

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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SENATE BILL 433  
PROPOSED COMMITTEE SUBSTITUTE S433-PCS45283-BRy-15

Short Title: DNCR Omnibus.-AB

(Public)

Sponsors:

Referred to:

April 1, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE VARIOUS CHANGES TO THE STATUTES GOVERNING THE  
3 DEPARTMENT OF NATURAL AND CULTURAL RESOURCES AND TO REMOVE  
4 CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE, AS  
5 RECOMMENDED BY THE DEPARTMENT.

6 The General Assembly of North Carolina enacts:

7  
8 **ZOOLOGICAL PARK STATUTORY AUTHORITY**

9 **SECTION 1.(a)** The title of Part 39 of Article 2 of Chapter 143B of the General  
10 Statutes reads as rewritten:

11 "Part 39. North Carolina Zoological ~~Park Council.~~Park."

12 **SECTION 1.(b)** Part 39 of Article 2 of Chapter 143B of the General Statutes, as  
13 amended by subsection (a) of this section, is amended by adding a new section to read:

14 **"§ 143B-135.204. Powers and duties of the Secretary.**

15 (a) Operation of Park. – The Secretary of the Department of Natural and Cultural  
16 Resources may adopt rules governing the operation of the Zoological Park, including rules  
17 regulating its use and enjoyment by the public.

18 (b) Park Property. – The Secretary of the Department of Natural and Cultural Resources  
19 may acquire, dispose of, and develop Zoological Park property, both real and personal. A sale,  
20 lease, or trade under this subsection must be conducted in accordance with generally accepted  
21 practices for zoos and aquariums that are accredited by the American Association of Zoos and  
22 Aquariums."

23  
24 **REDUCE CERTAIN CLASS 3 MISDEMEANORS TO INFRACTIONS AT STATE**  
25 **PARKS**

26 **SECTION 2.(a).** G.S. 143B-135.16(a) reads as rewritten:

27 **"§ 143B-135.16. Control over State parks; operation of public service facilities; concessions**  
28 **to private concerns; authority to charge fees and adopt rules.**

29 (a) The Department shall make reasonable rules governing the use by the public of State  
30 parks and State lakes under its charge. These rules shall be posted in conspicuous places on and  
31 adjacent to the properties of the State and at the courthouse of the county or counties in which  
32 the properties are located. A violation of these rules is punishable as a Class 3 misdemeanor.  
33 Notwithstanding any other provision of law, violations of rules regarding the following shall be  
34 punishable as an infraction and carry a penalty of not more than twenty-five dollars (\$25.00):

35 (1) Parking a motor vehicle outside of a designated area.



\* S 4 3 3 - P C S 4 5 2 8 3 - B R Y - 1 5 \*



1 (a) In any case in which ~~any a~~ law-enforcement officer or animal control officer has  
2 probable cause to believe that any of the provisions of this Article have been or are about to be  
3 violated, ~~it shall be the duty of the officer and the officer is authorized, empowered, and directed~~  
4 authorized and empowered to immediately investigate the violation or impending violation and  
5 to consult with representatives of the North Carolina Museum of Natural Sciences or the North  
6 Carolina Zoological Park or a designated representative of ~~either the Museum or Zoological Park~~  
7 the Department of Natural and Cultural Resources to identify the species of reptile, assist with  
8 determining interim disposition, and recommend appropriate and safe methods to handle and  
9 seize the reptile or reptiles involved, to seize the reptile or reptiles involved, and the officer is  
10 authorized and directed to deliver: (i) a reptile believed to be venomous to the North Carolina  
11 State Museum of Natural Sciences or to its designated representative for examination for the  
12 purpose of ascertaining whether the reptile is regulated under this Article; and, (ii) a reptile  
13 believed to be a large constricting snake or crocodylian to the North Carolina Zoological Park or  
14 to its designated representative for the purpose of ascertaining whether the reptile is regulated  
15 under this Article. In any case in which a law enforcement officer or animal control officer  
16 involved. When there is an escape of one or more reptiles, or when an officer with probable cause  
17 to believe that one or more reptiles are being owned, possessed, used, transported, or trafficked  
18 in violation of this Article determines that there is an immediate risk to the safety of the officer  
19 or public safety, the officer shall not be required to consult with representatives of the North  
20 Carolina Museum of Natural Sciences or the North Carolina Zoological Park as provided by this  
21 subsection and may kill the reptile.

