

1-1 By: Nixon, et al. (Senate Sponsor - Janek) H.B. No. 1592
1-2 (In the Senate - Received from the House April 10, 2003;
1-3 April 14, 2003, read first time and referred to Committee on
1-4 Criminal Justice; May 23, 2003, reported favorably by the
1-5 following vote: Yeas 4, Nays 0; May 23, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the establishment of the offense of performing surgery
1-9 while intoxicated.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter D, Chapter 165, Occupations Code, is
1-12 amended by adding Section 165.1535 to read as follows:

1-13 Sec. 165.1535. PERFORMING SURGERY WHILE INTOXICATED. (a)
1-14 In this section, "intoxicated" has the meaning assigned by Section
1-15 49.01, Penal Code.

1-16 (b) A person commits an offense if the person is licensed or
1-17 regulated under this subtitle, performs surgery on a patient while
1-18 intoxicated, and, by reason of that conduct, places the patient at a
1-19 substantial and unjustifiable risk of harm.

1-20 (c) An offense under this section is a state jail felony.

1-21 (d) It is an affirmative defense to prosecution under this
1-22 section that the actor performed the surgery in an emergency. In
1-23 this subsection, "emergency" means a condition or circumstance in
1-24 which a reasonable person with education and training similar to
1-25 that of the actor would assume that the person on whom the surgery
1-26 was performed was in imminent danger of serious bodily injury or
1-27 death.

1-28 SECTION 2. This Act takes effect September 1, 2003.

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