No. S207313

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

SUPREME COURT
FILED

APR 18 2013

Frank A. McGuire Clerk

Deputy

ROSEMARY VERDUGO, mother, successor and heir of **MARY ANN VERDUGO**, Decedent; and **MICHAEL VERDUGO**, brother of Decedent,

Plaintiffs/Appellants,

vs.

TARGET STORES, a division of **TARGET CORPORATION**, a Minnesota corporation,

Defendant/Respondent.

APPELLANTS' REQUEST FOR JUDICIAL NOTICE

Following Certification of a Question of California Law from the U.S. Court of Appeals, Ninth Circuit, in Appeal No. 10-57008

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Attorneys for Appellants

MOTION FOR JUDICIAL NOTICE

Pursuant to Evidence Code sections 452, 453, and 459; and California Rules of Court, rule 8.252(a) and 8.520(g); appellants Rosemary Verdugo and Michael Verdugo hereby requests that this Court take judicial notice of the following documents, attached as Exhibits 1 through 9:

1. Cover pages and Item 2 (page 3) of Target Corporation's March 13, 2008 Form 10-K annual report submitted to the United States Security and Exchange Commission.
2. Cover pages and Item 6 (page 11) of Target Corporation's March 13, 2009 Form 10-K annual report submitted to the United States Security and Exchange Commission.
3. Legislative committee reports and Legislative Counsel's Digest for SB 911 (1999), regarding enactment of Civil Code section 1714.21 and Health & Safety Code section 1797.196.
4. Legislative committee reports and Legislative Counsel's Digest for AB 2041 (2002), regarding amendment of Civil Code section 1714.21 and Health & Safety Code section 1797.196.
5. Legislative committee reports and Legislative Counsel's Digest for AB 254 (2005), regarding amendment of Health & Safety Code section 1797.196.
6. Legislative committee reports and Legislative Counsel's Digest for AB 2083

(2006), regarding amendment of Health & Safety Code section 1797.196.

7. Legislative committee reports and Legislative Counsel's Digest for SB 1436 (2012), regarding amendment of Health & Safety Code section 1797.196.

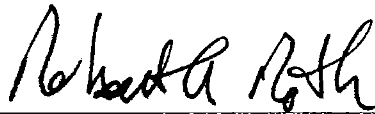
8. The entirety of a publication of the federal Occupational Safety and Health Administration entitled Best Practices Guide: Fundamentals of a Workplace First-Aid Program (2006).

9. Current advertisement on Target's 'target.com' website for sale of the "HeartStart Home Defibrillator."

This motion for judicial notice is based on the accompanying Memorandum of Points and Authorities, Declaration of Robert A. Roth, and proposed Order.

Respectfully Submitted,
TARKINGTON, O'NEILL, BARRACK & CHONG

Date: April 16, 2013



By: ROBERT A. ROTH
Attorneys for Rosemary Verdugo
and Michael Verdugo

MEMORANDUM OF POINTS & AUTHORITIES

STATEMENT OF FACTS

This case comes before the Court on the following certified question from the U.S. Court of Appeals for the Ninth Circuit:

> Under what circumstances, if ever, does the common law duty of a commercial property owner to provide emergency first aid to invitees require the availability of an Automated External Defibrillator ('AED') for cases of Sudden Cardiac Arrest?

In the underlying case, Mary Ann Verdugo died from Sudden Cardiac Arrest in a Target department store in Southern California. Target has a company-wide policy of not having an Automated External Defibrillator (AED) on store premises available to assist patrons stricken by Sudden Cardiac Arrest.

If a person stricken with Sudden Cardiac Arrest is not treated with an AED within five minutes, they will die. In Ms. Verdugo's case, paramedics equipped with an AED were not able to reach Ms. Verdugo within five minutes, and she died. Each year, approximately 300,000 people in the United States die of Sudden Cardiac Arrest.

