

By: Thompson, Anchia

H.B. No. 3181

A BILL TO BE ENTITLED

AN ACT

relating to authorizing injunctive relief during proceedings to
cancel or suspend certain alcoholic beverage permits and licenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 11, Alcoholic Beverage
Code, is amended by adding Section 11.614 to read as follows:

Sec. 11.614. INJUNCTIVE RELIEF. (a) This section applies
to a proceeding to cancel or suspend a permit that authorizes the
permit holder to sell alcoholic beverages for on-premises
consumption.

(b) The commission or administrator may file a motion with
the State Office of Administrative Hearings for injunctive relief
while the proceeding to cancel or suspend the permit is pending.

(c) If the administrator or commission establishes that
there are ongoing criminal acts on the permitted premises that
constitute a threat to the public health, safety, or welfare, the
administrative law judge may enter an order to stop the criminal
activity from occurring on the permitted premises while the
contested case is pending. Except as provided by Subsection (f), an
administrative law judge may not issue an injunctive order without
notice and a hearing.

(d) If a permit holder violates an order issued under this
section, the administrative law judge shall:

(1) cancel the permit holder's permit;

1 (2) suspend the permit holder's permit; or

2 (3) impose a civil fine on the permit holder.

3 (e) The commission or administrator may file a motion with
4 the administrative law judge requesting a hearing on the issue of
5 whether the permit holder violated an order issued under this
6 section. The administrative law judge shall hold the hearing after
7 the 10th day after the date the motion for a hearing is filed and
8 before the 21st day after the date the motion for a hearing is
9 filed.

10 (f) On application by the administrator or commission, the
11 administrative law judge may enter a temporary order without notice
12 to the permit holder to stop ongoing criminal activity that
13 immediately threatens the public health, safety, or welfare. A
14 temporary order must expire not later than the 10th day after the
15 date the order is entered. Before the temporary order expires, the
16 administrative law judge shall hold a hearing on the question of
17 whether the temporary order should be extended for the duration of
18 the contested case.

19 (g) The administrative law judge shall give priority to a
20 hearing for temporary relief over all other matters pending before
21 the administrative law judge.

22 (h) At the close of the contested case, if the permit holder
23 continues to operate, the administrative law judge may issue a
24 permanent order imposing conditions on the permit holder to prevent
25 the reoccurrence of the criminal activity on the permit holder's
26 premises.

27 SECTION 2. Subchapter C, Chapter 61, Alcoholic Beverage

Code, is amended by adding Section 61.722 to read as follows:

Sec. 61.722. INJUNCTIVE RELIEF. (a) This section applies to a proceeding to cancel or suspend a license that authorizes the license holder to sell alcoholic beverages for on-premises consumption.

(b) The commission or administrator may file a motion with the State Office of Administrative Hearings for injunctive relief while the proceeding to cancel or suspend the license is pending.

(c) If the administrator or commission establishes that there are ongoing criminal acts on the licensed premises that constitute a threat to the public health, safety, or welfare, the administrative law judge may enter an order to stop the criminal activity from occurring on the licensed premises while the contested case is pending. Except as provided by Subsection (f), an administrative law judge may not issue an injunctive order without notice and a hearing.

(d) If a license holder violates an order issued under this section, the administrative law judge shall:

- (1) cancel the license holder's license;
- (2) suspend the license holder's license; or
- (3) impose a civil fine on the license holder.

(e) The commission or administrator may file a motion with the administrative law judge requesting a hearing on the issue of whether the license holder violated an order issued under this section. The administrative law judge shall hold the hearing after the 10th day after the date the motion for a hearing is filed and before the 21st day after the date the motion for a hearing is

1 filed.

2 (f) On application by the administrator or commission, the
3 administrative law judge may enter a temporary order without notice
4 to the license holder to stop ongoing criminal activity that
5 immediately threatens the public health, safety, or welfare. A
6 temporary order must expire not later than the 10th day after the
7 date the order is entered. Before the temporary order expires, the
8 administrative law judge shall hold a hearing on the question of
9 whether the temporary order should be extended for the duration of
10 the contested case.

11 (g) The administrative law judge shall give priority to a
12 hearing for temporary relief over all other matters pending before
13 the administrative law judge.

14 (h) At the close of the contested case, if the license
15 holder continues to operate, the administrative law judge may issue
16 a permanent order imposing conditions on the license holder to
17 prevent the reoccurrence of the criminal activity on the license
18 holder's premises.

19 SECTION 3. The change in law made by this Act applies only
20 to a proceeding to suspend or cancel a permit or license commenced
21 on or after the effective date of this Act. A proceeding to suspend
22 or cancel a permit or license commenced before the effective date of
23 this Act is governed by the law in effect immediately before the
24 effective date of this Act, and the former law is continued in
25 effect for that purpose.

26 SECTION 4. This Act takes effect September 1, 2009.