

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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SENATE BILL 380*

Short Title: DNCR Add New Trails & Various Changes. (Public)

Sponsors: Senators Wells, Hise, and Daniel (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 28, 2019

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE OVERMOUNTAIN VICTORY STATE TRAIL; TO
AUTHORIZE THE WILDERNESS GATEWAY STATE TRAIL; AND TO MAKE
VARIOUS CHANGES TO THE STATE PARKS ACT AND THE NORTH CAROLINA
TRAILS SYSTEM ACT.

The General Assembly of North Carolina enacts:

AUTHORIZE THE OVERMOUNTAIN VICTORY STATE TRAIL

SECTION 1.(a) The General Assembly finds that the routes used by the patriot militias of North Carolina, South Carolina, Virginia, and the areas west of the Blue Ridge Mountains that later became the State of Tennessee in the military campaigns of the Revolutionary War leading to the Battle of Kings Mountain in 1780 are a vital part of the history and heritage of the State as well as the entire United States. The General Assembly also finds that this vital role is demonstrated by the creation of the Overmountain Victory National Historic Trail in 1980 by the federal government. The General Assembly further finds that the contributions of a significant existing network of federal, State, local, and private partners over the last four decades in the identification, preservation, and education of the public about the Overmountain Victory National Historic Trail have provided the State with a historical and recreational resource of statewide significance for historic reenactors, hikers, bikers, and other outdoor cultural and recreational activities, and that including such a trail in the State Trails System as a State trail would be beneficial to the people of North Carolina and further the development of North Carolina as "The Great Trails State."

SECTION 1.(b) The General Assembly authorizes the Department of Natural and Cultural Resources to add the route identified by the National Park Service as the Overmountain Victory National Historic Trail in the counties of Avery, Mitchell, McDowell, Burke, Rutherford, Polk, Caldwell, Wilkes, and Surry to the State Parks System as a State trail, as provided in G.S. 143B-135.54(b). Subject to the provisions of 16 U.S.C. § 1246, the Department shall support, promote, encourage, and facilitate the establishment of trail segments on State park lands and on lands of other federal, State, local, and private landowners. On segments of the Overmountain Victory State Trail that cross property controlled by agencies or owners other than the Department's Division of Parks and Recreation, the laws, rules, and policies of those agencies or owners shall govern the use of the property. The requirement of G.S. 143B-135.54(b) that additions be accompanied by adequate appropriations for land acquisition, development, and operations shall not apply to the authorization set forth in this section; provided, however, that the State may receive donations of appropriate land and may purchase other needed lands for the Overmountain Victory State Trail with existing funds in the Clean Water Management Trust



1 Fund, the Parks and Recreation Trust Fund, the federal Land and Water Conservation Fund, and
2 other available sources of funding.

3 4 **AUTHORIZE THE WILDERNESS GATEWAY STATE TRAIL**

5 **SECTION 2.(a)** The General Assembly authorizes the Department of Natural and
6 Cultural Resources to add the Wilderness Gateway Trail to the State Parks System as a State trail,
7 as provided in G.S. 143B-135.54(b). The Department shall support, promote, encourage, and
8 facilitate the establishment of trail segments on State park lands and on lands of other federal,
9 State, local, and private landowners. On segments of the Wilderness Gateway State Trail that
10 cross property controlled by agencies or owners other than the Department's Division of Parks
11 and Recreation, the laws, rules, and policies of those agencies or owners shall govern the use of
12 the property. The requirement of G.S. 143B-135.54(b) that additions be accompanied by
13 adequate appropriations for land acquisition, development, and operations shall not apply to the
14 authorization set forth in this section; provided, however, that the State may receive donations of
15 appropriate land and may purchase other needed lands for the Wilderness Gateway State Trail
16 with existing funds in the Clean Water Management Trust Fund, the Parks and Recreation Trust
17 Fund, the federal Land and Water Conservation Fund, and other available sources of funding.