In proceedings before the U.S. District Court, Target's motion to dismiss appellants' complaint was granted on the grounds that "there is no California common law duty requiring a department store to acquire and provide a defibrillator in the event that a customer or member of the public suffers Sudden Cardiac Arrest while on the premises." Following entry of a defense judgment, an

appeal to the United States Court of Appeals for the Ninth Circuit was filed on December 21, 2010. On January 16, 2013, this Court granted the Ninth Circuit's request for certification the previously-quoted question of law for decision by this Court.

As a publicly traded company, Target is required to file Form K-10 annual reports with the United States Security and Exchange Commission. (15 USCS section 78m; 17 CFR 249.310.) The Form 10-K annual report "provides a comprehensive overview of the company's business and financial condition and includes audited financial statements." (*Ajaxo Inc. v. E*Trade Financial Corporation* (2010) 187 Cal.App.4th 1295, 1303 fn. 5.) As the Form 10-K reports referenced here are extremely lengthy, only the portions relevant to this motion are attached hereto. The full Form 10-K reports may be viewed at: http://investors.target.com/phoenix.zhtml?c=65828&p=irol-sec.

Exhibit 1 provides a copy of Item 2 from Target's March 13, 2008 Form 10-K annual report. Item 2, "Properties," provides a summary by state of Target's retail stores in the United States as of February 2, 2008. Item 2 of the Form 10-K report reveals that 225 (14%) of Target's 1,591 retail stores in the United States were located in California. The California stores encompassed 28,836,000 square feet of retail space, averaging over 124,000 square feet per store. Like many Target stores, the store where decedent died is heavily trafficked. The Form 10-K

information is relevant to the issue of whether AEDs should be kept on site for large-scale premises where emergency medical crews may have difficulty reaching Sudden Cardiac Arrest victims in a timely fashion. It is also relevant in evaluating the burden on such a proprietor of installing an AED, and the foreseeability that a customer would suffer Sudden Cardiac Arrest on store premises.

Exhibit 2 provides a copy of Item 6 from Target's March 13, 2009 Form 10-K annual report. Item 6, "Selected Financial Data," reveals that for the year ending in 2008, Target had total revenues of $64,948,000,000. This information is relevant to the issues of burden and foreseeability.

Exhibits 3 through 7 are Legislative committee reports and the Legislative Counsel's Digest for legislation enacting and amending Civil Code section 1714.21 and Health & Safety Code section 1797.196. This legislation addresses liability and immunity issues pertaining to proprietors who install AEDs on their premises, and provides important insights on California public policy relevant to this appeal, and whether the bills are indicative of the existence of common law liability.

Exhibit 8 is a publication of the federal Occupational Safety and Health Administration entitled Best Practices Guide: Fundamentals of a Workplace First-Aid Program (2006). It discusses whether AEDs should be included in first aid preparations. As Restatement of Torts Second section 314A discusses, inter alia, a proprietor's duty to render "first aid" to ill or injured customers, the OSHA

publication sheds light on how the term 'first aid' should be construed here.

Exhibit 9 is a copy of an ad currently on display on the website of respondent Target, advertising an AED for sale. As alleged in the Complaint, a similar ad was running on Target's website at the time of Mary Ann Verdugo's death. The ad is relevant to Target's knowledge of the purpose and efficacy of AEDs, and also as to the burden on a landholder of keeping one on premises.

None of these documents were judicially noticed in proceedings before the U.S. District Court, and all pertain to matters occurring before judgment, except for Exhibit 9, which is believed to be substantially similar to the ad running at the time of decedent's death. (California Rules of Court, rule 8.252(a)(1).)

POINTS & AUTHORITIES

Pursuant to Evidence Code section 452, this Court can take judicial notice of the documents on file with federal administrative agencies. (*Smiley v. Citibank (South Dakota) N.A.* (1995) 11 Cal.4th 138, 145 fn. 2; Evidence Code section 452, subds. (c), (h).) Specifically, the Court can take judicial notice of substantively relevant Security and Exchange Commission documents, including Form 10-K reports. (*Kruss v. Booth* (2010) 185 Cal.App.4th 699, 710; *Aguila v. Superior Court* (2007) 148 Cal.App.4th 556, 575.) Thus, judicial notice is authorized as to Exhibits 1 and 2.

