

BILL ANALYSIS

Senate Research Center
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H.B. 3181
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This bill seeks to give Texas Alcoholic Beverage Commission the ability to suspend the permit or license of establishments that are proven to the State Office of Administrative Hearings (SOAH) to be operating in violation of certain state criminal laws. Violations of a SOAH injunction can be punished with the cancelation of a permit, a suspension of a permit, or a civil fine. Temporary injunctions can be ordered by SOAH for a period of not more than ten days. SOAH is permitted to put permanent conditions on the continued operation of licensees if necessary to avoid the recurrence of criminal activity.

H.B. 3181 amends current law relating to authorizing injunctive relief during proceedings to cancel or suspend certain alcohol beverage permits and license.

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 Subchapter C, Chapter 11, Alcoholic Beverage Code, by adding Section 11.614, as follows:

Sec. 11.614. INJUNCTIVE RELIEF. (a) Provides that this section applies to a proceeding to cancel or suspend a permit that authorizes the permit holder to sell alcoholic beverages for on-premises consumption.

(b) Authorizes the Texas Alcoholic Beverage Commission (TABC) or administrator to file a motion with the State Office of Administrative Hearings (SOAH) for injunctive relief while the proceeding to cancel or suspend the permit is pending.

(c) Authorizes the administrative law judge, if the administrator or TABC establishes that there are ongoing criminal acts on the permitted premises that constitute a threat to the public health, safety, or welfare, to enter an order to stop the criminal activity from occurring on the permitted premises while the contested case is pending. Prohibits an administrative law judge, except as provided by Subsection (f), from issuing an injunctive order without notice and a hearing.

(d) Requires the administrative law judge, if a permit holder violates an order issued under this section, to cancel the permit holder's permit, suspend the permit holder's permit, or impose a civil fine on the permit holder.

(e) Authorizes TABC or the administrator to file a motion with the administrative law judge requesting a hearing on the issue of whether the permit holder violated an order issued under this section. Requires the administrative law judge to hold the hearing after the 10th day after the date the motion for a hearing is filed and before the 21st day after the date the motion for a hearing is filed.

(f) Authorizes the administrative law judge, on application by the administrator or TABC, to enter a temporary order without notice to the permit holder to stop

ongoing criminal activity that immediately threatens the public health, safety, or welfare. Requires a temporary order to expire not later than the 10th day after the date the order is entered. Requires the administrative law judge, before the temporary order expires, to hold a hearing on the question of whether the temporary order should be extended for the duration of the contested case.

(g) Requires the administrative law judge to give priority to a hearing for temporary relief over all other matters pending before the administrative law judge.

(h) Authorizes the administrative law judge, at the close of the contested case, if the permit holder continues to operate, to issue a permanent order imposing conditions on the permit holder to prevent the reoccurrence of the criminal activity on the permit holder's premises.

SECTION 2. Amends Subchapter C, Chapter 61, Alcoholic Beverage Code, by adding Section 61.722, as follows:

Sec. 61.722. INJUNCTIVE RELIEF. (a) Provides that this section applies to a proceeding to cancel or suspend a license that authorizes the license holder to sell alcoholic beverages for on-premises consumption.

(b) Authorizes TABC or the administrator to file a motion with SOAH for injunctive relief while the proceeding to cancel or suspend the license is pending.

(c) Authorizes the administrative law judge, if the administrator or TABC establishes that there are ongoing criminal acts on the licensed premises that constitute a threat to the public health, safety, or welfare, to enter an order to stop the criminal activity from occurring on the licensed premises while the contested case is pending. Prohibits an administrative law judge, except as provided by Subsection (f), from issuing an injunctive order without notice and a hearing.

(d) Requires the administrative law judge, if a license holder violates an order issued under this section, to cancel the license holder's license, suspend the license holder's license, or impose a civil fine on the license holder.

(e) Authorizes TABC or the administrator to file a motion with the administrative law judge requesting a hearing on the issue of whether the license holder violated an order issued under this section. Requires the administrative law judge to hold the hearing after the 10th day after the date the motion for a hearing is filed and before the 21st day after the date the motion for a hearing is filed.

(f) Authorizes the administrative law judge, on application by the administrator or TABC, to enter a temporary order without notice to the license holder to stop ongoing criminal activity that immediately threatens the public health, safety, or welfare. Requires that a temporary order expire not later than the 10th day after the date the order is entered. Requires the administrative law judge, before the temporary order expires, to hold a hearing on the question of whether the temporary order should be extended for the duration of the contested case.

(g) Requires the administrative law judge to give priority to a hearing for temporary relief over all other matters pending before the administrative law judge.

(h) Authorizes the administrative law judge, at the close of the contested case, if the license holder continues to operate, to issue a permanent order imposing conditions on the license holder to prevent the reoccurrence of the criminal activity on the license holder's premises.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2009.