22 (b) If the ~~Museum or officer, the Museum, the Zoological Park Park, or their a~~ designated  
23 ~~representatives find representative of the Department of Natural and Cultural Resources find,~~  
24 based on available information, that a seized reptile is a venomous reptile, large constricting  
25 snake, or crocodylian regulated under this Article, the ~~Museum or Museum, the Zoological Park~~  
26 ~~or their the~~ designated representative of the Department of Natural and Cultural Resources shall  
27 ~~determine~~ assist the officer in determining an interim disposition of the reptile in a manner  
28 consistent with the safety of the public, until a final disposition is determined by a court of  
29 competent jurisdiction. In the case of a venomous reptile for which ~~antivenin-antivenom~~ approved  
30 by the United States Food and Drug Administration is not readily available, the reptile may be  
31 euthanized unless the species is protected under the federal Endangered Species Act of 1973.  
32 Where ~~the Museum or the Zoological Park or their designated representative determines there is~~  
33 a determination as provided in this subsection that euthanasia to be is the appropriate interim  
34 disposition, or where a reptile seized pursuant to this Article dies of natural or unintended causes,  
35 the ~~Museum, the Zoological Park, or their designated representatives parties involved~~ shall not  
36 be liable to the reptile's owner.

37 (b1) Upon conviction of any offense contained in this Article, the court shall order a final  
38 disposition of the confiscated venomous reptiles, large constricting snakes, or crocodylians,  
39 which may include the transfer of title to the State of North Carolina and shall include  
40 reimbursement by the owner of the reptile for the necessary expenses incurred in the seizure,  
41 delivery, and storage thereof.

42 (c) If the ~~Museum or the Zoological Park or their designated representatives find that the~~  
43 ~~reptile is not a venomous reptile, large constricting snake, or crocodylian regulated under this~~  
44 ~~Article, and either no criminal warrants-citations, warrants, or indictments are initiated against~~  
45 the reptile's owner in connection with the reptile within 10 days of initial seizure, or a court of  
46 law determines that the reptile is not being owned, possessed, used, transported, or trafficked in  
47 violation of this Article, then it shall be the duty of the law enforcement officer to return the  
48 reptile or reptiles to the person from whom they were seized within 15 ~~days-days~~ of the seizure.

49 **"§ 14-420. Arrest of persons violating provisions of Article.**

50 ~~If an examination made by the North Carolina State Museum of Natural Sciences or the North~~  
51 ~~Carolina Zoological Park or their designated representatives conducted pursuant to this Article~~

1 shows that the reptile is a venomous reptile, large constricting snake, or crocodilian subject to  
2 this Article, it shall be the duty of the officer making the seizure with probable cause to believe  
3 that the reptile is being owned, possessed, used, transported, or trafficked in violation of this  
4 Article, to arrest all persons violating any of the provisions of this Article.  
5 ...."

## 7 STATUTORY AUTHORITY REGARDING RECREATION

8 **SECTION 4.(a)** Subsections (a) and (d) of G.S. 143-323 are recodified as  
9 subsections (a) and (b) of G.S. 143B-135.60, to be entitled "Additional powers and duties of the  
10 Department regarding recreation."

11 **SECTION 4.(b)** G.S. 143B-135.60, as enacted by subsection (a) of this section,  
12 reads as rewritten:

### 13 "§ 143B-135.60. Additional powers and duties of the Department regarding recreation.

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

- 16 (1) To study and appraise the recreation needs of the State and to assemble and  
17 disseminate information relative to recreation.
- 18 (2) To cooperate in the promotion and organization of local recreation systems  
19 for counties, municipalities, and other political subdivisions of the State, to  
20 aid them in the administration, finance, planning, personnel, coordination and  
21 cooperation of recreation organizations and programs.
- 22 (3) To aid in recruiting, training, and placing recreation workers, and to promote  
23 recreation institutes and conferences.
- 24 (4) To establish and promote recreation standards.
- 25 (5) To cooperate with appropriate State, federal, and local agencies and private  
26 membership groups and commercial recreation interests in the promotion of  
27 recreation opportunities, and to represent the State in recreation conferences,  
28 study groups, and other matters of recreation concern.
- 29 (6) To accept gifts, devises, and endowments. The funds, if given as an  
30 endowment, shall be invested in securities designated by the donor, or if there  
31 is no such designation, in securities in which the State sinking fund may be  
32 invested. All such gifts and devises and all proceeds from such invested  
33 endowments shall be used for carrying out the purposes for which they were  
34 made.
- 35 (7) To advise agencies, departments, organizations and groups in the planning,  
36 application and use of federal and State funds which are assigned or  
37 administered by the State for recreation programs and services on land and  
38 water recreation areas and on which the State renders advisory or other  
39 recreation services or upon which the State exercises control.
- 40 (8) To act jointly, when advisable, with any other State, local or federal agency,  
41 institution, private individual or group in order to better carry out the  
42 Department's objectives and responsibilities.

