**South Carolina General Assembly**

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**H. 3468**

**STATUS INFORMATION**

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Currently residing in the House Committee on **Agriculture, Natural Resources and Environmental Affairs**

Summary: Department of Parks, Recreation and Tourism

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/27/2011 House Introduced and read first time ([House Journal‑page 6](file:///h:\hj%20archive\2011\01-27-11.docx))

1/27/2011 House Referred to Committee on **Agriculture, Natural Resources and Environmental Affairs** ([House Journal‑page 6](file:///h:\hj%20archive\2011\01-27-11.docx))

**VERSIONS OF THIS BILL**

[1/27/2011](file:///p:\pprever\2011-12\3468_20110127.docx)

**A** **BILL**

TO AMEND CHAPTER 3, TITLE 51 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPARTMENT OF PARKS, RECREATION AND TOURISM’S CONTROL OVER ALL PARKS BELONGING TO THE STATE, SO AS TO TRANSFER THIS AUTHORITY TO THE DEPARTMENT OF NATURAL RESOURCES; AND TO AMEND SECTIONS 51‑1‑30, 51‑1‑40, 51‑1‑70, AND 51‑1‑80, ALL AS AMENDED, ALL RELATING TO THE DEPARTMENT OF PARKS, RECREATION AND TOURISM, SO AS TO TRANSFER ITS AUTHORITY OVER THE STATES’ PARKS TO THE DEPARTMENT OF NATURAL RESOURCES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 3, Title 51 of the 1976 Code is amended to read:

“CHAPTER 3

State Parks

Section 51‑3‑10. The Department of ~~Parks, Recreation and Tourism~~ Natural Resources may control, supervise, maintain and, wherever practicable, improve all parks belonging to the State, for general recreational, educational and forestry purposes, provided, however, that swimming and rental or use of park cabins shall not be allowed.

Section 51‑3‑20. The Department of ~~Parks, Recreation and Tourism~~ Natural Resources shall operate the parks without facilities or publicly conducted activities, exclusive of camping facilities, and all publicly owned buildings and structures within the parks shall be closed to entry by the general public. Provided, however, that organized groups may use the pavilions, picnic areas, and meeting places within the parks, upon filing with the ~~Park Superintendent~~ park superintendent of the park involved an application to be allowed to use the particular park facilities at least forty‑eight hours in advance of the proposed use, and securing permission for such use from the ~~Superintendent~~ superintendent, who shall not give such permission to any two or more groups for use of the same area and buildings at the same time. Those buildings and structures necessary for the operation, maintenance and upkeep of the park by employees of the ~~Department~~ department not being open to the public, shall not be affected hereby. Provided, that any museum or relic room located in any park shall remain open. Provided, that where a park is located on any seacoast in this State, a request to the Department of ~~Parks, Recreation and Tourism~~ Natural Resources from a majority of the legislative delegation, including the Senator, of the particular county concerned to permit additional activities and the use of additional facilities or to eliminate camping in a park located in the county, shall be granted.

Section 51‑3‑30. Anyone using the park cabins or swimming in violation of the terms of ~~Sections~~ Section 51‑3‑10 or 51‑3‑20, or any person which uses the pavilion or meeting place, or picnic area without a permit, shall be guilty of a misdemeanor and, on conviction, shall be fined not less than twenty‑five dollars nor more than one hundred dollars, or imprisonment for not more than thirty days.

Section 51‑3‑40. Notwithstanding any other provision of law, Edisto Beach State Park shall remain closed until further action by the General Assembly; and Santee Park in Orangeburg County shall be open only as a nature trail or a place to be visited and for fishing and for no other purpose.

Section 51‑3‑50. Notwithstanding the provisions of Sections 51‑3‑10 through 51‑3‑40, the Department of ~~Parks, Recreation and Tourism~~ Natural Resources shall open any State park to public use for such normal recreational, educational and forestry purposes and uses, and for such hours of operation as it shall deem advisable.

