



General Assembly

January Session, 2019

**Committee Bill No. 5312**

LCO No. 5455



Referred to Committee on ENVIRONMENT

Introduced by:  
(ENV)

**AN ACT CONCERNING VEGETATION MANAGEMENT WITHIN  
UTILITY PROTECTION ZONES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-234 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) As used in this section:

4 (1) "Utility" means a telephone, telecommunications or electric  
5 distribution company, each as defined in section 16-1;

6 (2) "Utility protection zone" means any rectangular area extending  
7 horizontally for a distance of eight feet from any outermost electrical  
8 conductor or wire installed from pole to pole and vertically from the  
9 ground to the sky;

10 (3) "Hazardous tree" means any tree or part of a tree that is (A)  
11 dead, (B) extensively decayed, or (C) structurally weak, which, if it  
12 falls, would endanger utility infrastructure, facilities or equipment;

13 (4) "Vegetation management" means the retention of trees and

14 shrubs that are compatible with the utility infrastructure and the  
15 pruning or removal of trees, shrubs or other vegetation that pose a risk  
16 to the reliability of the utility infrastructure. Until such time as the  
17 Department of Energy and Environmental Protection issues standards  
18 for identifying such compatible trees and shrubs, the standards and  
19 identification of such compatible trees and shrubs shall be as set forth  
20 in the 2012 final report of the State Vegetation Management Task  
21 Force;

22 (5) "Pruning" means the selective removal of plant parts to meet  
23 specific utility infrastructure reliability goals and objectives, when  
24 performed according to current professional tree care standards and in  
25 a manner that retains the structural integrity and health of the  
26 vegetation;

27 (6) "Abutting property owner" means the owner of the property  
28 abutting or adjacent to that portion of a public road, public highway or  
29 public grounds where the tree or shrub that the utility proposes to  
30 remove or prune is located; and

31 (7) "Private property owner" means the owner of the property  
32 where a tree or shrub the utility proposes to remove or prune is  
33 located, which may include municipally owned land.

34 (b) A utility may perform vegetation management within the utility  
35 protection zone, as necessary, to secure the reliability of utility  
36 services.

37 (c) (1) In conducting vegetation management, no utility shall prune  
38 or remove any tree or shrub within the utility protection zone, or on or  
39 overhanging any public road, public highway or public ground,  
40 without delivering notice of the proposed vegetation management to  
41 the abutting property owner or private property owner. Such notice  
42 shall include the option for the abutting property owner or private  
43 property owner to consent, in writing, to such proposed pruning or  
44 removal, object to such proposed pruning or removal or modify such

45 proposed pruning or removal. The notice shall include instructions  
46 regarding how the recipient may object in accordance with subdivision  
47 (3) of this subsection. Such notice shall also include a statement that if a  
48 person objects to the proposed pruning or removal, and such tree falls  
49 on any utility infrastructure, such person shall not be billed by the  
50 utility for any resulting damage. If requested by an owner of private  
51 property, the utility, municipality or the Commissioner of  
52 Transportation, as appropriate, shall provide such owner with  
53 information regarding whether a tree or shrub to be pruned or  
54 removed is in the public right-of-way or whether such tree or shrub is  
55 on such owner's private property. Any such notice provided pursuant  
56 to this subsection shall also be provided to the applicable tree warden  
57 or municipal authority with responsibility for such municipality's tree  
58 canopy not later than two weeks prior to the proposed date of such  
59 pruning or removal.

60 (2) Notice shall be considered delivered when it is (A) mailed to the  
61 abutting property owner or private property owner via first class mail,  
62 electronic mail or text message, (B) delivered, in writing, at the location  
63 of the abutting property or private property owner, or (C)  
64 simultaneously conveyed verbally and provided in writing to the  
65 abutting property owner or private property owner. A utility shall  
66 deliver such notice to the abutting property owner or private property  
67 owner at least fifteen business days before the starting date of any such  
68 pruning or removal. The form of such notice shall provide for a tear-off  
69 satisfaction survey returnable to the Public Utilities Regulatory  
70 Authority for completion by the abutting property owner following  
71 the performance of such pruning or removal. For any tree located  
72 within a public right-of-way, notice shall not be considered delivered  
73 until an application is made and acknowledged in accordance with the  
74 provisions of subsection (f) of section 23-65.

