

BILL ANALYSIS

C.S.H.B. 3181
By: Thompson
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are ongoing operations in Texas, licensed by the Texas Alcoholic Beverage Commission (TABC), that serve as fronts for human trafficking and sexual slavery. Recent articles in the Houston Chronicle outlined the frustration of state regulators who do not have the tools to shut these operations down. TABC is not currently able to suspend the operation of licensees that are proven to be fronts for criminal activities such as prostitution.

C.S.H.B. 3181 authorizes TABC or its administrator to file a motion for injunctive relief with the State Office of Administrative Hearings while a proceeding to cancel or suspend certain permits or licenses is pending. The bill requires an administrative law judge to cancel or suspend a permit or license that authorizes the holder to sell alcoholic beverages for on-premises consumption if the holder violates an order to stop the criminal activity from occurring on the premises.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3181 amends the Alcoholic Beverage Code to authorize the Texas Alcoholic Beverage Commission (TABC) or its administrator to file a motion with the State Office of Administrative Hearings for injunctive relief while a proceeding is pending to cancel or suspend a permit or license that authorizes the holder to sell alcoholic beverages for on-premises consumption. The bill authorizes the administrative law judge to enter an order to stop criminal activity from occurring on the permitted or licensed premises while a contested case is pending, if the administrator or TABC establishes that there are ongoing criminal acts on the premises that constitute a threat to the public health, safety, or welfare. The bill prohibits an administrative law judge from issuing an injunctive order without notice and hearing except in certain circumstances.

C.S.H.B. 3181 requires the administrative law judge to cancel or suspend the permit or license or impose a civil fine on the permit or license holder if the holder violates an order relating to criminal activity on the holder's permitted or licensed premises and authorizes TABC or its administrator to file a motion with the administrative law judge requesting a hearing on the issue of whether the permit or license holder violated such an order. The bill requires the administrative law judge to hold the hearing after the 10th day and before the 21st day after the date the motion for a hearing is filed.

C.S.H.B. 3181 authorizes the administrative law judge, on application by the administrator or TABC, to enter a temporary order without notice to the permit or license holder to stop ongoing criminal activity that immediately threatens the public health, safety, or welfare, and requires the temporary order to expire not later than the 10th day after the date the order is entered. The bill

requires the administrative law judge, before the temporary order expires, to hold a hearing on the question of whether the temporary order should be extended for the duration of the contested case. The bill requires the administrative law judge to give priority to a hearing for temporary relief over all other matters pending before the judge. The bill authorizes the administrative law judge, at the close of the contested case, to issue a permanent order imposing conditions on the permit or license holder to prevent the reoccurrence of the criminal activity on the permit or license holder's premises.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3181 removes language in the original specifying that ongoing criminal acts occurring on a permitted or licensed premises for which the administrative law judge is authorized to enter an order to stop such activity includes offenses of assault, disorderly conduct, or public indecency, offenses relating to weapons, and offenses under the Texas Controlled Substances Act. The substitute removes a provision in the original specifying that an administrative law judge may enter an order prohibiting the sale or consumption of alcoholic beverages on the premises or the possession of alcoholic beverages with the intent to consume the beverages on the permitted or licensed premises.

C.S.H.B. 3181 adds provisions not included in the original prohibiting an administrative law judge from issuing an injunctive order without notice and a hearing, with a certain exception, and specifying that the judge's issuance of a temporary order is authorized if the order is to stop ongoing criminal activity that immediately threatens the public health, safety, or welfare. The substitute removes language in the original requiring the administrative law judge to hold a hearing on the question of whether other orders should be issued. The substitute differs from the original by making a technical correction.