

By: Thompson

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,  
including offenses under Chapter 22, 42, 43, or 46, Penal Code, or  
Chapter 481, Health and Safety Code, 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,  
including an order prohibiting the sale or consumption of alcoholic  
beverages on the premises or the possession of alcoholic beverages  
with intent to consume the alcoholic beverages on the permitted  
premises.

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

3            (1) cancel the permit holder's permit;

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

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

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

13        (f) On application by the administrator or commission, the  
14 administrative law judge may enter a temporary order without notice  
15 to the permit holder. A temporary order must expire not later than  
16 the 10th day after the date the order is entered. Before the  
17 temporary order expires, the administrative law judge shall hold a  
18 hearing on the question of whether the temporary order should be  
19 extended for the duration of the contested case or whether other  
20 orders should be issued.

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

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

1 premises.

2 SECTION 2. Subchapter C, Chapter 61, Alcoholic Beverage  
3 Code, is amended by adding Section 61.722 to read as follows:

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

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

11 (c) If the administrator or commission establishes that  
12 there are ongoing criminal acts on the licensed premises that  
13 constitute a threat to the public health, safety, or welfare,  
14 including offenses under Chapter 22, 42, 43, or 46, Penal Code, or  
15 Chapter 481, Health and Safety Code, the administrative law judge  
16 may enter an order to stop the criminal activity from occurring on  
17 the licensed premises while the contested case is pending,  
18 including an order prohibiting the sale or consumption of alcoholic  
19 beverages on the premises or the possession of alcoholic beverages  
20 with intent to consume the alcoholic beverages on the licensed  
21 premises.

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

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

27 (e) The commission or administrator may file a motion with

1 the administrative law judge requesting a hearing on the issue of  
2 whether the license holder violated an order issued under this  
3 section. The administrative law judge shall hold the hearing after  
4 the 10th day after the date the motion for a hearing is filed and  
5 before the 21st day after the date the motion for a hearing is  
6 filed.

7       (f) On application by the administrator or commission, the  
8 administrative law judge may enter a temporary order without notice  
9 to the license holder. A temporary order must expire not later than  
10 the 10th day after the date the order is entered. Before the  
11 temporary order expires, the administrative law judge shall hold a  
12 hearing on the question of whether the temporary order should be  
13 extended for the duration of the contested case or whether other  
14 orders should be issued.

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

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

23       SECTION 3. The change in law made by this Act applies only  
24 to a proceeding to suspend or cancel a permit or license commenced  
25 on or after the effective date of this Act. A proceeding to suspend  
26 or cancel a permit or license commenced before the effective date of  
27 this Act is governed by the law in effect immediately before the

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1 effective date of this Act, and the former law is continued in  
2 effect for that purpose.

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