18 **SECTION 2.(b)** The Division of Parks and Recreations of the Department of Natural
19 and Cultural Resources shall study the feasibility of connecting the Town of Valdese, the City of
20 Hickory, the Overmountain Victory State Trail, natural areas located within Burke and Catawba
21 counties, as well as other communities and places of interest to the Wilderness Gateway State
22 Trail. In conducting this study, the Division shall specifically consider improving access across
23 and from Interstate 40 to the northeastern and western portions of South Mountains State Park.
24 The Division shall report its findings and recommendations to the Environmental Review
25 Commission and the Joint Legislative Oversight Committee on Agriculture and Natural and
26 Economics Resources no later than December 1, 2019.

27 28 **STATE PARKS ACT AND NORTH CAROLINA TRAILS SYSTEM ACT TECHNICAL, 29 CLARIFYING, AND CONFORMING CHANGES**

30 **SECTION 3.(a)** G.S. 143B-135.43 reads as rewritten:

31 **"§ 143B-135.43. Control of Mount Mitchell Park and other parks in the North Carolina
32 State Parks System.**

33 The Department shall have responsibility for: (1) the control and management of Mount
34 Mitchell Park and of any other parks which have been or may be acquired by the State as part of
35 the North Carolina State Parks System and (2) the planning and coordination of State
36 trails, which are components of the State Parks System, authorized by the General Assembly
37 pursuant to G.S. 143B-135.54(b)."

38 **SECTION 3.(b)** G.S. 143B-135.92 reads as rewritten:

39 **"§ 143B-135.92. Declaration of policy and purpose.**

40 (a) In order to provide for the ever-increasing outdoor recreation needs of an expanded
41 population and in order to promote public access to, travel within, and enjoyment and
42 appreciation of the outdoor, natural and remote areas of the State, trails should be established in
43 natural, scenic areas of the State, and in and near urban areas.

44 (b) The purpose of this Part is to provide the means for attaining these objectives by
45 instituting a State ~~system of scenic and recreation trails,~~ Trails System, coordinated with and
46 complemented by existing and future local trail segments or systems, and by prescribing the
47 methods by which, and standards according to which, components may be added to the State
48 ~~trails system.~~ Trails System."

49 **SECTION 3.(c)** G.S. 143B-135.94 reads as rewritten:

50 **"§ 143B-135.94. Definitions.**

51 ...

- 1 (5) "~~State trails system~~Trails System" means the trails system established in this
- 2 Part or pursuant to the State Parks Act, Part 32 of this Article, and including
- 3 all trails and trail segments, together with their rights-of-way, added by any of
- 4 the procedures described in this Part or Part 32 of this Article.
- 5 (6) "Trail" means:
- 6 a. ~~Park trail.—A trail designated and managed as a unit of the North~~
- 7 ~~Carolina State Parks System under Part 32 of this Article.~~
- 8 b. ~~Designated trail.—A trail designated by the Secretary pursuant to this~~
- 9 ~~Part as a component of the State trails system and that is managed by~~
- 10 ~~another governmental agency or by a corporation listed with the~~
- 11 ~~Secretary of State.~~
- 12 e. ~~A State scenic trail, State recreation trail, or State connecting trail~~
- 13 ~~under G.S. 143B-135.96 when the intended primary use of the trail is~~
- 14 ~~to serve as a park trail or designated trail.~~
- 15 d. ~~Any other trail that is open to the public and that the owner, lessee, occupant,~~
- 16 ~~or person otherwise in control of the land on which the trail is located allows~~
- 17 ~~to be used as a trail without compensation, including a trail that is not~~
- 18 ~~designated by the Secretary as a component of the State trails system.~~means a
- 19 linear corridor on land or water, protected from motor vehicles, providing
- 20 public access for recreation or transportation.

21"

22 SECTION 3.(d) G.S. 143B-135.96 reads as rewritten:

23 "§ 143B-135.96. ~~Composition of State trails system.~~Trails System.

