

By: Quintanilla

H.B. No. 407

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 having boundaries 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 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:

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 having boundaries within 200 feet of the property line of the  
19 licensed 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 having boundaries within 200 feet of the  
27 property line of the 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, 2011.