

Act 752 of the 1989 Regular Session.

Act 752

HB1699

By: Representative Gibson

"AN ACT TO AMEND SUBCHAPTER 3, CHAPTER 5 OF TITLE 11 OF THE ARKANSAS CODE OF 1987 PROVIDING FOR WORK PERFORMED NEAR ENERGIZED OVERHEAD ELECTRICAL LINES; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code 11-5-301 is hereby amended to read as follows:

"11-5-301. Purpose. (a) This subchapter provides for the minimum precautions to be taken during any excavation, demolition, transportation of equipment, construction, repair, or operation in the proximity of energized overhead electrical lines.

(b) The purposes of this subchapter are to provide for the protection of persons engaged in work of any nature in the vicinity of energized overhead electrical lines, to define the conditions under which work may be carried on safely, the procedures and means by which these conditions may be created, to provide penalties and to provide remedies to those affected by violations of this act, provided that the provisions of this act shall not apply to the direct employees of the Arkansas State Highway Commission or the Arkansas State Highway and Transportation Department.

SECTION 2. Arkansas Code 11-5-302 is hereby amended to read as follows:

"11-5-302. Definitions. As used in this subchapter, unless the context otherwise requires:

- (1) 'Shall' is to be understood as mandatory;
- (2) 'Should' is to be understood as advisory;
- (3) 'Energized overhead electrical lines' means electrical lines which are energized at a potential of four hundred forty (440) volts, or more, as measured between the conductor and the ground;
- (4) 'Mechanical barrier' means temporary devices for separating and preventing contact between material or equipment and energized overhead electrical lines such as:
 - (A) Insulating barriers;
 - (B) Nonconductive enclosures around conductors;
- (5) 'De-energizing' means removing the voltage from electrical conductors and grounding;
- (6) 'Temporary relocation' means:
 - (A) Removing electrical conductors from poles;
 - (B) Elevating electrical conductors;
 - (C) Rerouting electrical conductors;
- (7) 'Authorized person' means:
 - (A) Employees of an electrical utility company with respect to the electrical system of such a company, and the employees of a transportation system with respect to the electrical circuits of such system;
 - (B) Employees of communication utilities, state, county, or municipal agencies having authorized circuit construction on the poles or structures of an electric utility company, transportation system or communication system;
 - (C) Employees of an industrial plant with respect to the electrical system of such plant;

(D) Employees of a municipality with respect to the electrical system of such municipality;

(E) Employees of any electrical or communications contractor with respect to work under his supervision, having authorized construction work on the poles or structures of an electrical utility company, transportation system or communication system;

(8) "Warning sign" means a weather resistant sign of not less than five inches by seven inches (5" x 7") with a yellow background and black lettering reading as follows:

'WARNING - Unlawful to operate this equipment within ten feet (10') of energized overhead electrical lines.'

SECTION 3. Arkansas Code 11-5-303 is hereby amended to read as follows:

"11-5-303. Application of National Electrical Safety Code. The provisions of the National Electrical Safety Code, as adopted by the State of Arkansas, shall apply in the interpretation of this subchapter."

SECTION 4. Arkansas Code 11-5-304 is hereby amended to read as follows:

"11-5-304. Exceptions. This subchapter does not apply to the construction, reconstruction, operation and maintenance of energized overhead electrical lines and their supporting structures and associated equipment by authorized electrical person; nor to any authorized person engaged in the construction, reconstruction, operation and maintenance of overhead electrical or communications circuits or conductors and their supporting and associated equipment of rail transportation systems, electrical transmission or distribution systems, or communications systems."

SECTION 5. Arkansas Code 11-5-305 is hereby amended to read as follows:

"11-5-305 Use of alternative devices or methods. Where specific devices or methods are mentioned in this subchapter, other devices or methods which will secure equally good results may be used, subject to the approval of the enforcing authority."

SECTION 6. Arkansas Code 11-5-306 is hereby amended to read as follows:

"11-5-306. Prohibited acts. (a) No person, firm, corporation or association shall, individually or through an agent or employee and no person as an agent, or employee of any person, firm, corporation or association, shall perform, require or permit any agent or employee to perform any function or activity upon any land, building, structure, highway or other premises, when it could be reasonably expected during the performance of such activity, for any person or employee engaged in performing work connected with or related to such function or activity to move or to be placed in a position within ten feet (10') of any energized overhead electrical line or conductor, or when it could be reasonably expected for any part of any tool, equipment, machinery or material to be used by any such person or employee to be brought within ten feet (10') of any such overhead line or conductor through any lateral, vertical or swinging motion during the performance of such function or activity, unless and until danger from accidental contact with said overhead lines has been effectively guarded against in the manner hereinafter prescribed.

