

By: Quintanilla

H.B. No. 407

Substitute the following for H.B. No. 407:

By: Driver

C.S.H.B. No. 407

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the grounds for a hearing concerning action on certain
3 alcoholic beverage permits and licenses.

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

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

7 Sec. 11.614. REQUEST TO TAKE ACTION ON PERMIT. (a) On
8 receipt by the commission of a petition or resolution under this
9 section, the commission or the administrator shall notify a person
10 permitted to sell alcoholic beverages for on-premises consumption
11 of the commission's intent to initiate a hearing under this section
12 with the State Office of Administrative Hearings concerning
13 possible action on the person's permit.

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

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

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

23 (2) containing property primarily used for
24 residential purposes having boundaries within 200 feet of the

1 property line of the 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 alleges that the permit holder is using
6 or allowing others to use the permitted premises in a manner that
7 constitutes a common nuisance, as defined by Section 125.001, Civil
8 Practice and Remedies Code, or by Section 101.70(a) of this code.

9 (e) After the commission receives a petition or resolution
10 under this section, the State Office of Administrative Hearings
11 shall attempt to mediate a resolution between the residents and the
12 permit holder.

13 (f) If the State Office of Administrative Hearings is not
14 able to resolve the dispute, the State Office of Administrative
15 Hearings shall determine whether to take further action on the
16 petition or resolution, including issuing a temporary injunction or
17 requiring the permit holder to employ an off-duty peace officer to
18 provide security for the permitted premises for a period of six
19 months.

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

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

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

27 Sec. 61.722. REQUEST TO TAKE ACTION ON LICENSE. (a) On

1 receipt by the commission of a petition or resolution under this
2 section, the commission or the administrator shall notify a person
3 licensed to sell alcoholic beverages for on-premises consumption of
4 the commission's intent to initiate a hearing under this section
5 with the State Office of Administrative Hearings concerning
6 possible action on the person's license.

7 (b) A petition for a hearing under this section must be
8 signed by at least 15 homeowners or tenants who reside on property
9 having boundaries within 200 feet of the property line of the
10 licensed premises.

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

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

16 (2) containing property primarily used for
17 residential purposes having boundaries within 200 feet of the
18 property line of the licensed premises.

19 (d) A petition or resolution under this section must be
20 submitted to the commission with a statement from the individuals
21 submitting the petition or from the neighborhood association that
22 adopted the resolution that alleges that the license holder is
23 using or allowing others to use the licensed premises in a manner
24 that constitutes a common nuisance, as defined by Section 125.001,
25 Civil Practice and Remedies Code, or by Section 101.70(a) of this
26 code.

27 (e) After the commission receives a petition or resolution

1 under this section, the State Office of Administrative Hearings
2 shall attempt to mediate a resolution between the residents and the
3 license holder.

4 (f) If the State Office of Administrative Hearings is not
5 able to resolve the dispute, the State Office of Administrative
6 Hearings shall determine whether to take further action on the
7 petition or resolution, including issuing a temporary injunction or
8 requiring the license holder to employ an off-duty peace officer to
9 provide security for the licensed premises for a period of six
10 months.

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

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

16 SECTION 3. This Act takes effect September 1, 2011.