

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2003**

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**HOUSE BILL 11**

Short Title: Repeal Unconstitutional Statutes. (Public)

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Sponsors: Representatives Stam; Culp and Pate.

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Referred to: Judiciary I.

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February 13, 2003

A BILL TO BE ENTITLED

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2 AN ACT TO REPEAL ONLY THOSE STATUTES WHICH HAVE BEEN  
3 DECLARED UNCONSTITUTIONAL BY A STATE OR FEDERAL COURT OF  
4 COMPETENT JURISDICTION AND FROM WHICH NO APPEAL HAS BEEN  
5 TIMELY PERFECTED OR THE APPEAL HAS BEEN FULLY CONCLUDED  
6 ADVERSELY TO THE STATE.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 163-278.12A is repealed.

9 **SECTION 2.** S.L. 1997-182 is repealed. This also repeals G.S. 18B-1006(1).

10 **SECTION 3.** G.S. 18B-1006(m) reads as rewritten:

11 "(m) Interstate Interchange Economic Development Zones. –

12 (1) The Commission may issue permits listed in G.S. 18B-1001(10),  
13 without approval at an election, to qualified establishments defined in  
14 G.S. 18B-1000(4), (6), and (8) located within one mile of an interstate  
15 highway interchange located in a county that:

- 16 a. Has approved the sale of malt beverages, unfortified wine, and  
17 fortified wine, but not mixed beverages;  
18 b. Operates ABC stores;  
19 c. Borders on another state; and  
20 d. Lies north and east of the Roanoke River.

21 (2) The Commission may issue permits listed in G.S. 18B-1001(1), (3),  
22 (5), and (10) to qualified establishments defined in G.S. 18B-1000(4),  
23 (6), and (8) and may issue permits listed in G.S. 18B-1001(2) and (4)  
24 to qualified establishments defined in G.S. 18B-1000(3) in any county  
25 that qualifies for issuance of permits pursuant to G.S. 18B-1006(k)(5).  
26 These permits may be issued without approval at an election and shall  
27 be issued only to qualified establishments that meet any of the  
28 following requirements:

- 1 a. Located within one mile of any interstate highway interchange  
2 in that county.
- 3 b. Located within one mile of an establishment issued a permit  
4 under G.S. 18B-1006(k)(5).
- 5 ~~(3) The Commission may issue permits listed in G.S. 18B-1001(10),  
6 without approval at an election, to qualified establishments defined in  
7 G.S. 18B-1000(4), (6), and (8) located within one mile of an interstate  
8 highway interchange located in a county that meets all of the following  
9 requirements:~~
- 10 a. ~~Has approved the sale of malt beverages, unfortified wine,  
11 fortified wine, but not mixed beverages.~~
- 12 b. ~~Contains one city that has approved the sale of malt beverages,  
13 unfortified wine, fortified wine, and mixed beverages.~~
- 14 c. ~~Operates ABC stores.~~
- 15 d. ~~Lies south and west of the Roanoke River and shares a common  
16 border with a county qualifying in subdivision (1) of this  
17 subsection.~~

18 ~~This subsection shall also apply to an establishment in a county included in  
19 subdivision (3) of this subsection if the establishment is located within two miles of an  
20 interstate highway interchange that is within three miles of the common border  
21 described in sub-subdivision (3)d. of this subsection."~~

22 **SECTION 4.** G.S. 18B-1006(j)(4) is repealed.

23 **SECTION 5.** G.S. 7A-16 reads as rewritten:

24 **"§ 7A-16. Creation and organization.**

25 The Court of Appeals is created effective January 1, 1967. It shall consist initially of  
26 six judges, elected by the qualified voters of the State for terms of eight years. The  
27 Chief Justice of the Supreme Court shall designate one of the judges as Chief Judge, to  
28 serve in such capacity at the pleasure of the Chief Justice. Before entering upon the  
29 duties of his office, a judge of the Court of Appeals shall take the oath of office  
30 prescribed for a judge of the General Court of Justice.

31 The Governor on or after July 1, 1967, shall make temporary appointments to the six  
32 initial judgeships. The appointees shall serve until January 1, 1969. Their successors  
33 shall be elected at the general election for members of the General Assembly in  
34 November, 1968, and shall take office on January 1, 1969, to serve for the remainder of  
35 the unexpired term which began on January 1, 1967.

36 Upon the appointment of at least five judges, and the designation of a Chief Judge,  
37 the court is authorized to convene, organize, and promulgate, subject to the approval of  
38 the Supreme Court, such supplementary rules as it deems necessary and appropriate for  
39 the discharge of the judicial business lawfully assigned to it.

40 Effective January 1, 1969, the number of judges is increased to nine, and the  
41 Governor, on or after March 1, 1969, shall make temporary appointments to the  
42 additional judgeships thus created. The appointees shall serve until January 1, 1971.  
43 Their successors shall be elected at the general election for members of the General

1 Assembly in November, 1970, and shall take office on January 1, 1971, to serve for the  
2 remainder of the unexpired term which began on January 1, 1969.

3 Effective January 1, 1977, the number of judges is increased to 12; and the  
4 Governor, on or after July 1, 1977, shall make temporary appointments to the additional  
5 judgeships thus created. The appointees shall serve until January 1, 1979. Their  
6 successors shall be elected at the general election for members of the General Assembly  
7 in November, 1978, and shall take office on January 1, 1979, to serve the remainder of  
8 the unexpired term which began on January 1, 1977.

9 On or after December 15, 2000, the Governor shall appoint three additional judges  
10 to increase the number of judges to 15. ~~Each judgeship shall not become effective until~~  
11 ~~the temporary appointment is made, and each appointee shall serve from the date of~~  
12 ~~qualification until January 1, 2005. Those judges' successors shall be elected in the 2004~~  
13 ~~general election and shall take office on January 1, 2005, to serve terms expiring~~  
14 ~~December 31, 2012.~~

15 The Court of Appeals shall sit in panels of three judges each. The Chief Judge  
16 insofar as practicable shall assign the members to panels in such fashion that each  
17 member sits a substantially equal number of times with each other member. He shall  
18 preside over the panel of which he is a member, and shall designate the presiding judge  
19 of the other panel or panels.

20 Three judges shall constitute a quorum for the transaction of the business of the  
21 court, except as may be provided in § 7A-32.

22 In the event the Chief Judge is unable, on account of absence or temporary  
23 incapacity, to perform the duties placed upon him as Chief Judge, the Chief Justice shall  
24 appoint an acting Chief Judge from the other judges of the Court, to temporarily  
25 discharge the duties of Chief Judge."

26 **SECTION 6.** G.S. 1-44.2(b) reads as rewritten:

27 "(b) ~~Persons claiming ownership contrary to the presumption established in this~~  
28 ~~section shall have a period of one year from the date of enactment of this statute or the~~  
29 ~~abandonment of such easement, whichever later occurs, in which to bring any action to~~  
30 ~~establish their ownership.~~The presumption established by this section is rebuttable by  
31 showing that a party has good and valid title to the land."

32 **SECTION 7.** This act is effective when it becomes law.