Section 51‑3‑60. Any South Carolina resident who is over sixty‑five years of age or disabled or legally blind as defined in Section 43‑25‑20 ~~of the 1976 Code~~ may use any facility of a state park except campsites, overnight lodging and recreation buildings without charge. Such residents also may ~~also~~ use campsite facilities at one‑half of the prescribed fee. A person exercising this privilege on the basis of age shall present his medicare card or other card approved by the South Carolina Commission on Aging to the employee of the State Department of ~~Parks, Recreation and Tourism~~ Natural Resources who is in charge of the particular state park, and a person who is disabled or legally blind shall present to such person in charge of the park a certificate to that effect from a licensed doctor of medicine or an official of an agency authorized by law to make determinations of disability or blindness. The authorization for use of the facilities as provided by this section shall not be effective if it conflicts with any federal law, rule or regulation.

The term ‘disabled’ as used herein shall mean the inability to perform substantial gainful employment by reason of a ~~medically‑determinable~~ medically determinable impairment, either physical or mental, which has lasted or is expected to last for a continuous period of twelve months or more.

Any South Carolina resident who is a veteran and who has been classified by the Veterans Administration as permanently and totally disabled may also enter any state park without charge upon presentation to the person in charge of the park of an identification card from the county veterans affairs officer stating the veteran’s permanent and total disability. A statement of age or disability may not be made for any person whose age and disability records are not maintained in the veterans affairs office at which the request is made.

Section 51‑3‑65. Notwithstanding Section 51‑3‑60, the Department of ~~Parks, Recreation and Tourism~~ Natural Resources must maintain adjustments in the fee structure directed by the 2002 study committee and implemented in September 2003 in order to maintain fiscal soundness and continued maintenance and operations of the ~~State Park System~~ state park system. South Carolina residents who receive discounts pursuant to Section 51‑3‑60 must not be given discounts of less than thirty‑five percent. Members of the South Carolina National Guard must be given the same discounts as residents receiving discounts pursuant to Section 51‑3‑60.

Section 51‑3‑70. The Department of ~~Parks, Recreation and Tourism~~ Natural Resources may make such rules and regulations as it deems advisable for the protection, preservation, operation, use and maintenance and for the most beneficial service to the general public of the ~~State~~ state parks in this State and as may be necessary to carry out the purposes of this chapter.

Section 51‑3‑80. The Department of ~~Parks, Recreation and Tourism~~ Natural Resources may accept gifts, donations and contributions of land suitable for park purposes and enter into agreements with the ~~Federal Government~~ federal government or other agencies for acquiring by lease, purchase or otherwise such lands as in the judgment of the ~~Department~~ department are desirable for ~~State~~ state parks.

Section 51‑3‑90. (A) The department may sell, exchange, or lease lands under its jurisdiction when in its judgment it is advantageous to the State to do so in the highest orderly development and management of state parks but such a sale, lease, or exchange must not be contrary to the terms of any contract which the department has entered into.

(B) The department may retain funds derived from sales authorized in subsection (A) of this section and credit these funds to the Recreation Land Trust Fund established pursuant to Chapter 11 of this title.

Section 51‑3‑100. The Department of ~~Parks, Recreation and Tourism~~ Natural Resources may in general do any and all things necessary and incident to the furtherance of the use to which such parks are dedicated.

Section 51‑3‑110. When lands are acquired or leased under Section 51‑3‑80, the Department of ~~Parks, Recreation and Tourism~~ Natural Resources may make expenditures from any funds not otherwise obligated for the management, development and utilization of such areas and may sell or otherwise dispose of products from such lands.

Section 51‑3‑120. The revenues derived from such lands owned by the Department of ~~Parks, Recreation and Tourism~~ Natural Resources shall be segregated by the State Treasurer for the use of the ~~Department~~ department in the acquisition, management and development and use of such lands until all obligations incurred have been paid in full. Fifty per cent of all net profits accruing from the administration of such lands shall be applicable for such purposes as the General Assembly may prescribe and fifty per cent shall be paid into the school fund of the county in which such lands are located.

