

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 439
Committee Substitute Reported Without Prejudice 4/29/03

Short Title: Cartways.

(Public)

Sponsors:

Referred to:

March 13, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAWS RELATING TO THE OPENING OF
3 CARTWAYS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 136-69(a) reads as rewritten:

6 "(a) ~~If~~In order to ensure that all landowners who do not have a deeded or
7 documented easement or right-of-way to a public road shall have a legal means of
8 obtaining access to that road, if any person, firm, association, or corporation shall be
9 engaged in the cultivation of any land or the cutting and removing of any standing
10 timber, or the working of any quarries, mines, or minerals, or the operating of any
11 industrial or manufacturing plants, or public or private cemetery, or the use of land as
12 single-family homesteads, or taking action preparatory to the operation of any such
13 enterprises, to which there is leading no public ~~road~~road, reasonable deeded or
14 documented easement or right-of-way to a public road, or other adequate means of
15 transportation, other than a navigable waterway, affording necessary and proper means
16 of ingress thereto and egress ~~there from, therefrom,~~ such person, firm, association, or
17 corporation may institute a special proceeding as set out in ~~the preceding section (G.S.~~
18 ~~136-68), and if it shall~~ G.S. 136-68. Should it be made to appear to the court necessary,
19 reasonable and just that such person shall have a private way to a public road or
20 watercourse or railroad over the lands of other persons, the court shall appoint a jury of
21 view of three disinterested freeholders to view the premises and lay off a cartway,
22 tramway, or railway of not ~~less~~more than 18 feet ~~in width, of travel surface or any other~~
23 minimum width requested in the petition and found necessary and proper by the court,
24 and not more than 30 feet in width for cuts, fills, and ditches or cableways, chutes, and
25 flumes, and flumes.

26 If a cartway is granted for the use of one or more single-family homesteads, each
27 single-family homestead shall consist of at least seven acres of land. Where there exists
28 a private railroad crossing, the private railroad crossing may be used as part of the
29 cartway established under this Article provided the person, firm, association, or

1 corporation seeking the cartway agrees to reimburse the railroad the cost of maintaining
2 the private crossing and to protect and hold harmless the railroad against all liability
3 associated with the crossing. Except as provided in this subsection for the establishment
4 of a cartway over an existing private railroad crossing, no real estate, right-of-way,
5 easement, leasehold, or other interest in land which has been condemned by a railroad
6 or has been obtained for a railroad's use as a right-of-way, depot, or station house shall
7 be used for the establishment of a cartway or other use under this Article except by
8 agreement with the railroad. The jury of view shall assess the damages the owner or
9 owners of the land crossed may sustain thereby, and make report of their findings in
10 writing to the clerk of the superior court. Exceptions to said report may be filed by any
11 interested party and such exceptions shall be heard and determined by the clerk of the
12 superior court. The clerk of the superior court may affirm or modify said report, or set
13 the same aside and order a new jury of view. All damages assessed by a judgment of the
14 clerk, together with the cost of the proceeding, shall be paid into the clerk's office before
15 the petitioners shall acquire any rights under said proceeding."

16 **SECTION 2.** This act is effective when it becomes law. Section 1 of this act
17 shall expire July 1, 2005. This act applies to actions to establish cartways filed on or
18 after the date the act becomes law, and before July 1, 2005.