitute negligence *per se* in any civil action.