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N.J.S.A. 34:6-47.1 et seq.
N.J.A.C. 12:186

High-Voltage Proximity Act and Regulations

P.L. 1948, c. 249 as amended through May 20, 1987

James E. McGreevey
Governor

Albert G. Kroll
Commissioner

New Jersey Department of Labor
Office of Safety Compliance
PO Box 386
Trenton, New Jersey 08625-0386

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NOTE

This statute reprint is for ready reference only. For official text consult the New Jersey Statutes Annotated.

HIGH–VOLTAGE PROXIMITY ACT

N.J.S.A. 34:6–47.1 er seq.,
P.L. 1948, c. 249 as amended through May 20, 1987

An Act to provide the precautions to be taken in the proximity of high–voltage lines for the prevention of accidents; to make provisions for the administration and enforcement thereof by the Commissioner of Labor, and to prescribe penalties for violations thereof.

34:6–47.1 As used in this Act:

(a) "Commissioner" means the Commissioner of Labor or any of his authorized representatives.

(b) "High–voltage lines" means electrical conductors installed above ground and having a voltage differential in excess of 750 volts between any pair of conductors or between any conductor and ground. In the case of alternating current, the voltage shall be measured in R.M.S. value. This definition shall not include approved armored cable used to supply power to portable equipment and insulated power cables enclosed in approved metallic raceways.

34:6–47.2 Prohibited activity

No employer or supervising agent of an employer shall require or permit an employee to participate in the operation, erection, transportation, handling, or storage of any tools, machinery, equipment, supplies, materials, or apparatus or the moving of any building, if in the course of such operation, erection, transportation, handling, storage or moving it is possible for such tools, machinery, equipment, supplies, materials, apparatus or building, to come within 6 feet of a high– voltage line; or to participate in any activity which would cause the employee to come within 6 feet of a high–voltage line; unless precautionary action has been taken to protect against the danger from contact with such high–voltage line, either by de–energizing such high–voltage line and grounding it where necessary, or other effective methods or devices which have been approved in advance by the commissioner for the particular case and for the particular location.

No person shall operate, erect, transport, handle or store any tools, machinery, equipment, supplies, materials or apparatus, or move any building, if in the course of such operation, erection, transportation, handling, storage or moving, it is possible for such tools, machinery, equipment, supplies, materials, apparatus or building, to come within 6 feet of a high–voltage line unless precautionary action has been taken to protect against the danger from contact with such high– voltage line either by de–energizing such high–voltage line and grounding it where necessary, or by using other effective methods or devices which have been approved in advance by the commissioner for the particular case and for the particular location.

In no case shall the required 6 foot clearance be provided by moving or displacing any conductor, except where the same is temporarily relocated pursuant to arrangements made with the owner or person in charge of the high–voltage line.

34:6–47.3 (Repealed)

34:6–47.4 Warning sign required

The owner, agent, lessee, bailee, user, or employer responsible for the operation of equipment capable of coming in contact with a high–voltage line in the course of its operation shall post and maintain in plain view of the operator on each piece of such equipment, an approved durable warning sign legible at a distance of 12 feet reading "Unlawful to operate this equipment within 6 feet of high–voltage lines." The owner, agent, lessee, bailee, user or employer responsible for the operations of equipment shall provide such other warning signs on equipment or at the work site as may be required by regulations promulgated hereunder. The requirement that warning signs be posted shall not apply to railway equipment operating on railway right–of–way in relation to high– voltage conductors of such railway system under conditions for which exemption is granted under N.J.S.A. 34:6–47.8.

34:6–47.5 Notification to power company and responsibility for safeguards

Whenever any activity is to be performed requiring precautionary action under N.J.S.A. 34:6– 47.2 the employer, contractor or other person responsible for the activity shall promptly notify the owner or person in charge of the high–voltage line of the intended activity and shall fully comply with and shall be responsible for the cost and for the completion of the precautionary action required under N.J.S.A. 34:6–47.2 before proceeding with such activity.

34:6–47.6 Enforcement

The commissioner shall administer and enforce the provisions of this act and he is hereby empowered to prescribe and promulgate rules and regulations consistent herewith.

34:6–47.7a Penalty for violation of act

Any person violating any of the provisions of N.J.S.A. 34:6–47.1 et seq. shall be liable to a penalty of not less than $500.00 nor more than $5,000.00 to be collected in a civil action by a summary proceeding under "the penalty enforcement law" (N.J.S.A. 2A:58–1 et seq.) Any violation of N.J.S.A. 34:6–47.1 et seq. by an officer, agent or employee shall also be a violation of N.J.S.A. 34:6–47.1 et seq. by his employer if such employer had knowledge of and actual control over the cause of such violation. Where the violation is of a continuing nature each day during which it continues, shall constitute an additional, separate and distinct offense.

The commissioner is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the commissioner as may appear appropriate and equitable under all of the circumstances.