Section 51‑3‑130. Obligations for the acquisition of land incurred by the Department of ~~Parks, Recreation and Tourism~~ Natural Resources under the authority of this chapter shall be paid solely and exclusively from revenues derived from such lands and shall not impose any liability upon the general credit and taxing power of the State.

Section 51‑3‑140. Any person who (a) without permission of the Department of ~~Parks, Recreation and Tourism~~ Natural Resources, shall remove any shrub or tree or attempt so to do from any ~~State~~ state park, (b) shall cut or mutilate any shrub or tree growing in any ~~State~~ state park in this State without such permission, (c) shall mutilate or deface any property, real or personal, upon any ~~State~~ state park or (d) shall destroy scenic values by dumping rubbish within the confines of any ~~State~~ state park or in any other way whatsoever shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one hundred dollars or imprisonment for not more than thirty days, within the discretion of the court.

Section 51‑3‑145. It shall be unlawful for any person to commit any of the following acts at any park or facility under the jurisdiction of the Department of ~~Parks, Recreation and Tourism~~ Natural Resources:

(A) Destroying, defacing, disturbing, disfiguring, or removing any part of any building, sign, structure, or equipment.

(B) Killing, harming, or harassing any mammal, bird, reptile, or amphibian, except by permit issued by the department ~~or by permit issued by the South Carolina Department of Natural Resources~~ for designated Game Management Areas.

(C) Hunting in any area, with the exception of those that may be designated as Game Management Areas.

(D) Destroying, cutting, breaking, removing, defacing, mutilating, injuring, taking or gathering any tree, shrub, other plant or plant part, rock, mineral, or geological feature except by permit issued by the department.

(E) Building any fire in any place other than those specifically designated for such a purpose.

(F) Disposing of litter, garbage, or other refuse in places or receptacles other than those specifically provided for such purpose. Such unlawful disposing of litter, garbage, or refuse shall include:

(1) Dumping any refuse or waste from any trailer or other vehicle except in places or receptacles provided for such use.

(2) Cleaning fish, or food, or washing clothing, or articles for household use in any sink, or at any faucet located in restrooms.

(3) Polluting or contaminating any water used for human consumption.

(4) Using park refuse containers or facilities for dumping household or commercial garbage or trash brought as such from private property.

(5) Depositing, except into receptacles provided for that purpose, any body waste, or depositing any bottles, cans, clothes, rags, metal, wood, stone, or other damaging substance in any fixture in any restroom, or other structure.

(G) Possessing any firearm, airgun, explosive, or firework except by duly authorized park personnel, law enforcement officers, or persons using areas specifically designated by the department for use of firearms, airguns, fireworks, or explosives. Licensed hunters may have firearms in their possession during hunting seasons provided that such firearms are unloaded and carried in a case or the trunk of a vehicle except that in designated game management areas where hunting is permitted, licensed hunters may use firearms for hunting in the manner authorized by law. This subsection shall not apply to a person carrying a concealable weapon pursuant to Article 4, Chapter 31, Title 23, and the concealable weapon and its ammunition.

(H) Operating vehicles in a reckless manner, or in excess of posted speed limits, or in areas other than those specifically intended for vehicular traffic. A violation of the following provisions shall constitute the unlawful operating of vehicles:

(1) Motorbikes, minibikes, mopeds, motorcycles, motor scooters, go‑carts and any other type motorized vehicle shall not be driven in any area or on any trail not intended for their use. Only licensed motorized vehicles shall be allowed on park roads.

(2) No motorized vehicle of any kind shall be allowed on horse trails, hiking trails or beach areas.

(3) Motor vehicles shall not be driven on roads in developed recreation sites for any purpose other than access into or egress out of the site.

(4) No motorized vehicle of any kind shall be operated at any time without a muffler in good working order, or in such a manner as to create excessive or unusual noise, or annoying smoke, or using a muffler cut‑off, by‑pass, or similar device.