(b) No person, firm, corporation or association shall, individually or through an agent or employee, and no person as an agent or employee of any person, firm, corporation or association, shall store, operate, erect, maintain, move or transport any tools, machinery, equipment, supplies, materials, or other apparatus, house, other building, or any part thereof, within ten feet (10') of any energized overhead electrical line, unless and until danger from accidental contact with said overhead line has been

effectively guarded against in the manner hereinafter prescribed."

SECTION 7. Arkansas Code 11-5-307 is hereby amended to read as follows:

"11-5-307. Clearance or safeguard required when working near energized overhead electrical lines - Relocation of lines. The commission of any act enumerated in 11-5-306, shall be prohibited except where energized overhead electrical lines have been effectively guarded against danger from accidental contact, by either:

(1) The erection of mechanical and/or insulating barriers to prevent physical contact with energized overhead electrical lines, or

(2) De-energizing the overhead electrical lines and grounding. Only in the case of either of such exceptions may the ten foot (10') clearance required be reduced. The required ten foot (10') clearance shall not be provided by movement of the lines through strains impressed by attachments or otherwise, upon the structures supporting the overhead lines, nor upon any equipment, fixtures or attachments thereon.

If (1) and (2) are not practicable, in the opinion of the owner or operator of the electrical lines and it is necessary to temporarily relocate the overhead electrical lines, mutually agreeable arrangements shall be made with the owner or operator of the overhead electrical lines for such temporary relocation.

(3) In addition to (1) and (2), there shall be installed an insulated cage-type guard or protective device, approved by the Director of the Department of Labor, about the boom or arm of all equipment, except backhoes or dippers; and where the equipment includes a lifting hook device also approved by the Director of the Department of Labor, all lifting lines shall be equipped with insulator links on the lift hook connection.

(4) All mechanical barriers and all insulated protective devices and links referred to herein shall be of such character and construction as are suited to the work operations and adequate for the electrical conditions to be encountered.

(5) All mechanical barriers and all insulated protective devices and links shall be maintained in such functioning condition as to meet periodic inspection."

SECTION 8. Arkansas Code 11-5-308 is hereby amended to read as follows:

"11-5-308. Notification to operator of energized overhead electrical lines when work to be performed near energized overhead electrical lines.

When any person, firm, or corporation desires to temporarily carry on any function, activity, work or operation in closer proximity to any energized overhead electrical line or conductor than permitted by this act, the person or persons responsible for the work to be done, shall promptly notify the Director of the Department of Labor and the operator or owner of the electrical lines in writing of the work to be performed and make appropriate arrangements with the operator of the electrical lines before proceeding with any work which would impair the clearances required by this act. The written notice shall be given to the owner or operator of the electrical lines by submitting notification to the manager of the nearest local office of the operator or owner of the electrical lines with a copy forwarded to the Director of the Department of Labor.

The work shall be performed only after satisfactory mutual arrangements have been negotiated between the owner and operator of the electrical lines and the person or persons responsible for the work to be done. The owner or operator of the electrical lines shall commence work on the mutual arrangements as provided herein within three (3) working days of the mutual arrangement. Once initiated, the clearance work will continue without unreasonable interruption to complete."

SECTION 9. Arkansas Code 11-5-309 is hereby amended to read as follows:

"11-5-309. Warning signs. (a) The owner, agent, or employer responsible for the operation of equipment shall post and maintain in plain view of the operator on each crane, derrick, power shovel, drilling rig, hay loader, hay stacker, pile driver, or similar apparatus, any part of which is capable of vertical, lateral, or swinging motion, an approved weather-resistant warning sign legible at twelve feet (12') reading:

'WARNING - Unlawful to operate this equipment within ten feet (10') of energized overhead electrical lines.'

(b) Warning signs shall be placed:

(1) Within the equipment readily visible to operators of cranes and other equipment when at the controls of such equipment;

(2) On the outside of equipment in such number and locations as to be readily visible to mechanics or other persons engaged in the work operations.

(c) Warning signs should not be less than five inches (5") in height, and not less than seven inches (7") in width."

SECTION 10. Title 11, Chapter 5, Subchapter 3 of the Arkansas Code is hereby amended by adding a new Section 3 to read as follows:

"11-5-310. Penalty for violations. Every person, firm, corporation or association who violates any of the provisions of this act shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000); and in addition thereof, if such violation results in physical or electrical contact with any energized overhead electrical line or conductor, and such violation is a proximate cause of any damage or injury to person or property, then the person, firm, corporation or association violating the provisions of this act, shall be liable to the owner or operator of such electrical line or conductor for all damage to such facilities and for all loss, cost and damages, including attorney fees, incurred by way of property damage or personal injury by such owner or operator as a result of any such accidental contact. The provisions of this section shall not apply to public utilities engaged in business in the State of Arkansas, nor their direct employees, nor to persons owning, leasing or otherwise possessing a legal interest in the land upon which such energized overhead electrical line is located."

SECTION 11. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 12. All laws and parts of laws in conflict with this act are hereby repealed.

APPROVED: March 21, 1989