24 The State ~~trails system~~Trails System shall be composed of ~~designated~~of:

- 25 (1) ~~State scenic trails, which are defined as extended trails so located as to provide~~
- 26 ~~maximum potential for the appreciation of natural areas and for the~~
- 27 ~~conservation and enjoyment of the significant scenic, historic, natural,~~
- 28 ~~ecological, geological or cultural qualities of the areas through which such~~
- 29 ~~trails may pass.~~
- 30 (2) ~~State recreation trails, which are defined as trails planned principally for~~
- 31 ~~recreational value and may include trails for foot travel, horseback,~~
- 32 ~~nonmotorized bicycles, nonmotorized water vehicles, and two wheel and~~
- 33 ~~four wheel drive motorized vehicles. More than one of the aforesaid types of~~
- 34 ~~travel may be permitted on a single trail in the discretion of the Secretary.~~
- 35 (3) ~~Connecting or side trails, which will provide additional points of public access~~
- 36 ~~to State recreation or State scenic trails or which will provide connections~~
- 37 ~~between such trails.~~
- 38 (4) State trails, which are components of the State Parks System, authorized by
- 39 the General Assembly pursuant to G.S. 143B-135.54(b), and planned and
- 40 coordinated by the Department."

41 SECTION 3.(e) G.S. 143B-135.104 reads as rewritten:

42 "§ 143B-135.104. **Location of trails.**

43 When a route shall traverse land within the jurisdiction of a governmental unit or political

44 subdivision, the Department shall consult with such unit or such subdivision prior to its final

45 determination of the location of the route. The selected route shall be compatible with

46 preservation or enhancement of the environment it traverses. Reasonable effort shall be made to

47 minimize any adverse effects upon adjacent landowners and users. Notice of the selected route

48 shall be published by the ~~Department in a newspaper of general circulation in the area in which~~

49 ~~the trail is located,~~ Department, together with appropriate maps and descriptions to be

50 conspicuously posted ~~at the appropriate courthouse.~~ online and at the proposed trail location.

51 Such publication shall be prior to the designation of the trail by the Secretary."

1 **SECTION 3.(f)** G.S. 143B-135.108 reads as rewritten:

2 "**§ 143B-135.108. Trails within parks; conflict of ~~laws~~ laws; State trails on property of**
3 **others.**

4 Any component of the System that is or shall become a part of any State park, recreation area,
5 wildlife management area, or similar area shall be subject to the provisions of this Part as well as
6 any other laws under which the other areas are administered, and in the case of conflict between
7 the provisions the more restrictive provisions shall apply. On segments of any State trail that
8 cross property controlled by agencies or owners other than the Department's Division of Parks
9 and Recreation, the laws, rules, and policies of those agencies or owners shall govern the use of
10 the property."

11 **SECTION 3.(g)** G.S. 143B-135.116 reads as rewritten:

12 "**§ 143B-135.116. Incorporation in National Trails System.**

13 Nothing in this Part shall preclude a component of the State Trails System from becoming a
14 part of the National Trails ~~System~~ System, or a component of the National Trails System from
15 becoming a part of the State Trails System. The Secretary shall coordinate the State Trails System
16 with the National Trails System and is directed to encourage and assist any federal studies for
17 inclusion of North Carolina trails in the National Trails System. The Department may enter into
18 written cooperative agreements for joint federal-State administration of a North Carolina
19 component of the National Trails System, provided such agreements for administration of land
20 uses are not less restrictive than those set forth in this Part."

21
22 **TRANSFER AUTHORITY TO ADMINISTER THE LAND AND WATER**
23 **CONSERVATION FUND FROM THE DEPARTMENT OF ENVIRONMENTAL**
24 **QUALITY TO THE DEPARTMENT OF NATURAL AND CULTURAL RESOURCES**

25 **SECTION 4.(a)** Subsections (a) and (d) of G.S. 143-323 are recodified as
26 subsections (a) and (b) of a new statute, G.S. 143B-50.1, to be entitled "Additional powers and
27 duties of the Department regarding recreation."