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

1 designate additional personnel to assist the Director in the responsibilities imposed by this  
2 subsection."

#### 3 4 **CLARIFY EMPLOYMENT STATUS FOR CERTAIN MUSEUM OF ART EMPLOYEES**

5 **SECTION 5.** G.S. 140-5.15 reads as rewritten:

6 "**§ 140-5.15. Director of Museum of Art; appointment; dismissal; powers and duties; staff.**

7 ...

8 (e) The Director, associate directors, and curators shall be exempt from the provisions of  
9 the North Carolina Human Resources Act. ~~The Board of Trustees shall adopt, subject to the~~  
10 ~~approval of the Secretary of Natural and Cultural Resources, rules and regulations governing the~~  
11 ~~employment, promotion, demotion, and dismissal of associate directors and curators."~~

#### 12 13 **TECHNICAL CORRECTION**

14 **SECTION 6.** G.S. 113A-129.3 reads as rewritten:

15 "(b) To the extent feasible, lands and waters within this system shall be dedicated as  
16 components of the "State Nature and Historic Preserve" as provided in Article XIV, Section 5,  
17 of the Constitution and as nature reserves pursuant to ~~G.S. 113A-164.1 to G.S.~~  
18 ~~113A-164.11.~~G.S. 143B-135.250 to G.S. 143B-135.270."

#### 19 20 **REMOVAL OF CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC** 21 **PRESERVE**

22 **SECTION 7.** G.S. 143-260.10 reads as rewritten:

23 "**§ 143-260.10. Components of State Nature and Historic Preserve.**

24 The following are components of the State Nature and Historic Preserve accepted by the  
25 North Carolina General Assembly pursuant to G.S. 143-260.8:

26 ...

27 (2) All lands and waters within the boundaries of William B. Umstead State Park  
28 as of May 2, 2017, with the exception of the following tracts. The tracts  
29 excluded from the State Nature and Historic Preserve under this subdivision  
30 are deleted from the State Parks System in accordance with G.S. 143B-135.54.  
31 The State of North Carolina may only exchange this land for other land for  
32 the expansion of William B. Umstead State Park or sell and use the proceeds  
33 for that purpose. The State of North Carolina may not otherwise sell or  
34 exchange this land.

35 a. Tract Number 65, containing 22.93140 acres as shown on a survey  
36 prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS),  
37 entitled "Property of The State of North Carolina William B. Umstead  
38 State Park", dated January 14, 1977 and filed in the State Property  
39 Office, which was removed from the State Nature and Historic  
40 Preserve by Chapter 450, Section 1 of the 1985 Session Laws. ~~The~~  
41 ~~tract excluded from the State Nature and Historic Preserve under this~~  
42 ~~subdivision is deleted from the State Parks System in accordance with~~  
43 ~~G.S. 143B-135.54. The State of North Carolina may only exchange~~  
44 ~~this land for other land for the expansion of William B. Umstead State~~  
45 ~~Park or sell and use the proceeds for that purpose. The State of North~~  
46 ~~Carolina may not otherwise sell or exchange this land.~~

47 b. The portion of that certain tract or parcel of property at William B.  
48 Umstead State Park in Wake County, described in Deed Book 13337,  
49 Page 2379, and containing 0.15 acres as shown on the survey prepared  
50 by Robert T. Newcomb (RLS) entitled "Property of Robert J.  
51 Demartini," dated August 1981.

