AN ACT CONCERNING VEGETATION MANAGEMENT WITHIN UTILITY PROTECTION ZONES.

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

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 Section 16-234 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):

(a) As used in this section:

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

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

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

(4) "Vegetation management" means the retention of trees and
shrubs that are compatible with the utility infrastructure and the pruning or removal of trees, shrubs or other vegetation that pose a risk to the reliability of the utility infrastructure. Until such time as the Department of Energy and Environmental Protection issues standards for identifying such compatible trees and shrubs, the standards and identification of such compatible trees and shrubs shall be as set forth in the 2012 final report of the State Vegetation Management Task Force;

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

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

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

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

(c) (1) In conducting vegetation management, no utility shall prune or remove any tree or shrub within the utility protection zone, or on or overhanging any public road, public highway or public ground, without delivering notice of the proposed vegetation management to the abutting property owner or private property owner. Such notice shall include the option for the abutting property owner or private property owner to consent, in writing, to such proposed pruning or removal, object to such proposed pruning or removal or modify such
proposed pruning or removal. The notice shall include instructions regarding how the recipient may object in accordance with subdivision (3) of this subsection. Such notice shall also include a statement that if a person objects to the proposed pruning or removal, and such tree falls on any utility infrastructure, such person shall not be billed by the utility for any resulting damage. If requested by an owner of private property, the utility, municipality or the Commissioner of Transportation, as appropriate, shall provide such owner with information regarding whether a tree or shrub to be pruned or removed is in the public right-of-way or whether such tree or shrub is on such owner's private property. Any such notice provided pursuant to this subsection shall also be provided to the applicable tree warden or municipal authority with responsibility for such municipality's tree canopy not later than two weeks prior to the proposed date of such pruning or removal.

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

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

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

(5) If no objection is filed by the abutting property owner in accordance with subdivision (3) of this subsection, the utility may prune or remove the trees or shrubs for which notice of pruning or removal has been delivered, provided the utility has also received a permit as required by subsection (f) of section 23-65. Nothing in this chapter shall be construed to limit the power and authority of a tree warden as set forth in subsection (f) of section 23-65. Upon the completion of such pruning or removal, a status update shall be provided to the abutting property owner by the utility.
(6) If the abutting property owner files an objection or request for modification pursuant to subdivision (3) of this subsection, or if the utility does not accept the modification to the original notice, as described in subdivision (1) of this subsection, the tree warden of the municipality or the Commissioner of Transportation, as appropriate, shall issue a written decision as to the disposition of the tree or shrub not later than ten business days after the filing date of such objection. This decision shall not be issued before a consultation with the abutting property owner if such a consultation has been requested. The abutting property owner or the utility may appeal the tree warden's decision to the Public Utilities Regulatory Authority within ten business days after the tree warden's decision.

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

(B) On and after the effective date of the final decision issued in the docket described in subsection (c) of section 16-32h, the entity designated by the authority, as determined by such docket, shall hold a mediation session not later than thirty calendar days after receipt of the abutting property owner's or utility's appeal of the tree warden's or the Commissioner of Transportation's decision and shall provide notice of such mediation session to the abutting property owner, the tree warden or the Commissioner of Transportation, as appropriate, and the utility, provided the abutting property owner may opt not to utilize such mediation session and proceed to the hearing described in
this subparagraph. In the event that the appeal is not settled by
mediation, or the abutting owner elects not to use such mediation
session, the authority shall hold a hearing not later than thirty calendar
days after the conclusion of the mediation session, or within sixty
calendar days of the receipt of the abutting property owner's written
appeal if there is no mediation session, and shall provide notice of such
hearing to the abutting property owner, the tree warden, or the
Commissioner of Transportation, as appropriate, and the utility. The
authority may authorize the pruning, removal or stump grinding of
any tree or shrub whose pruning or removal has been at issue in the
hearing if it finds that public convenience and necessity requires such
action. The burden of proving that public convenience and necessity
requires such action shall be on the utility.

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

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

(e) No utility shall be required to obtain a permit pursuant to
subsection (f) of section 23-65 or provide notice under subsection (c) of
this section to prune or remove a tree, as necessary, if any part of a tree
is in direct contact with an energized electrical conductor or has visible
signs of burning. Nothing in this subsection shall be construed to require a utility to prune or remove a tree.

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

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

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

(i) Not later than January 31, 2017, and each year thereafter, each utility intending to conduct vegetation management in a town or borough in this state shall provide the following to the tree warden of such town or borough, or to the chief elected official of each such town or borough: (1) A plan detailing the proposed roads or areas in said town or borough where such vegetation management will take place in the forthcoming calendar year, and (2) the estimated time schedule for such proposed vegetation management. Each town or borough provided with a utility vegetation management plan in accordance
with this subsection shall make such plan publicly available, by electronic means or otherwise, not later than fourteen days after receipt, and keep such plan publicly available for the remainder of the forthcoming calendar year.

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

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

H.B. 5312