75 (3) The notice shall indicate that (A) objection to pruning or removal  
76 shall be filed, in writing, with the utility and either the tree warden of  
77 the municipality or the Commissioner of Transportation, as

78 appropriate, not later than ten business days after delivery of the  
79 notice, [and] (B) the objection may include a request for consultation  
80 with the tree warden, an arborist designated by the municipality or the  
81 Commissioner of Transportation, as appropriate, and (C) the abutting  
82 property owner has the right to be present while any such approved  
83 pruning or removal takes place and may contact the utility or utility's  
84 subcontractor at the provided contact telephone number to arrange to  
85 be present during the performance of such pruning or removal. For  
86 purposes of this section, an abutting property owner may file an  
87 objection or request for modification by (i) sending a written objection  
88 or request for modification to the utility or tree warden at the address  
89 for each specified on the notice, provided if the written objection is  
90 mailed, it shall be deemed received on the date it is postmarked, or (ii)  
91 sending by electronic mail an objection or request for modification to  
92 the dedicated electronic mail address maintained by the utility as  
93 specified on the notice. In the event that the abutting property owner  
94 requests such designated arborist to evaluate the pruning or removal  
95 to be performed, the utility shall provide all requisite plans, records  
96 and information for such evaluation to occur.

97 (4) The utility shall not prune or remove any tree or shrub that is  
98 outside of the public right-of-way unless it receives written affirmative  
99 consent from the private property owner to whom notice is required in  
100 accordance with subdivision (2) of this subsection.

101 (5) If no objection is filed by the abutting property owner in  
102 accordance with subdivision (3) of this subsection, the utility may  
103 prune or remove the trees or shrubs for which notice of pruning or  
104 removal has been delivered, provided the utility has also received a  
105 permit as required by subsection (f) of section 23-65. Nothing in this  
106 chapter shall be construed to limit the power and authority of a tree  
107 warden as set forth in subsection (f) of section 23-65. Upon the  
108 completion of such pruning or removal, a status update shall be  
109 provided to the abutting property owner by the utility.

110 (6) If the abutting property owner files an objection or request for  
111 modification pursuant to subdivision (3) of this subsection, or if the  
112 utility does not accept the modification to the original notice, as  
113 described in subdivision (1) of this subsection, the tree warden of the  
114 municipality or the Commissioner of Transportation, as appropriate,  
115 shall issue a written decision as to the disposition of the tree or shrub  
116 not later than ten business days after the filing date of such objection.  
117 This decision shall not be issued before a consultation with the  
118 abutting property owner if such a consultation has been requested. The  
119 abutting property owner or the utility may appeal the tree warden's  
120 decision to the Public Utilities Regulatory Authority within ten  
121 business days after the tree warden's decision.

122 (A) Prior to the final decision in the docket described in subsection  
123 (c) of section 16-32h, the authority shall hold a hearing within sixty  
124 calendar days of receipt of the abutting property owner's or utility's  
125 written appeal of the tree warden's decision and shall provide notice of  
126 such hearing to the abutting property owner, the tree warden or the  
127 Commissioner of Transportation, as appropriate, and the utility. The  
128 authority may authorize the pruning or removal of any tree or shrub  
129 whose pruning or removal has been at issue in the hearing if it finds  
130 that public convenience and necessity requires such action. The burden  
131 of proving that public convenience and necessity requires such action  
132 shall be on the utility.

133 (B) On and after the effective date of the final decision issued in the  
134 docket described in subsection (c) of section 16-32h, the entity  
135 designated by the authority, as determined by such docket, shall hold  
136 a mediation session not later than thirty calendar days after receipt of  
137 the abutting property owner's or utility's appeal of the tree warden's or  
138 the Commissioner of Transportation's decision and shall provide  
139 notice of such mediation session to the abutting property owner, the  
140 tree warden or the Commissioner of Transportation, as appropriate,  
141 and the utility, provided the abutting property owner may opt not to  
142 utilize such mediation session and proceed to the hearing described in

143 this subparagraph. In the event that the appeal is not settled by  
144 mediation, or the abutting owner elects not to use such mediation  
145 session, the authority shall hold a hearing not later than thirty calendar  
146 days after the conclusion of the mediation session, or within sixty  
147 calendar days of the receipt of the abutting property owner's written  
148 appeal if there is no mediation session, and shall provide notice of such  
149 hearing to the abutting property owner, the tree warden, or the  
150 Commissioner of Transportation, as appropriate, and the utility. The  
151 authority may authorize the pruning, removal or stump grinding of  
152 any tree or shrub whose pruning or removal has been at issue in the  
153 hearing if it finds that public convenience and necessity requires such  
154 action. The burden of proving that public convenience and necessity  
155 requires such action shall be on the utility.

