

1-1 By: Patrick S.B. No. 853
1-2 (In the Senate - Filed February 13, 2009; March 9, 2009,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 May 5, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; May 5, 2009, sent
1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 853 By: Eltife

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to authorizing injunctive relief during proceedings to
1-11 cancel or suspend certain alcoholic beverage permits and licenses.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter C, Chapter 11, Alcoholic Beverage
1-14 Code, is amended by adding Section 11.614 to read as follows:

1-15 Sec. 11.614. INJUNCTIVE RELIEF. (a) This section applies
1-16 to a proceeding to cancel or suspend a permit that authorizes the
1-17 permit holder to sell alcoholic beverages for on-premises
1-18 consumption.

1-19 (b) The commission or administrator may file a motion with
1-20 the State Office of Administrative Hearings for injunctive relief
1-21 while the proceeding to cancel or suspend the permit is pending.

1-22 (c) If the administrator or commission establishes that
1-23 there are ongoing criminal acts on the permitted premises that
1-24 constitute a threat to the public health, safety, or welfare, the
1-25 administrative law judge may enter an order to stop the criminal
1-26 activity from occurring on the permitted premises while the
1-27 contested case is pending. Except as provided by Subsection (f), an
1-28 administrative law judge may not issue an injunctive order without
1-29 notice and a hearing.

1-30 (d) If a permit holder violates an order issued under this
1-31 section, the administrative law judge shall:

- 1-32 (1) cancel the permit holder's permit;
1-33 (2) suspend the permit holder's permit; or
1-34 (3) impose a civil fine on the permit holder.

1-35 (e) The commission or administrator may file a motion with
1-36 the administrative law judge requesting a hearing on the issue of
1-37 whether the permit holder violated an order issued under this
1-38 section. The administrative law judge shall hold the hearing after
1-39 the 10th day after the date the motion for a hearing is filed and
1-40 before the 21st day after the date the motion for a hearing is
1-41 filed.

1-42 (f) On application by the administrator or commission, the
1-43 administrative law judge may enter a temporary order without notice
1-44 to the permit holder to stop ongoing criminal activity that
1-45 immediately threatens the public health, safety, or welfare. A
1-46 temporary order must expire not later than the 10th day after the
1-47 date the order is entered. Before the temporary order expires, the
1-48 administrative law judge shall hold a hearing on the question of
1-49 whether the temporary order should be extended for the duration of
1-50 the contested case.

1-51 (g) The administrative law judge shall give priority to a
1-52 hearing for temporary relief over all other matters pending before
1-53 the administrative law judge.

1-54 (h) At the close of the contested case, if the permit holder
1-55 continues to operate, the administrative law judge may issue a
1-56 permanent order imposing conditions on the permit holder to prevent
1-57 the reoccurrence of the criminal activity on the permit holder's
1-58 premises.

1-59 SECTION 2. Subchapter C, Chapter 61, Alcoholic Beverage
1-60 Code, is amended by adding Section 61.722 to read as follows:

1-61 Sec. 61.722. INJUNCTIVE RELIEF. (a) This section applies
1-62 to a proceeding to cancel or suspend a license that authorizes the
1-63 license holder to sell alcoholic beverages for on-premises

2-1 consumption.
2-2 (b) The commission or administrator may file a motion with
2-3 the State Office of Administrative Hearings for injunctive relief
2-4 while the proceeding to cancel or suspend the license is pending.

2-5 (c) If the administrator or commission establishes that
2-6 there are ongoing criminal acts on the licensed premises that
2-7 constitute a threat to the public health, safety, or welfare, the
2-8 administrative law judge may enter an order to stop the criminal
2-9 activity from occurring on the licensed premises while the
2-10 contested case is pending. Except as provided by Subsection (f), an
2-11 administrative law judge may not issue an injunctive order without
2-12 notice and a hearing.

2-13 (d) If a license holder violates an order issued under this
2-14 section, the administrative law judge shall:

- 2-15 (1) cancel the license holder's license;
- 2-16 (2) suspend the license holder's license; or
- 2-17 (3) impose a civil fine on the license holder.

2-18 (e) The commission or administrator may file a motion with
2-19 the administrative law judge requesting a hearing on the issue of
2-20 whether the license holder violated an order issued under this
2-21 section. The administrative law judge shall hold the hearing after
2-22 the 10th day after the date the motion for a hearing is filed and
2-23 before the 21st day after the date the motion for a hearing is
2-24 filed.

2-25 (f) On application by the administrator or commission, the
2-26 administrative law judge may enter a temporary order without notice
2-27 to the license holder to stop ongoing criminal activity that
2-28 immediately threatens the public health, safety, or welfare. A
2-29 temporary order must expire not later than the 10th day after the
2-30 date the order is entered. Before the temporary order expires, the
2-31 administrative law judge shall hold a hearing on the question of
2-32 whether the temporary order should be extended for the duration of
2-33 the contested case.

2-34 (g) The administrative law judge shall give priority to a
2-35 hearing for temporary relief over all other matters pending before
2-36 the administrative law judge.

2-37 (h) At the close of the contested case, if the license
2-38 holder continues to operate, the administrative law judge may issue
2-39 a permanent order imposing conditions on the license holder to
2-40 prevent the reoccurrence of the criminal activity on the license
2-41 holder's premises.

2-42 SECTION 3. The change in law made by this Act applies only
2-43 to a proceeding to suspend or cancel a permit or license commenced
2-44 on or after the effective date of this Act. A proceeding to suspend
2-45 or cancel a permit or license commenced before the effective date of
2-46 this Act is governed by the law in effect immediately before the
2-47 effective date of this Act, and the former law is continued in
2-48 effect for that purpose.

2-49 SECTION 4. This Act takes effect September 1, 2009.

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