

N.D.A.G. Letter to Kingsbury, (July 7, 1987)

July 7, 1987

Representative Harley Kingsbury
143 Eastwood Drive
Rural Route 3, Box 8
Grafton, ND 58237

Dear Representative Kingsbury:

Thank you for your letter dated May 8, 1987. In your letter you ask for clarification of section 2 of House Bill 1491 recently passed by the Legislature. I apologize for the delay in responding to you.

Section 2 of House Bill 1491 states, in part, as follows:

If any work is performed within six feet (1.83 meters) of any high voltage overhead line, or if mechanical equipment or machinery used near high voltage overhead lines is capable of motion to within ten feet (3.05 meters) of any high voltage overhead line, the person responsible for the work shall notify the operator of the high voltage overhead line of the intent to work near the line.

Apparently you perceive an ambiguity in the quoted language. Your question is whether the areas specified in the bill are measured radially from the line or horizontally with no vertical limit. Other than the above quoted language, nothing in the bill or the testimony presented in support of the bill addresses your question.

The North Dakota Supreme Court has consistently held that "statutes must be construed to avoid ludicrous and absurd results." State v. Mees, 272 N.W.2d 61, 64 (N.D. 1978). North Dakota law (N.D.C.C. § 1-02-38) states that "in enacting a statute, it is presumed that . . . [a] reasonable result . . . feasible of execution is intended."

The plain meaning of the statute suggests that the horizontal interpretation is not logical, reasonable or feasible and would lead to a ludicrous or absurd result. If the bill were understood to restrict activities within an area bounded by an imaginary vertical wall at six or ten feet horizontal distance from a high voltage line, one could not drive under nor fly over without first notifying the operator of the line of his intent to do so.

It seems only logical that the restricted area is defined by a radial distance from each line. This interpretation is reasonable and feasible of execution.

I hope this letter answers your question.

Sincerely,

Nicholas J. Spaeth

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