28 **SECTION 4.(b)** G.S. 143B-50.1, as recodified by Section 4.(a) of this act, reads as
29 rewritten:

30 "**§ 143B-50.1. Additional powers and duties of the Department regarding recreation.**

31 (a) Recreation. – The Department of ~~Environmental Quality~~ shall have the following
32 powers and duties with respect to recreation:

- 33 (1) To study and appraise the recreation needs of the State and to assemble and
34 disseminate information relative to recreation.
- 35 (2) To cooperate in the promotion and organization of local recreation systems
36 for counties, municipalities, and other political subdivisions of the State, to
37 aid them in the administration, finance, planning, personnel, coordination and
38 cooperation of recreation organizations and programs.
- 39 (3) To aid in recruiting, training, and placing recreation workers, and to promote
40 recreation institutes and conferences.
- 41 (4) To establish and promote recreation standards.
- 42 (5) To cooperate with appropriate State, federal, and local agencies and private
43 membership groups and commercial recreation interests in the promotion of
44 recreation opportunities, and to represent the State in recreation conferences,
45 study groups, and other matters of recreation concern.
- 46 (6) To accept gifts, devises, and endowments. The funds, if given as an
47 endowment, shall be invested in securities designated by the donor, or if there
48 is no such designation, in securities in which the State sinking fund may be
49 invested. All such gifts and devises and all proceeds from such invested
50 endowments shall be used for carrying out the purposes for which they were
51 made.

(7) To advise agencies, departments, organizations and groups in the planning, application and use of federal and State funds which are assigned or administered by the State for recreation programs and services on land and water recreation areas and on which the State renders advisory or other recreation services or upon which the State exercises control.

(8) To act jointly, when advisable, with any other State, local or federal agency, institution, private individual or group in order to better carry out the Department's objectives and responsibilities.

(b) Federal Assistance. – The Department, with the approval of the Governor, may apply for and accept grants from the federal government and its agencies and from any foundation, corporation, association, or individual, and may comply with the terms, conditions, and limitations of the grant, in order to accomplish any of the purposes of the Department. Grant funds shall be expended pursuant to the ~~Executive Budget Act~~, State Budget Act. The Director of the Department's Division of Parks and Recreation shall be designated as having the authority and responsibility to accept and administer funding through the federal Land and Water Conservation Fund or any successor fund established for similar purposes, and the Secretary may designate additional personnel to assist the Director in the responsibilities imposed by this subsection."

REDUCE CERTAIN CLASS 3 MISDEMEANORS TO INFRACTIONS AT STATE PARKS

SECTION 5.(a) G.S. 143B-135.16 reads as rewritten:

"§ 143B-135.16. Control over State parks; operation of public service facilities; concessions to private concerns; authority to charge fees and adopt rules.

(a) The Department shall make reasonable rules governing the use by the public of State parks and State lakes under its charge. These rules shall be posted in conspicuous places on and adjacent to the properties of the State and at the courthouse of the county or counties in which the properties are located. A violation of these rules is punishable as a Class 3 ~~misdemeanor~~, misdemeanor except as provided in subsection (a1) of this section.

(a1) A violation of any of the following rules shall be punishable as an infraction and carry a penalty of not more than twenty-five dollars (\$25):

- (1) Parking a motor vehicle outside of a designated area.
- (2) Using skateboards, rollerblades, roller skates, or similar devices in prohibited areas.
- (3) Bathing animals, or washing clothes or motor vehicles.
- (4) Bathing, wading, surfing, diving, scuba diving, or swimming in undesignated areas.
- (5) Carrying or depositing glass, crockery, or any metallic substance on a swimming area or beach.
- (6) Using boats, rafts, surfboards, personal watercraft, canoes, or other vessels in designated swimming areas.
- (7) Fishing in nondesignated areas.

(a2) A person found responsible for a violation carrying a penalty of an infraction of this section shall not be assessed court costs for the infraction.

...."

SECTION 5.(b) This section is effective when it becomes law and applies to offenses committed on or after that date.

SECTION 6. Except as otherwise provided, this act is effective when it becomes law.