

By: Quintanilla

H.B. No. 3489

Substitute the following for H.B. No. 3489:

By: Jones

C.S.H.B. No. 3489

A BILL TO BE ENTITLED

AN ACT

relating to the grounds for a hearing concerning action on 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. REQUEST TO TAKE ACTION ON PERMIT. (a) On receipt by the commission of a petition or resolution under this section, the commission or the administrator shall notify a person permitted to sell alcoholic beverages for on-premises consumption of the commission's intent to initiate a hearing under this section with the State Office of Administrative Hearings concerning possible action on the person's permit.

(b) A petition for a hearing under this section must be signed by at least 15 homeowners or tenants who reside on property located within 200 feet of the property line of the permitted premises.

(c) A resolution requesting a hearing under this section may be adopted by majority vote of a neighborhood association of a neighborhood:

(1) having boundaries within 200 feet of the property line of the permitted premises; and

(2) containing property primarily used for residential purposes within 200 feet of the property line of the

1 permitted premises.

2 (d) A petition or resolution under this section must be
3 submitted to the commission with a statement from the individuals
4 submitting the petition or from the neighborhood association that
5 adopted the resolution that:

6 (1) alleges that:

7 (A) the permit holder is using or allowing others
8 to use the permitted premises in a manner that constitutes a common
9 nuisance, as defined by Section 125.001, Civil Practice and
10 Remedies Code, or by Section 101.70(a) of this code; and

11 (B) repeated acts of public lewdness, indecent
12 exposure, public intoxication, or other repeated criminal acts have
13 occurred outdoors on the permitted premises in view of the public;
14 and

15 (2) is supported by evidence showing a history of
16 police responses to the permitted premises because of the criminal
17 activity described by Subdivision (1)(B).

18 (e) After the commission receives a petition or resolution
19 under this section, the State Office of Administrative Hearings
20 shall attempt to mediate a resolution between the residents and the
21 permit holder.

22 (f) If the State Office of Administrative Hearings is not
23 able to resolve the dispute, the State Office of Administrative
24 Hearings shall determine whether to take further action on the
25 petition or resolution, including issuing a temporary injunction or
26 requiring the permit holder to employ an off-duty peace officer to
27 provide security for the permitted premises for a period of six

1 months.

2 (g) If the permit holder violates a temporary injunction
3 issued under this section, the commission or administrator may
4 suspend or cancel the permit holder's permit.

5 (h) This section does not apply to a permit issued to the
6 holder of a food and beverage certificate.

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

9 Sec. 61.722. REQUEST TO TAKE ACTION ON LICENSE. (a) On
10 receipt by the commission of a petition or resolution under this
11 section, the commission or the administrator shall notify a person
12 licensed to sell alcoholic beverages for on-premises consumption of
13 the commission's intent to initiate a hearing under this section
14 with the State Office of Administrative Hearings concerning
15 possible action on the person's license.

16 (b) A petition for a hearing under this section must be
17 signed by at least 15 homeowners or tenants who reside on property
18 located within 200 feet of the property line of the licensed
19 premises.

20 (c) A resolution requesting a hearing under this section may
21 be adopted by majority vote of a neighborhood association of a
22 neighborhood:

23 (1) having boundaries within 200 feet of the property
24 line of the licensed premises; and

25 (2) containing property primarily used for
26 residential purposes within 200 feet of the property line of the
27 licensed premises.

1 (d) A petition or resolution under this section must be
2 submitted to the commission with a statement from the individuals
3 submitting the petition or from the neighborhood association that
4 adopted the resolution that:

5 (1) alleges that:

6 (A) the license holder is using or allowing
7 others to use the licensed premises in a manner that constitutes a
8 common nuisance, as defined by Section 125.001, Civil Practice and
9 Remedies Code, or by Section 101.70(a) of this code; and

10 (B) repeated acts of public lewdness, indecent
11 exposure, public intoxication, or other repeated criminal acts have
12 occurred outdoors on the licensed premises and in view of the
13 public; and

14 (2) is supported by evidence showing a history of
15 police responses to the licensed premises because of the criminal
16 activity described by Subdivision (1)(B).

17 (e) After the commission receives a petition or resolution
18 under this section, the State Office of Administrative Hearings
19 shall attempt to mediate a resolution between the residents and the
20 license holder.

21 (f) If the State Office of Administrative Hearings is not
22 able to resolve the dispute, the State Office of Administrative
23 Hearings shall determine whether to take further action on the
24 petition or resolution, including issuing a temporary injunction or
25 requiring the license holder to employ an off-duty peace officer to
26 provide security for the licensed premises for a period of six
27 months.

1 (g) If the license holder violates a temporary injunction
2 issued under this section, the commission or administrator may
3 suspend or cancel the license holder's license.

4 (h) This section does not apply to a license issued to the
5 holder of a food and beverage certificate.

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