

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2019**

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**SENATE BILL 380\***

**Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/17/19**

Short Title: DNCR Add New Trails & Various Changes.

(Public)

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Sponsors:

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Referred to:

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March 28, 2019

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE OVERMOUNTAIN VICTORY STATE TRAIL; TO  
2 AUTHORIZE THE WILDERNESS GATEWAY STATE TRAIL; AND TO MAKE  
3 VARIOUS CHANGES TO THE STATE PARKS ACT AND THE NORTH CAROLINA  
4 TRAILS SYSTEM ACT.  
5

6 The General Assembly of North Carolina enacts:

7  
8 **AUTHORIZE THE OVERMOUNTAIN VICTORY STATE TRAIL**

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

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

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 State trails, which are components of the State Parks System, authorized by the General  
39 Assembly pursuant to G.S. 143B-135.54(b), and planned and coordinated by the Department."

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

41 "**§ 143B-135.104. Location of trails.**

42 When a route shall traverse land within the jurisdiction of a governmental unit or political  
43 subdivision, the Department shall consult with such unit or such subdivision prior to its final  
44 determination of the location of the route. The selected route shall be compatible with  
45 preservation or enhancement of the environment it traverses. Reasonable effort shall be made to  
46 minimize any adverse effects upon adjacent landowners and users. Notice of the selected route  
47 shall be published by the ~~Department in a newspaper of general circulation in the area in which~~  
48 ~~the trail is located,~~Department, together with appropriate maps and descriptions to be  
49 conspicuously posted at ~~the appropriate courthouse.~~online and at the proposed trail location.  
50 Such publication shall be prior to the designation of the trail by the Secretary."

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

1 **"§ 143B-135.108. Trails within parks; conflict of ~~laws~~-laws; State trails on property of**  
2 **others.**

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

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

11 **"§ 143B-135.116. Incorporation in National Trails System.**

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

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

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

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

29 **"§ 143B-50.1. Additional powers and duties of the Department regarding recreation.**

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

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

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

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

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

19  
20 **EFFECTIVE DATE**

21 **SECTION 5.** This act is effective when it becomes law.