

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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**SENATE BILL 628
Second Edition Engrossed 5/12/21**

Short Title: Native Plants Right to Work Act. (Public)

Sponsors: Senators Rabon and McInnis (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 7, 2021

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE USE OF NATIVE NORTH CAROLINA PLANTS AND SEEDS
ON STATE PROPERTY AND HIGHWAYS AND ON LOCAL PROJECTS THAT USE
STATE FUNDS FOR LANDSCAPING.

Whereas, native plants are an important part of North Carolina's natural heritage,
history, and identity; and

Whereas, North Carolina's native plants are indigenous plants that have adapted over
many years to our region and evolved to flourish in the unique geography, hydrology, and
microclimates of our State; and

Whereas, North Carolina contains over 3,900 native plant species, making North
Carolina one of the most diverse states for flora in the Southeast; and

Whereas, twenty-six of those species are extremely rare and considered federally
threatened or endangered; and

Whereas, native plants provide high-quality food and shelter for North Carolina's
native wildlife, including butterflies, bees, and other pollinators, both game and nongame
species; and

Whereas, native plants support over 350 resident and migratory bird species in North
Carolina, many of which are species of concern and face growing threats from climate change;
and

Whereas, North Carolina's native plants and their derivatives have provided foods,
medicines, and other products, from the origin of North Carolina's blueberry industry to
American ginseng exports; and

Whereas, gardens and landscapes composed of North Carolina's native plants require
little or no fertilizers, soil amendments, or pesticides and use less water; and

Whereas, planting, cultivation, and preservation of the State's native plants provide a
natural link to wild land areas present and past, while presenting beauty and benefit and instilling
a greater appreciation for North Carolina's natural heritage; Now, therefore,

The General Assembly of North Carolina enacts:

**DEPARTMENT OF ADMINISTRATION SHALL REQUIRE THE USE OF NORTH
CAROLINA PLANTS ON STATE PROPERTY**

SECTION 1. G.S. 143-341 is amended by adding a new subdivision to read:

"(12) In consultation with university system and community college horticulture
programs and the North Carolina Forestry Association, the Department of
Administration shall require the use of seeds and plants the U.S. Department
of Agriculture has classified as native to North Carolina on all land owned or



1 leased by the State or by any State agency. Exempt from this requirement are
 2 (i) nonnative seeds and plants used in landscaping for locations where the
 3 primary purpose is crop cultivation, crop and horticulture research, science,
 4 botanical gardens, plantings for wildlife by the Wildlife Resources
 5 Commission, and zoos and (ii) nonnative turf grass."
 6

7 **DEPARTMENT OF TRANSPORTATION SHALL USE NORTH CAROLINA PLANTS**
 8 **IN HIGHWAY RIGHT-OF-WAY**

9 **SECTION 2.** G.S. 136-18(9) reads as rewritten:

10 "(9) ~~To employ appropriate means for properly selecting, planting, and protecting~~
 11 ~~acceptable trees, shrubs, vines, grasses, or legumes~~ In consultation with
 12 university system and community college horticulture programs and the North
 13 Carolina Forestry Association, the Department shall use seeds and plants the
 14 U.S. Department of Agriculture has classified as native to North Carolina
 15 in the highway right-of-way in the promotion of erosion control, landscaping,
 16 and general protection of the highways; highways, except that the Department
 17 may use nonnative grasses and seeds for the purpose of soil and slope
 18 stabilization for erosion control. The Department shall also have the power to
 19 acquire by gift or otherwise land for and to construct, operate, and maintain
 20 roadside parks, picnic areas, picnic tables, scenic overlooks, and other
 21 appropriate turnouts for the safety and convenience of highway users; and to
 22 cooperate with municipal or county authorities, federal agencies, civic bodies,
 23 and individuals in the furtherance of those objectives. For purposes of this
 24 subdivision, the term "acceptable" means plants the Department of
 25 Transportation determines will maintain a stable and aesthetic roadside, with
 26 a strong preference for using plants the U.S. Department of Agriculture has
 27 classified as native to North Carolina. None of the roadside parks, picnic areas,
 28 picnic tables, scenic overlooks, or other turnouts, or any part of the highway
 29 right-of-way shall be used for commercial purposes except for any of the
 30 following:

- 31 a. Materials displayed in welcome centers in accordance with
 32 G.S. 136-89.56.
 33 b. Vending machines permitted by the Department of Transportation and
 34 placed by the Division of Services for the Blind of the Department of
 35 Health and Human Services, as the State licensing agency designated
 36 pursuant to Section 2(a)(5) of the Randolph-Sheppard Act (20 U.S.C.
 37 107a(a)(5)). The Department of Transportation shall regulate the
 38 placing of the vending machines in highway rest areas and shall
 39 regulate the articles to be dispensed.
 40 c. Activities permitted by a local government pursuant to an ordinance
 41 meeting the requirements of G.S. 136-27.4.

42 Every other use or attempted use of any of these areas for commercial
 43 purposes constitutes a Class 1 misdemeanor, and each day's use constitutes a
 44 separate offense."
 45

46 **CITIES AND TOWNS SHALL USE NORTH CAROLINA PLANTS WHEN POWELL**
 47 **BILL FUNDS ARE USED FOR LANDSCAPING**

48 **SECTION 3.** G.S. 136-41.3(a) reads as rewritten:

49 "(a) Uses of Funds. – Except as otherwise provided in this subsection, the funds allocated
 50 to cities and towns under the provisions of G.S. 136-41.1 and G.S. 136-41.2 shall be expended
 51 by said cities and towns primarily for the resurfacing of streets within the corporate limits of the

1 municipality but may also be used for the purposes of maintaining, repairing, constructing,
2 reconstructing or widening of any street or public thoroughfare including bridges, drainage, curb
3 and gutter, and other necessary appurtenances within the corporate limits of the municipality or
4 for meeting the municipality's proportionate share of assessments levied for such purposes, or for
5 the planning, construction and maintenance of bikeways, greenways, or sidewalks. Cities and
6 towns shall ~~strongly prefer the use of~~ use seeds and plants the U.S. Department of Agriculture
7 has classified as native to North Carolina when the use of funds under this subsection includes
8 landscaping. The funds allocated to cities and towns under the provisions of G.S. 136-41.1 and
9 G.S. 136-41.2 shall not be expended for the construction of a sidewalk into which is built a
10 mailbox, utility pole, fire hydrant, or other similar obstruction that would impede the clear
11 passage of pedestrians on the sidewalk."
12

13 **LOCAL PROJECTS FUNDED UNDER PARKS AND RECREATION TRUST FUND TO**
14 **USE NORTH CAROLINA PLANTS**

15 **SECTION 4.** G.S. 143B-135.56(b)(2) reads as rewritten:

16 "(2) Thirty percent (30%) to provide matching funds to local governmental units
17 or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for
18 local park and recreation purposes. The appraised value of land that is donated
19 to a local government unit or public authority may be applied to the matching
20 requirement of this subdivision. These funds shall be allocated by the North
21 Carolina Parks and Recreation Authority based on criteria patterned after the
22 Open Project Selection Process established for the Land and Water
23 Conservation Fund administered by the National Park Service of the United
24 States Department of the Interior. Except as provided below, the Authority
25 shall require that projects funded under this subdivision use seeds and plants
26 the U.S. Department of Agriculture has classified as native to North Carolina.
27 Exempt from this requirement are (i) nonnative seeds and plants used in
28 landscaping for locations where the primary purpose is crop cultivation, crop
29 and horticulture research, science, botanical gardens, and zoos and (ii)
30 nonnative turf grass."
31

32 **EFFECTIVE DATE**

33 **SECTION 5.** This act is effective when it becomes law.