34:6–47.8 Exceptions

This act shall not be construed as applying to, shall not apply to, and is not intended to apply to, the construction, reconstruction, operations, and maintenance of overhead electrical conductors and their supporting structures and associated equipment by authorized and qualified electrical workers; nor to the authorized and qualified employees of any person engaged in the construction, reconstruction, operation, and maintenance of overhead electrical circuits or conductors and their supporting structures and associated equipment of rail transportation systems, or electrical generating, transmission, distribution, and communication systems. This exception when applied to railway systems, shall be construed as permitting operation of standard rail equipment, which is normally used in the transportation of freight or passenger or both and the operation or relief trains, or other equipment in emergencies, or in maintenance of way service, at a distance of less than 6 feet from any high–voltage conductor of such railway system; but this act shall be construed as prohibiting normal repair or construction operations at a distance of less than 6 feet from any high– voltage conductor by other than properly qualified and authorized persons or employees under the direct supervision of an authorized person who is familiar with the hazards involved, unless there has been compliance with the safety provisions of N.J.S.A. 34:6–47.2, 47.4 and 47.5.

This act shall not be construed as applying to, shall not apply to and is not intended to apply to, motor vehicle transportation across or along a public road or highway where such transportation is subject to the requirements of Title 39, Motor Vehicles and Traffic Regulation of the Revised Statutes, nor to motor vehicle transportation subject to the requirements of P.L. 1952, chapter 16 page 65, section 1 et seq., New Jersey Highway Authority or P.L. 1948, chapter 454, page 1856, section 1 et seq., New Jersey Turnpike Authority.

34:6–47.9 Partial invalidity

In case any provision of this act shall be adjudged unconstitutional or void for any reason, such adjudication shall not affect any of the other provisions of this act.

34:6–47.10 Effective date

This act shall take effect immediately.

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CHAPTER 186
HIGH VOLTAGE LINES

SUBCHAPTER 1.
GENERAL PROVISIONS

12:186–1.1 Purpose

The purpose of this chapter is to provide reasonable precautions to be taken in proximity to high voltage lines in order to prevent accidents.

12:186–1.2 Scope

(a) The provisions of the Act and this chapter shall not be applicable to the construction, reconstruction, operations and maintenance of overhead electrical conductors and their supporting structures and associated equipment by authorized and qualified electrical workers.

(b) The provisions of this Act and this chapter shall not be applicable to authorized and qualified employees of any person engaged in the construction, reconstruction, operation and maintenance of overhead electrical circuits or conductors and their supporting structures and associated equipment of:

1. Rail transportation systems; or

2. Electrical generating, transmission, distribution and communication systems.

(c) When applied to railway systems, the exceptions in (a) and (b) above shall be construed as permitting operation of standard rail equipment normally used in transport of passengers or freight, or both, and the operation of relief trains, or other equipment in emergencies, or in maintenance of way service, at a distance of less than six feet from any high voltage conductor of such railway system.

(d) The Act and this chapter shall prohibit normal repair or construction operations at a distance of less than six feet from any high voltage conductor by other than properly qualified and authorized persons or employees under the direct supervision of an authorized person who is familiar with the hazards involved in such activities, unless there has been compliance with all of the applicable safety and warning provisions of the

Act as embodied in this chapter.

(e) The Act and this chapter shall not be applicable to motor vehicle transportation across or along a public road or highway where such transportation is subject to the requirements of Title 39, Motor Vehicles and Traffic Regulations of the Revised Statutes, nor to motor vehicle transportation subject to the requirements of N.J.S.A.27:12B–1 et seq., which govern operations of New Jersey Highway Authority and N.J.S.A.27:23–1 et seq., which govern operations of the New Jersey Turnpike Authority.

12:186–1.3 Validity

Should any section, paragraph, sentence or word of this chapter be declared for any reason to be invalid, such decisions shall not affect the remaining portion of this chapter.

SUBCHAPTER 2.
DEFINITIONS

12:186–2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise.

"Act" means High Voltage Proximity Act, N.J.S.A. 34:6–47.1 et seq.

"Commissioner" means the Commissioner of Labor or his duly authorized designee.

"Department" means the New Jersey Department of Labor.

"Division" means the Division of Workplace Standards in the New Jersey Department of Labor, CN 054, Trenton, New Jersey 08625–0054.

"High voltage lines" means electrical conductors installed above ground and having a voltage differential in excess of 750 volts between any pair of conductors or between any conductor and the ground. In the case of alternating current, the voltage shall be measured in R.M.S. value. This definition shall not include approved armored cable used to supply power to portable equipment and insulated power cables enclosed in approved metallic raceways.

"Shall" means a mandatory requirement.

SUBCHAPTER 3.