156 (7) When an objection or request for modification has been filed  
157 pursuant to subdivision (3) of this subsection, no tree or shrub subject  
158 to the objection or request for modification shall be pruned or removed  
159 until a final decision has been reached pursuant to subdivision (6) of  
160 this subsection.

161 (d) Subsection (c) of this section shall not apply if the tree warden of  
162 the municipality or the Commissioner of Transportation, as  
163 appropriate, authorizes, in writing, pruning or removal by the utility  
164 of a hazardous tree within the utility protection zone or on or  
165 overhanging any public highway or public ground. If the hazardous  
166 tree is outside of the public right-of-way, the utility shall make a  
167 reasonable effort to notify the property owner of the proposed pruning  
168 or removal at least three days prior to performing such pruning or  
169 removal. Nothing in this subsection shall be construed to require a  
170 utility to prune or remove a tree.

171 (e) No utility shall be required to obtain a permit pursuant to  
172 subsection (f) of section 23-65 or provide notice under subsection (c) of  
173 this section to prune or remove a tree, as necessary, if any part of a tree  
174 is in direct contact with an energized electrical conductor or has visible

175 signs of burning. Nothing in this subsection shall be construed to  
176 require a utility to prune or remove a tree.

177 (f) No utility shall exercise any powers which may have been  
178 conferred upon it to change the location of, or to erect or place, wires,  
179 conductors, fixtures, structures or apparatus of any kind over, on or  
180 under any public road, public highway or public ground, without the  
181 consent of the adjoining proprietors or, if such company is unable to  
182 obtain such consent, without the approval of the Public Utilities  
183 Regulatory Authority, which shall be given only after a hearing upon  
184 notice to such proprietors. The authority may, if it finds that public  
185 convenience and necessity require, authorize the changing of the  
186 location of, or the erection or placing of, such wires, conductors,  
187 fixtures, structures or apparatus over, on or under such public road or  
188 highway or public ground.

189 (g) Each utility shall operate an electronic mail account to receive  
190 objections, requests for modification, inquiries or complaints pursuant  
191 to subsections (a) to (f), inclusive, of this section.

192 (h) When conducting vegetation management within a utility  
193 protection zone pursuant to this section, the utility shall provide for  
194 the removal or disposition of any debris generated as a result of such  
195 pruning or removal. The provisions of this subsection shall apply only  
196 to vegetation management requested by the utility and approved  
197 pursuant to this section and, if applicable, section 23-65.

198 (i) Not later than January 31, 2017, and each year thereafter, each  
199 utility intending to conduct vegetation management in a town or  
200 borough in this state shall provide the following to the tree warden of  
201 such town or borough, or to the chief elected official of each such town  
202 or borough: (1) A plan detailing the proposed roads or areas in said  
203 town or borough where such vegetation management will take place  
204 in the forthcoming calendar year, and (2) the estimated time schedule  
205 for such proposed vegetation management. Each town or borough  
206 provided with a utility vegetation management plan in accordance

207 with this subsection shall make such plan publicly available, by  
208 electronic means or otherwise, not later than fourteen days after  
209 receipt, and keep such plan publicly available for the remainder of the  
210 forthcoming calendar year.

211 (j) Except as provided in subsection (e) of this section, (1) nothing in  
212 this section shall be construed to authorize any utility to conduct  
213 vegetation management in any utility protection zone, or portion  
214 thereof, that is located on any parcel of municipal property without  
215 complying with the provisions of section 23-65, and (2) any vegetation  
216 management conducted in such a zone in violation of the requirements  
217 of section 23-65 shall be considered a violation of this title for purposes  
218 of section 16-41.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	16-234

**Statement of Purpose:**

To improve the notification requirements and process by which customers are informed for tree and shrub cutting work in a utility protection zone property that is located on private property.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*

Co-Sponsors: REP. D'AGOSTINO, 91st Dist.; REP. MCCARTHY VAHEY, 133rd Dist.

H.B. 5312