(5) No person shall excessively accelerate the engine of a motor vehicle or motorcycle when such vehicle is not moving or is approaching or leaving a stopping place.

(6) Vehicles shall not be permitted in a cabin or camping area unless the operator thereof is a registered guest within the area, except for the expressed intent of renting such area or with prior permission of authorized park officials.

(I) Using privately owned boats or gasoline motors on any waters lying wholly within the boundaries of the park or facility, except in water where specifically authorized, and in such case boat users shall obey all posted rules and regulations.

(J) Consuming or displaying in public any beverage of alcoholic content, including beer and wine, except where specifically authorized by the department.

(K) Acting in a disorderly manner or creating any noise which would result in annoyance to others. Acting in a disorderly manner shall include inciting or participating in riots, or indulging in boisterous, abusive, threatening, indecent, or disorderly conduct. In addition to other authorized penalty provisions anyone in violation of this subsection may be ejected from the park and shall not be entitled to a refund of any fee or rental.

(L) Entering or remaining within the limits of the park or facility while in an intoxicated or drugged condition.

(M) Operating or using audio device, including radio, television, musical instruments, or any other noise producing devices, such as electrical generators, and equipment driven by motor engines, in such a manner and at such times as to disturb other persons and no person shall operate or use any public address system, whether fixed, portable, or vehicle mounted, except when such use or operation has been approved by the department.

(N) Engaging in or soliciting business within a park or facility except where authorized by the department and no person shall distribute, post, place, or erect any bills, notices, paper, or advertising device, or matter of any kind without consent of the department.

(O) Swimming in areas not designated for the purpose and failing to obey all posted rules while swimming.

(P) Bringing a dog or any other animal into the park or facility unless it is crated, caged, or upon a leash not longer than six feet or otherwise under physically restrictive control at all times. For this purpose:

(1) No person shall keep in the park or retain in the park a noisy, vicious, or dangerous dog or animal, or one which is disturbing to other persons after he has been asked by a park official to remove such animal.

(2) No person shall bring saddle, pack, or draft animals into a site which has not been developed to accommodate them.

(Q) Entering a facility or area without regard to restrictions on public use. These restrictions on public use shall include the following provisions and a violation of such provisions shall be considered to be a violation of this subsection:

(1) Parks shall be open during daylight hours except where otherwise specifically authorized and no person shall be admitted to or allowed to remain in the park after the designated closing hour except for the purpose of cabin rentals or camping unless such person has permission of the department.

(2) No person shall make, use, or gain admittance to, or attempt to use, or gain admittance to facilities within any park, for which a charge is made, without paying the fee.

(3) No person shall remain within any facility if he refuses to pay the required fee to enter and use the facility or service in a posted, designated fee area.

(4) No person shall enter any park, or any park area, or facility when it is closed to the public.

(5) No person shall ~~willfully~~ wilfully provide erroneous information for any campsite or cabin registration.

(6) Minors under eighteen years of age shall register for a cabin or campsite only as agents acting for their parent or guardian.

(7) No person or persons shall occupy a campsite for a consecutive period longer than fourteen days without permission from the department.

(8) No person or persons shall occupy a cabin or lodge room for a consecutive period longer than seven days without permission from the department.

(R) No person shall take fish from a lake, pond, or other waters wholly located within the boundary of a state park except in accordance with methods, limits, and times permitted by the department. The methods, limits, and times must be published and displayed in a conspicuous manner to provide notice to the visiting public. The articles and acts prohibited by this section shall be published and displayed in conspicuous places so as to be available for visitors and employees.

Section 51‑3‑146. Any person violating the provisions of Section 51‑3‑145 shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than twenty‑five dollars nor more than two hundred dollars or imprisoned for not more than thirty days.

Section 51‑3‑147. Park rangers, superintendents and other officials, who shall be designated by the Department of ~~Parks, Recreation and Tourism~~ Natural Resources and who have been appointed by the Governor as state constables, shall in the exercise of their duties have the following authority:

(A) Each designated park ranger, superintendent or other official shall have the authority to issue an official summons to any person apprehended for violating any law, the enforcement of which by a state constable is authorized by law, and such summons duly served shall give the proper judicial official jurisdiction to dispose of the matter after trial upon the date set in the summons.