- 1 ...
- 2 (12) All lands and waters located within the boundaries of Hanging Rock State
- 3 Park as of May 2, 2017, with the exception of the following ~~tract~~ tracts:
- 4 a. The portion of that tract or property at Hanging Rock State Park in
- 5 Stokes County, Danbury Township, described in Deed Book 360, Page
- 6 160, for a 30-foot wide right-of-way beginning approximately 183 feet
- 7 south of SR 1001 and extending in a southerly direction approximately
- 8 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and
- 9 more particularly shown on a survey entitled, "J. Spot Taylor Heirs
- 10 Survey, Danbury Township, Stokes County, N.C.", by Grinski
- 11 Surveying Company, dated June 1985, and filed in the State Property
- 12 Office. The tract excluded from the State Nature and Historic Preserve
- 13 under this subdivision is deleted from the State Parks System in
- 14 accordance with G.S. 143B-135.54.
- 15 b. The portion of that certain tract or parcel of property at Hanging Rock
- 16 State Park in Stokes County, described in Deed Book 267, Page 159,
- 17 and containing 1.53 acres as shown on the survey entitled "Plat of
- 18 Survey for NC Division of Parks and Recreation showing 'Camp
- 19 Sertoma Tracts'" by C.E. Robertson and Associates, PC, revised April
- 20 6, 2016. The tract excluded from the State Nature and Historic
- 21 Preserve under this subdivision is deleted from the State Parks System
- 22 in accordance with G.S. 143B-135.54. The State of North Carolina
- 23 may only exchange this land for other land for the expansion of
- 24 Hanging Rock State Park or sell and use the proceeds for that purpose.
- 25 The State of North Carolina may not otherwise sell or exchange this
- 26 land.
- 27 ...
- 28 (21) All lands and waters within the boundaries of Chimney Rock State Park as of
- 29 May 2, 2017, with the exception of the following tracts:
- 30 a. The portion of that certain tract or parcel of land at Chimney Rock
- 31 State Park in Rutherford County being a portion of Parcel 2 as
- 32 described in Deed Book 933, Page 598, containing 346 square feet and
- 33 being shown as proposed right-of-way for bridge replacement project
- 34 B-4258 on U.S. 64 over the Broad River on drawing prepared by
- 35 Kimley-Horn and Associates for the North Carolina Department of
- 36 Transportation and revised October 26, 2007, and filed with the State
- 37 Property Office. The portion of that certain tract or parcel of land at
- 38 Chimney Rock State Park in Polk County, Cooper Gap Township,
- 39 Deed Book 393, Page 1402, containing 6.5 acres more or less and
- 40 shown on the survey entitled "Plat of Survey for The State of North
- 41 Carolina" prepared by Stacy Kent Rhodes dated May 15, 2014, and
- 42 filed with the State Property Office. The tracts excluded from the State
- 43 Nature and Historic Preserve under this section are deleted from the
- 44 State Parks System pursuant to G.S. 143B-135.54. The State of North
- 45 Carolina may only exchange this land for other land for the expansion
- 46 of Chimney Rock State Park or sell this land and use the proceeds for
- 47 that purpose. The State may not otherwise sell or exchange this land.
- 48 b. With respect to the communications tower site on Chimney Rock
- 49 Mountain located on a portion of that certain tract or parcel of land at
- 50 Chimney Rock State Park in Rutherford County, Chimney Rock
- 51 Township, described in Deed Book 933, Page 598, the State may

1 provide space at the communications tower site to State public safety,  
 2 emergency management, local governments in Rutherford County,  
 3 and public television agencies for the placement of antennas, repeaters,  
 4 and other communications devices for public communications  
 5 purposes. State agencies and local governments that are authorized to  
 6 place communications devices at or near the communications tower  
 7 site pursuant to this subdivision may also locate at or near the  
 8 communications tower site communications equipment necessary for  
 9 the proper operation of the communications devices. The use of the  
 10 communications tower site pursuant to this subdivision is authorized  
 11 by the General Assembly as a purpose other than the public purposes  
 12 specified in Section 5 of Article XIV of the North Carolina  
 13 Constitution, Article 25B of Chapter 143 of the General Statutes, and  
 14 Article 2 of Chapter 143B of the General Statutes.

15 c. The portion of that certain tract or parcel of property at Chimney Rock  
 16 State Park in Polk County, Cooper Gap Township, described in Deed  
 17 Book 393, Page 1402, containing 28.84 acres, as shown on the survey  
 18 entitled "Plat of Survey for The State of North Carolina" prepared by  
 19 Stacy Kent Rhodes dated May 15, 2014, and filed with the State  
 20 Property Office. The property described in subsection (a) of this  
 21 section is deleted from the State Parks System pursuant to  
 22 G.S. 143B-135.54. The State may only exchange this property for  
 23 other property for the expansion of Chimney Rock State Park or sell  
 24 this land and use the proceeds for that purpose. The State shall not  
 25 otherwise sell or exchange this land.

26 ...."

27  
 28 **EFFECTIVE DATE**

29 **SECTION 8.** Except as otherwise provided, this act is effective when it becomes  
 30 law.