

CHAPTER 219

**HEALTH AND ENVIRONMENT**

HOUSE BILL 04-1348

BY REPRESENTATIVE(S) Mitchell, McFadyen, Miller, Spence, Stafford, and Weddig;  
also SENATOR(S) McElhany and Entz.

**AN ACT**

**CONCERNING STANDARDS FOR PERMISSIBLE NOISE FROM ELECTRIC TRANSMISSION FACILITIES.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** The general assembly finds and declares that it is a matter of statewide interest and concern that the State of Colorado have an adequate, reliable, and cost-effective electricity infrastructure to serve the needs of the people of Colorado for their homes, businesses, and industries. The general assembly further finds that electric transmission facilities are linear and may pass through several local jurisdictions and zoning districts including residential, commercial, light industrial, and industrial. Because of considerable uncertainty as to the application of article 12 of title 25, Colorado Revised Statutes, concerning noise abatement, to electric transmission facilities, local laws addressing noise abatement may interfere with the needed construction and operation of electric transmission facilities that serve multiple local jurisdictions. Therefore, the general assembly finds that statewide noise standards need to be determined and applied to electric transmission facilities.

**SECTION 2.** 25-12-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**25-12-103. Maximum permissible noise levels.**  
(12) (a) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, THE PUBLIC UTILITIES COMMISSION MAY DETERMINE, WHILE REVIEWING UTILITY APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR ELECTRIC TRANSMISSION FACILITIES, WHETHER PROJECTED NOISE LEVELS FOR ELECTRIC TRANSMISSION FACILITIES ARE REASONABLE. SUCH DETERMINATION SHALL TAKE INTO ACCOUNT CONCERNS RAISED BY PARTICIPANTS IN THE COMMISSION PROCEEDING AND THE ALTERNATIVES AVAILABLE TO A UTILITY TO MEET THE NEED FOR ELECTRIC

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

TRANSMISSION FACILITIES. WHEN APPLYING, THE UTILITY SHALL PROVIDE NOTICE OF ITS APPLICATION TO ALL MUNICIPALITIES AND COUNTIES WHERE THE PROPOSED ELECTRIC TRANSMISSION FACILITIES WILL BE LOCATED. THE PUBLIC UTILITIES COMMISSION SHALL AFFORD THE PUBLIC AN OPPORTUNITY TO PARTICIPATE IN ALL PROCEEDINGS IN WHICH PERMISSIBLE NOISE LEVELS ARE ESTABLISHED ACCORDING TO THE "PUBLIC UTILITIES LAW", ARTICLES 1 TO 7 OF TITLE 40, C.R.S.

(b) BECAUSE OF THE STATEWIDE NEED FOR RELIABLE ELECTRIC SERVICE AND THE PUBLIC BENEFIT PROVIDED BY ELECTRIC TRANSMISSION FACILITIES, NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO MUNICIPALITY OR COUNTY MAY ADOPT AN ORDINANCE OR RESOLUTION SETTING NOISE STANDARDS FOR ELECTRIC TRANSMISSION FACILITIES THAT ARE MORE RESTRICTIVE THAN THIS SUBSECTION (12). THE OWNER OR OPERATOR OF AN ELECTRIC TRANSMISSION FACILITY SHALL NOT BE LIABLE IN A CIVIL ACTION BASED UPON NOISE EMITTED BY ELECTRIC TRANSMISSION FACILITIES THAT COMPLY WITH THIS SUBSECTION (12).

(c) FOR THE PURPOSES OF THIS SECTION:

(I) "ELECTRIC TRANSMISSION FACILITY" MEANS A POWER LINE OR OTHER FACILITY THAT TRANSMITS ELECTRICAL CURRENT AND OPERATES AT A VOLTAGE LEVEL GREATER THAN OR EQUAL TO 44 KILOVOLTS.

(II) "RIGHTS-OF-WAY FOR ELECTRIC TRANSMISSION FACILITIES" MEANS ALL PROPERTY RIGHTS AND INTERESTS OBTAINED BY THE OWNER OR OPERATOR OF AN ELECTRIC TRANSMISSION FACILITY FOR THE PURPOSE OF CONSTRUCTING, MAINTAINING, OR OPERATING THE ELECTRIC TRANSMISSION FACILITY.

**SECTION 3. Effective date - applicability.** This act shall take effect July 1, 2004, and shall apply to noise generated and civil actions that are at issue under Rule 16, C.R.C.P., on or after said date.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 12, 2004