



SENATE BILL 433: DNCR Omnibus.

2019-2020 General Assembly

Committee:	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	May 1, 2019
Introduced by:	Sens. Burgin, Ballard, Woodard	Prepared by:	Bill Patterson*
Analysis of:	Second Edition		Committee Co-Counsel

OVERVIEW: *Senate Bill 433 would make various changes to the statutes governing the Department of Natural and Cultural Resources (DNCR), and remove certain lands from the State Nature and Historic Preserve, as recommended by DNCR.*

BILL ANALYSIS:

Section 1 of Senate Bill 433 would authorize the Secretary of DNCR to adopt rules governing the North Carolina Zoo, and to acquire, sell, or develop real and personal zoo property in accordance with generally accepted practices for zoos and aquariums accredited by the American Association of Zoos and Aquariums.

Section 2 would reduce the following violations from Class 3 misdemeanors to infractions, punishable by a penalty not to exceed \$25:

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

Court costs would not be assessed for the above infractions.

This section would become effective December 1, 2019, and apply to offenses committed on or after that date.

Section 3 would make various changes to the statutes concerning regulation of certain reptiles and constricting snakes, including:

- Under current law, permanent enclosures for venomous reptiles must be escape-proof, bite-proof, and have an operable lock, while transport containers for venomous reptiles must only be designed to be escape-proof and bite-proof. This section would require transport containers for venomous reptiles also to have an operable lock.

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- Under current law, permanent enclosures for large constricting snakes must be escape-proof and have an operable lock, while transport containers must only be escape-proof. This section would require transport containers for large constricting snakes also to have an operable lock.
- Under current law, permanent enclosures for crocodylians must be escape-proof and have a fence of sufficient strength to prevent contact between a person and the crocodylian, and have an operable lock, while transport containers must only be escape-proof. This section would require transport containers to be locked when in use.
- Under current law, if a law enforcement officer or animal control officer believes that the reptile laws have been or are about to be violated, the officer has a duty to investigate the violation and consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoo to assist with the identification, interim disposition, and appropriate handling and seizure of any reptile in the course of the officer's investigation. This section would give an officer discretion over whether to investigate the violation, and would provide that that a designated representative of the Department of Natural and Cultural Resources may assist the law enforcement or animal control officer with the officer's investigation.
- This section would repeal the requirement that enforcement officers arrest any person owning, possessing, using, transporting, or trafficking a venomous reptile, large constricting snake, or crocodylian in violation of the Article concerning regulation of those reptiles.

Section 4 would transfer authority to administer the federal Land and Water Conservation Fund from the Department of Environmental Quality to the Department of Natural and Cultural Resources.¹ This section would also designate the Director of the Division of Parks and Recreation as having the authority and responsibility to accept or administer funding through the Land and Water Conservation Fund, subject to the State Budget Act.

Section 5 would remove from the Museum of Art's Board of Trustees the authority to develop rules and regulations governing the employment, promotion, demotion, and dismissal of associate directors and curators.

Section 6 makes a technical correction, concerning recodification.

Section 7 would except from dedication and delete from the State Nature and Historic Preserve three parcels as follows:

- William B. Umstead State Park: This clause excepts one small parcel of approximately 0.15 acres located on the north side of US 70 across from the park entrance. This small parcel along with the adjacent 22 acre tract will be exchanged for additional property adjacent to existing park property on the south side of US 70. The new property will provide improved access and additional buffer for the park from continued commercial development along US 70.
- Hanging Rock State Park: This clause excepts a 1.5 acre parcel that will resolve an encroachment of a barn on the adjacent private tract and will also be used in exchange for an equestrian trail easement across the owner's property. The trail easement is needed to connect the newly acquired Vade Mecum section of the park with the trail system on the main body of the park. The property also needs to be deleted from the State Parks System.

¹ The Division of Parks and Recreation currently administers the program in partnership with the National Park Service (and has done so since the inception of the program), but the statute that enables it to do this was not transferred from DEQ to DNCR when the Division was moved. The statute currently enables DEQ to administer the program, but the Division has been administering the Fund through a Memorandum of Understanding with DEQ.

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- Chimney Rock State Park: This clause excepts 28.84 acres needed as an exchange of property with a nearby landowner whose property is to be acquired in order to develop a public access area and trailhead off Worlds Edge Road. Currently there is no public access for the southern end of the park. A portion of the 28 acre tract will be exchanged for a 6 acre inholding that is currently blocking development of the public access. A portion of the 28 acres may also be used to exchange for a 10 acre inholding along the Cane Creek Mountain ridge which is needed for future trail development. The property also needs to be deleted from the State Parks System. Exchanges will be equivalent, and any acreage not exchanged will stay in the park.

EFFECTIVE DATE: Except as otherwise provided, this act would be effective when it becomes law.

CURRENT LAW: Section 5 of Article XIV of the Constitution of North Carolina provides for addition of properties to and removal of properties from the State Nature and Historic Preserve by a law enacted by a three-fifths vote of the members of each house of the General Assembly. The Preserve is intended to insure that lands and waters acquired and preserved for public park, recreation, conservation, and historic preservation purposes continue to be used for these purposes. Upon inclusion in the Preserve, these lands may not be used for other purposes except as authorized by a law enacted by a vote of three-fifths of the members of each house. G.S. 143-260.8 provides conditions and procedures for additions to, and deletions from, the Preserve, which must be authorized by the General Assembly. G.S. 143-260.10 lists the current components of the Preserve.

**Kyle Evens, counsel to Senate Agriculture/Environment/Natural Resources, substantially contributed to this summary.*