(B) When any person is apprehended by a designated park ranger, superintendent or other official upon a charge of violating any law, the enforcement of which by a state constable is authorized by law, the persons so being charged, upon being served with the official summons issued by such arresting officer and in lieu of being immediately brought before the proper judicial official to enter into a formal recognizance or make direct the deposit of a proper sum of money in lieu of a recognizance or incarceration, may deposit with the apprehending officer a sum of money as bail, not less than the minimum nor more than the maximum fine but in no case to exceed the sum of two hundred dollars. Such sum shall be turned over to the judicial official as money for bail, in lieu of entering into a recognizance for his appearance for trial as set in the aforesaid summons or being incarcerated by the arresting officer and held for further action by the appropriate judicial official. A receipt for such sum so deposited shall be given to such person by the arresting officer. The summons duly served as herein provided shall give the judicial official jurisdiction to dispose of the matter. Upon receipt of the fixed sum of money, the arresting officer may release the person so charged for his further appearance before the proper judicial official as provided for and required by the summons.

Section 51‑3‑150. Any person who attempts to use or who uses the facilities of the ~~State~~ state parks without the express permission of the State shall be guilty of trespass upon ~~State~~ state park property and upon conviction shall be sentenced to pay a fine not to exceed five thousand dollars or to be imprisoned for not more than two years or both.

Section 51‑3‑160. The Department of Corrections and the Department of Natural Resources are hereby authorized to cooperate in the development of public recreation facilities and to exchange funds where mutually beneficial to both departments and accept matching federal funds.”

SECTION 2. Section 51‑1‑30 of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“Section 51‑1‑30. The department shall be composed of the Division of Travel and Tourism which shall advertise, promote and encourage travel and tourist industry for the State~~; a Division of Parks and Recreation which shall develop and~~ , and promote state parks ~~and provide recreational programs in such areas;~~ and other divisions which may be provided for by the General Assembly. Each division may be headed by a deputy director who shall be knowledgeable, either by training or experience, in the requirements of the division he is to direct.”

SECTION 3. Section 51‑1‑40 of the 1976 Code, as last amended by Act 356 of 2002, is further amended to read:

“Section 51‑1‑40. (A) The department may impose a reasonable fee for admission to park and recreational facilities and these fee revenues must be used for park and recreational operations.

(B) The ~~department~~ Department of Natural Resources may impose a fee for the cost of vacation guides, research reports, educational conferences, technical planning assistance, technical drawings, and mailing lists. The fee must offset the actual cost of producing or providing these items or services and these offsetting revenues must be retained by the department in a restricted account. The revenues under this subsection in excess of actual cost must be remitted to the general fund of the State.

(C) The ~~department~~ Department of Parks, Recreation and Tourism shall retain the revenues of the gift and souvenir shop it operates at the Boyleston House and these revenues must be used for departmental operation.”

SECTION 4. Section 51‑1‑70 of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“Section 51‑1‑70. All funds allocated to the various state departments for parks, tourism or recreation shall be transferred by the State Budget and Control Board to the Department of ~~Parks, Recreation and Tourism~~ Natural Resources.”

SECTION 5. Section 51‑1‑80 of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“Section 51‑1‑80. The Department of Parks, Recreation and Tourism and the Department of Natural Resources ~~is~~ are authorized to cooperate and enter into certain contracts with political subdivisions of this State.”

SECTION 6. All powers, duties, assets, liabilities, and properties of the Department of Parks, Recreation and Tourism relating to parks belonging to the State are transferred to the Department of Natural Resources.

SECTION 7. The Code Commissioner is directed to change or correct all references to State parks to reflect their transfer to the Department of Natural Resources.

SECTION 8. This act takes effect upon approval by the Governor.

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