

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 501

Short Title: Cartways.

(Public)

Sponsors: Representatives Brown; Allred, Beall, Berry, Hightower, Hill, Howard, R. Hunter, McComas, Morris, Nichols, Ramsey, and Weatherly.

Referred to: Transportation, if favorable, Judiciary II.

March 12, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS RELATING TO THE OPENING OF CARTWAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-69(a) reads as rewritten:

"(a) In order to ensure that all landowners who do not have a deeded or documented easement or right-of-way to a public road shall have a legal means of obtaining access to that road, if any person, firm, association, or corporation shall be engaged in the cultivation of any land or the cutting and removing of any standing timber, or the working of any quarries, mines, or minerals, or the operating of any industrial or manufacturing plants, or public or private cemetery, or the use of land as a ~~single-family homestead~~, homesteads, or taking action preparatory to the operation of any such enterprises, to which there is leading no public road, reasonable deeded or documented easement or right-of-way to a public road, or other adequate means of transportation, other than a navigable waterway, affording necessary and proper means of ingress thereto and egress therefrom, such person, firm, association, or corporation may institute a special proceeding as set out in G.S. 136-68. Should it be made to appear to the court necessary, reasonable and just that such person shall have a private way to a public road or watercourse or railroad over the lands of other persons, the court shall appoint a jury of view of three disinterested freeholders to view the premises and lay off a cartway,

1 tramway, or railway of not more than 18 feet of travel surface or such other minimum
2 width requested in the petition and found necessary and proper by the court, and not more
3 than 30 feet in width for cuts, fills, and ditches or cableways, chutes, and flumes. If a
4 cartway is granted for the use of one or more single-family homesteads, each single-
5 family homestead ~~must~~ shall consist of at least ~~seven~~ two acres of land. Where there
6 exists a private railroad crossing, that private railroad crossing may be used as part of a
7 cartway established under this Article provided the person, firm, association or
8 corporation seeking the cartway agrees to share proportionately with other landowners
9 authorized to use the crossing the cost of maintaining the private crossing and to protect
10 and hold harmless the railroad against all liability associated with the crossing, provided
11 the railroad is being operated in a lawful manner at or in the vicinity of the crossing.
12 Except as herein provided for the establishment of a cartway over an existing private
13 railroad crossing, no real estate, right-of-way, easement, leasehold, or other interest in
14 land which has been condemned by a railroad, or has been obtained for a railroad's use as
15 a right-of-way, depot, or station house shall be used for the establishment of a cartway or
16 other use under this Article except by agreement with the railroad. Should a petitioner
17 seeking a cartway request a new railroad crossing, the railroad shall negotiate in good
18 faith the location of the new crossing at the requested location or some other mutually
19 agreeable location. The jury of view shall assess the damages the owner or owners of the
20 land crossed may sustain thereby, and make report of their findings in writing to the clerk
21 of the superior court. Exceptions to said report may be filed by any interested party and
22 such exceptions shall be heard and determined by the clerk of the superior court. The
23 clerk of the superior court may affirm or modify said report, or set the same aside and
24 order a new jury of view. All damages assessed by a judgment of the clerk, together with
25 the cost of the proceeding, shall be paid into the clerk's office before the petitioners shall
26 acquire any rights under said proceeding."

27 Section 2. Section 4 of Chapter 513 of the 1995 Session Laws reads as
28 rewritten:

29 "Sec. 4. This act is effective upon ~~ratification but sections 2 and 3 shall expire on July 1,~~
30 ~~1997.~~ ratification. This act applies to actions to establish cartways filed on or after the
31 effective ~~date, but before July 1, 1997.~~ date."

32 Section 3. This act is effective when it becomes law.