

BILL ANALYSIS

Senate Research Center

S.B. 409
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 409 creates an exception to Section 11.44 (Premises Ineligible for Permit or License), Alcoholic Beverage Code, which states that if the Texas Alcoholic Beverage Commission (TABC) has initiated action to suspend or cancel a license or permit, no other license or permit may be issued to the same premises. Under the exception created in S.B. 409, TABC will have the discretion to issue a new license or permit covering an otherwise licensed or permitted premises if an administrative action against the holder is pending and the holder has been finally evicted from the premises.

In 2011, following the arrest and imprisonment of the owner of multiple bars located in downtown Austin, TABC initiated actions to cancel nine permits held by that owner. Despite the fact that the licensee was in jail and had been finally evicted from the properties associated with his state-issued permits, TABC could not issue new permits to new qualified applicants for any of the locations while their actions to cancel the permits held by the licensee were pending. This regulatory quagmire resulted in the extended closure of multiple locations in Austin's central entertainment district, hampering economic activity and imposing financial hardship on property owners and investors in new businesses. It also resulted in the loss of tax revenue to state and local government.

While still affording a permit or license holder an opportunity to be heard before a court of law, S.B. 409 will provide an avenue for property owners to protect themselves from the harmful actions of a former tenant who is unwilling to voluntarily surrender his or her TABC permit or license.

S.B. 409 amends current law relating to the issuance of an alcoholic beverage permit or license covering certain premises where a previous permit or license holder has been evicted.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.44, Alcohol Beverage Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Prohibits a permit or license from being issued for or transferred to the same licensed premises, except as provided by Subsection (c), if an order of suspension against a permit or license is pending or unexpired, or if the Texas Alcoholic Beverage Commission (TABC) has initiated action to cancel or suspend a permit or license.

(c) Authorizes TABC to issue an original permit or license covering an otherwise permitted or licensed premises under conditions described by Subsection (a) if the holder of the permit or license that is subject to the pending or unexpired suspension order or against which the cancellation or suspension action has been initiated has been evicted from the premises under a final, nonappealable court judgment and all other conditions

for the issuance of the new permit or license covering the premises are met by the applicant.

SECTION 2. Effective date: September 1, 2013.