VIOLATIONS

12:186–3.1 Violations; generally

(a) A violation of the Act shall occur when an employer or supervising agent of an employer shall require or permit an employee to participate in the operation, erection, transportation, handling, or storage of any tools, machinery, equipment, supplies, materials or apparatus or the moving of any building, if in the course of such operation, erection, transportation, handling, storage or moving it is possible:

1. For such tools, machinery, equipment, supplies, materials, apparatus or building, to come within six feet of a high voltage line; or

2. To participate in any activity which would cause the employee to come within six feet of a high voltage line, unless:

i. Precautionary action has been taken to protect against the danger from contact with such high voltage line, either by de–energizing such high voltage line and grounding it where necessary; or

ii. By using other effective methods or devices which have been approved in advance by the Commissioner for the particular case and for the particular location. Requests for permission to use such other methods or devices should be addressed in writing to the Division for consideration thereof.

(b) No person shall operate, erect, transport, handle or store any tools, machinery, equipment, supplies, materials, or apparatus, or move any building, if in the course of such operation, erection, transportation, handling, storage or moving it is possible:

1. For such tools, machinery, equipment, supplies, materials, apparatus or building to come within six feet of a high voltage line, unless:

i. Precautionary action has been taken to protect against the danger from contact with such high voltage line either by de–energizing such high voltage line and grounding it where necessary; or

ii. By using other effective methods or devices which have been approved in advance by the Commissioner for the particular case and for the particular location. Requests for permission to use such other methods or devices should be addressed in writing to the Division for consideration

thereof.

(c) In no case shall the required six foot clearance be provided by moving or displacing any conductor, except where the conductor is relocated temporarily pursuant to arrangements made with the owner or person in charge of the high voltage line.

12:186–3.2 Warning sign requirement

(a) It shall be a violation of the Act if an owner, agent, lessee, bailee, user or employer who is responsible for the operation of equipment capable of coming in contact with a high voltage line in the course of its operation, fails to post and maintain, in plain view of the operator on each piece of such equipment, a durable warning sign which shall be legible at a distance of 12 feet and which shall read: "Unlawful to operate this equipment within 6 feet of high voltage lines."

(b) The owner, agent, lessee, bailee, user or employer responsible for the operation of equipment shall also provide such warning signs prominently displayed at the work site in those areas adjacent to high voltage lines with which equipment could come in contact in the course of work activities.

(c) Such warning signs shall also be prominently displayed at all entryways to the worksite.

(d) The requirement that warning signs shall be posted shall not apply to railway equipment operating on a railway right–of–way in relation to high voltage conductors of such railway system under conditions set forth in N.J.A.C. 12:186–1.7.

SUBCHAPTER 4.

NOTIFICATION REQUIREMENTS

12:186–4.1 Notification to power company/responsibility for safeguards

(a) Whenever any activity is to be performed which requires precautionary action under N.J.A.C. 12:186–3, employer, contractor or other person responsible for the activity shall:

1. Promptly notify the owner of person in charge of the high voltage line of the intended activity; and

2. Fully comply with and be responsible for the cost and completion of the precautionary action required under N.J.A.C. 12:186–3 before proceeding with such activity.

SUBCHAPTER 5.

ADMINISTRATIVE PENALTIES AND HEARINGS

12:186–5.1 Penalties

(a) Any person violating any of the provisions of the Act shall be liable to a penalty of not less than $500.00 nor more than $5,000 for each cited violation.

(b) Any violation of the Act by an officer, agent or employee shall also be deemed to be a violation by the employer if the employer had knowledge of or actual control over the cause of such violation.

(c) Where the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

(d) The Commissioner, at his or her discretion, may compromise and settle any claim for a penalty imposed under the Act in such amount as he or she deems to be appropriate and equitable under all of the circumstances, including, but not limited to:

1. The past record of compliance with provisions of the Act by the alleged violator;

2. The degree of cooperation afforded to the Commissioner's representatives by the alleged violator in securing compliance with the provisions of the Act;

3. Whether the cited violation was willful in nature; and

4. Whether the cited violation resulted in injury or bodily harm.

12:186–5.2 Hearings

(a) No penalty shall be levied pursuant to N.J.A.C. 12:186–5.1 unless the alleged violator is first provided with:

1. Notification of the violation;

2. The amount of the penalty to be imposed; and

3. An opportunity to request a formal hearing.

(b) A request for a formal hearing shall be made in writing and received within 21 calendar days following receipt of the notice of violation.

(c) All hearings shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B–1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(d) If a hearing is not requested, the notice of violation shall become the final order upon expiration of the 21 day period following the receipt thereof.

(e) The alleged violator may request the initiation of a settlement conference at the time that the request for a formal hearing is made. If a settlement conference is requested, or the Department determines that a settlement conference would be useful, the settlement conference shall be scheduled and conducted by the Department within 30 days of the receipt of the request for a formal hearing.

(f) If a settlement is not agreed upon or no settlement conference is scheduled, a request for formal hearing shall be transmitted to the Office of Administrative Law (OAL).

(g) Payment of the penalty shall be due when a final agency determination is issued or when a notification becomes a final decision because no appeal has been filed.

(h) All payments shall be made payable to the Department of Labor in the form of a certified check or money order, or such other form as the Department deems suitable.

(i) Upon entry of the final order, the penalty imposed may be recovered with costs in a summary proceeding commenced by the Commissioner pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58–1 et seq.