

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 918

Environment and Natural Resources Committee Substitute Adopted 5/3/93

Short Title: Clarify State Trails System.

(Public)

Sponsors:

Referred to:

April 20, 1993

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE NORTH CAROLINA TRAILS SYSTEM ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-84(b) reads as rewritten:

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

Sec. 2. G.S. 113A-85 reads as rewritten:

"§ 113A-85. Definitions.

Except as otherwise required by context, the following terms when used in this Article shall be construed respectively to mean:

- (1) 'Department' means the North Carolina Department of Environment, Health, and Natural Resources.
- (2) 'Political subdivision' means any county, any incorporated city or town, or other political subdivision.
- (3) 'Scenic easement' means a perpetual easement in land which
 - a. Is held for the benefit of the people of North Carolina,
 - b. Is specifically enforceable by its holder or beneficiary, and
 - c. Limits or obligates the holder of the servient estate, his heirs, and assigns with respect to their use and management of land and activities conducted thereon, the object of such limitations

and obligations being the maintenance or enhancement of the natural beauty of the land in question or of areas affected by it.

(4) 'Secretary' means the Secretary of Environment, Health, and Natural Resources, except as otherwise specified in this Article.

(5) ~~'System' means the 'North Carolina Trails System' as~~ 'State trails system' means the trails system established in this Article or pursuant to the State Parks Act, Article 2C of Chapter 113 of the General Statutes, and including all trails and trail segments, together with their rights-of-way, added by any of the procedures described in this Article. Article or Article 2C of Chapter 113 of the General Statutes.

(6) 'Trail' means:

a. Park trail. – A trail designated and managed as a unit of the North Carolina State Parks System under Article 2C of Chapter 113 of the General Statutes.

b. Designated trail. – A trail designated by the Secretary pursuant to this Article as a component of the State trails system and that is managed by another governmental agency or by a corporation listed with the Secretary of State.

c. A State scenic trail, State recreation trail, or State connecting trail under G.S. 113A-86 when the intended primary use of the trail is to serve as a park trail or designated trail.

d. Any other trail that is open to the public and that the owner, lessee, occupant, or person otherwise in control of the land on which the trail is located allows to be used as a trail without compensation, including a trail that is not designated by the Secretary as a component of the State trails system."

Sec. 3. G.S. 113A-86 reads as rewritten:

"§ 113A-86. Composition of Trails System. ~~State trails system.~~

The State ~~trails system of trails~~ shall be composed ~~of~~ of designated:

(1) State scenic trails, which are defined as extended trails so located as to provide maximum potential for the appreciation of natural areas and for the conservation and enjoyment of the significant scenic, historic, natural, ecological, geological or cultural qualities of the areas through which such trails may pass.

(2) State recreation trails, which are defined as trails planned principally for recreational value and may include trails for foot travel, horseback, nonmotorized bicycles, nonmotorized water vehicles, and two-wheel and four-wheel-drive motorized vehicles. More than one of the aforesaid types of travel may be permitted on a single trail in the discretion of the Secretary.

(3) Connecting or side trails, which will provide additional points of public access to State recreation or State scenic trails or which will provide connections between such trails."

Sec. 4. G.S. 113A-87 reads as rewritten:

1 **"§ 113A-87. Authority to designate trails.**

2 The Department may establish and designate ~~components of the North Carolina~~
3 ~~Trails System on (i) lands~~ trails on:

4 (1) Lands administered by the Department, ~~(ii) lands~~

5 (2) Lands under the jurisdiction of a State department, political
6 subdivision, or federal agency, or ~~(iii) private~~

7 (3) Private lands provided, fee-simple title, lesser estates, scenic
8 easements, easements of surface ingress and egress running with the
9 land, leases, or other written agreements are obtained from landowners
10 through which a State trail may pass."

11 Sec. 5. G.S. 113A-89 reads as rewritten:

12 **"§ 113A-89. Location of trails.**

13 The process of locating routes of designated trails to be added to the system shall be
14 as follows:

15 For State scenic trails, the ~~Secretary, Secretary or a designee,~~ after consulting with
16 the Committee, shall recommend a route. For State recreation trails and for connecting
17 or side trails, the ~~Secretary, Secretary or a designee,~~ after consulting with the Committee,
18 shall select the route. The Secretary may provide technical assistance to political
19 subdivisions or private, nonprofit organizations that develop, construct, or maintain
20 designated trails or other public trails that complement the State trails system. When a
21 route shall ~~transverse~~ traverse land within the jurisdiction of a governmental unit or
22 political subdivision, the Department shall consult with such unit or such subdivision
23 prior to its final determination of the location of the route. The selected route shall be
24 compatible with preservation or enhancement of the environment it ~~transverses.~~
25 traverses. Reasonable effort shall be made to minimize any adverse effects upon
26 adjacent landowners and users. Notice of the selected route shall be published by the
27 Department in a newspaper of general circulation in the area in which the trail is
28 located, together with appropriate maps and descriptions to be conspicuously posted at
29 the appropriate courthouse. Such publication shall be prior to the designation of the trail
30 by the Secretary."

31 Sec. 6. G.S. 113A-95 reads as rewritten:* ♦

32 **"§ 113A-95. Trail use liability.**

33 (a) Any person, as an owner, lessee, occupant, or otherwise in control of land,
34 who allows without compensation another person to use the land for ~~scenic trail,~~
35 ~~recreation trail, connecting trail, or side trail~~ designated trail or other public trail purposes
36 or to construct, maintain, or cause to be constructed or maintained a ~~scenic trail,~~
37 ~~recreation trail, connecting trail, or side trail,~~ a designated trail or other public trail owes the
38 person the same duty of care he owes a trespasser.

39 (b) Any person who without compensation has constructed, maintained, or
40 caused to be constructed or maintained a ~~scenic trail, recreation trail, connecting trail, or~~
41 ~~side trail~~ a designated trail or other public trail pursuant to ~~an~~ a written agreement with
42 any person who is an owner, lessee, occupant, or otherwise in control of land on which
43 a trail is located shall owe a person using the trail the same duty of care owed a
44 trespasser.

1 (e) Unless the context otherwise requires, the following definitions shall apply in
2 this section:

3 (1) ~~'Scenic trail' means an extended trail so located as to provide~~
4 ~~maximum potential for the appreciation of natural areas and for the~~
5 ~~conservation and enjoyment of the significant scenic, historic, natural,~~
6 ~~ecological, geological or cultural qualities of the areas through which~~
7 ~~such trail may pass.~~

8 (2) ~~'Recreation trail' means a trail planned principally for recreational~~
9 ~~value and may include trails for foot travel, horseback, nonmotorized~~
10 ~~bicycles, nonmotorized water vehicles, and two-wheel and four-~~
11 ~~wheel-drive motorized vehicles.~~

12 (3) ~~'Connecting or side trail' means a trail which will provide additional~~
13 ~~points of public access to scenic or recreation trails or which will~~
14 ~~provide connections between such trails."~~

15 Sec. 7. This act is effective upon ratification.