

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 545

Short Title: Cartway Amendment.

(Public)

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Sponsors: Representatives J. Brown; Culp, Holmes, Howard, R. Hunter, Justus, Lemmond, Ramsey, Robinson, Russell, Shubert, Weatherly, and G. Wilson.

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Referred to: Judiciary I.

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March 27, 1995

A BILL TO BE ENTITLED

AN ACT TO BROADEN THE LAW PROVIDING FOR THE ESTABLISHMENT OF  
CARTWAYS.

The General Assembly of North Carolina enacts:

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

**"§ 136-69. Cartways, tramways, etc., laid out; procedure.**

~~¶~~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 taking action preparatory to the operation of any such enterprises, or is engaged in any other legal use of land to which there is leading no 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 the preceding section (G.S. 136-68), and if it shall 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

1 shall appoint a jury of view of three disinterested freeholders to view the premises and  
2 lay off a cartway, tramway, or railway of not less than 18 feet in ~~width,~~ width or other  
3 minimum width contained in the petition and found necessary and proper by the court, or  
4 cableways, chutes, and flumes, and assess the damages the owner or owners of the land  
5 crossed may sustain thereby, and make report of their findings in writing to the clerk of  
6 the superior court. Exceptions to said report may be filed by any interested party and  
7 such exceptions shall be heard and determined by the clerk of the superior court. The  
8 clerk of the superior court may affirm or modify said report, or set the same aside and  
9 order a new jury of view. All damages assessed by a judgment of the clerk, together with  
10 the cost of the proceeding, shall be paid into the clerk's office before the petitioners shall  
11 acquire any rights under said proceeding.

12 Where a tract of land lies partly in one county and partly in an adjoining county, or  
13 where a tract of land lies wholly within one county and the public road nearest or from  
14 which the most practical roadway to said land would run, lies in an adjoining county and  
15 the practical way for a cartway to said land would lead over lands in an adjoining county,  
16 then and in that event the proceeding for the laying out and establishing of a cartway may  
17 be commenced in either the county in which the land is located or the adjoining county  
18 through which said cartway would extend to the public road, and upon the filing of such  
19 petition in either county the clerk of the court shall have jurisdiction to proceed for the  
20 appointment of a jury from the county in which the petition is filed and proceed for the  
21 laying out and establishing of a cartway as if the tract of land to be reached by the  
22 cartway and the entire length of the cartway are all located within the bounds of said  
23 county in which the petition may be filed. A permissive use of a right-of-way or  
24 easement across the land of another shall not be a bar to the establishment of a cartway  
25 under this Article."

26 Sec. 2. G.S. 136-70 reads as rewritten:

27 "**§ 136-70. Alteration or abandonment of cartways, etc., in same manner.**

28 Cartways or other ways established under this Article or heretofore established, may  
29 be altered, changed, or abandoned in like manner as herein provided for their  
30 establishment upon petition instituted by any interested party: ~~Provided, that all cartways,~~  
31 ~~tramways, or railways established for the removal of timber shall automatically terminate at the~~  
32 ~~end of a period of five years, unless a greater time is set forth in the petition and the judgment~~  
33 ~~establishing the same.~~ party. A cartway established under this Article shall not terminate  
34 until the time specified in the petition and as found necessary and proper by the court."

35 Sec. 3. This act is effective upon ratification and applies to actions to establish  
36 cartways filed on or after that date.