Legislative committee reports "are indisputably proper subjects of judicial notice." (*Soukup v. Law Offices of Herbert Hafiff* (2006) 39 Cal.4th 260, 280 fn. 9.) Likewise, "[t]he Legislative Counsel's Digest is frequently a valuable tool in assessing legislative intent," and is a proper subject of judicial notice. (*People v. Cruz* (1996) 13 Cal.4th 764, 795 fn. 6.) Therefore, judicial notice of Exhibits 3 through 7 is proper.

It is proper for the Court to take judicial notice of the OSHA's 'Best Practices Guide' on first aid, even though its recommendations are advisory and not mandatory. (See *City of Maywood v. Los Angeles Unified School District* (2012) 208 Cal. App. 4th 362, 418 fn. 25 & 26; *Sierra Pacific Holdings v. County of Ventura* (2012) 204 Cal. App. 4th 509, 512 fn. 1; *Cundiff v. GTE California Incorporated* (2002) 101 Cal. App. 4th 1395, 1403-1404.) Judicial notice of Exhibit 8 should therefore be granted.

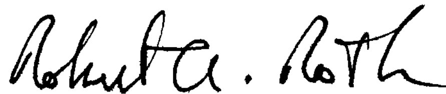
The Court may take judicial notice of Target's own statements currently on its web site acknowledging the ease of use and efficacy of AEDs. (*In re Forchion* (2011) 198 Cal.App.4th 1284, 1287; *Ampex Corp v. Cargle* (2005) 128 Cal.App.4th 1569, 1573 fn. 2; Evidence Code section 452, subd. (h).) Accordingly, judicial notice of Exhibit 9 should be granted.

CONCLUSION

For the reasons stated herein, appellants Rosemary Verdugo and Michael Verdugo respectfully requests that the Court grant judicial notice of Exhibits 1 through 9 accompanying this motion; reserve ruling on judicial notice until after the case has been fully briefed; or grant such other relief as may be appropriate.

Respectfully Submitted,
TARKINGTON, O'NEILL, BARRACK & CHONG

Date: April 17, 2013



By: ROBERT A. ROTH
Attorney for Appellants

DECLARATION OF ROBERT A. ROTH

I, Robert A. Roth, declare as follows:

1. I am a member of the State Bar of California, and principal appellate counsel for appellants Rosemary Verdugo and Michael Verdugo. I am certified by the State Bar as an appellate specialist.

2. I am familiar with the facts represented in this Request for Judicial Notice, and declare that they are true and correct. I personally obtained the documents accompanying this Request or Judicial Notice from reliable sources.

3. Exhibit 1 is a true and authentic copy of the cover pages and Item 2 (page 3) of Target Corporation's March 13, 2008 Form 10-K annual report submitted to the

United States Security and Exchange Commission. A complete copy of Target's Form 10-K reports can be viewed at:

http://investors.target.com/phoenix.zhtml?c=65828&p=irol-sec.

4. Exhibit 2 is a true and authentic copy of the cover pages and Item 6 (page 11) of Target Corporation's March 13, 2009 Form 10-K annual report submitted to the United States Security and Exchange Commission.

5. Exhibit 3 is an accurate and complete copy of all of the legislative committee reports and the Legislative Counsel's Digest for SB 911 (1999), regarding enactment of Civil Code section 1714.21 and Health & Safety Code section 1797.196. I personally obtained these legislative history materials (and the history of the other bills described herein) from the "Bill Information" feature of the State of California's "Official California Legislative Information" website, at http://www.leginfo.ca.gov.

6. Exhibit 4 is an accurate and complete copy of all of the legislative committee reports and the Legislative Counsel's Digest for AB 2041 (2002), regarding amendment of Civil Code section 1714.21 and Health & Safety Code section 1797.196.

7. Exhibit 5 is an accurate and complete copy of all of the legislative committee reports and the Legislative Counsel's Digest for AB 254 (2005), regarding amendment of Health & Safety Code section 1797.196.

8. Exhibit 6 is an accurate and complete copy of all of the legislative committee reports and the Legislative Counsel's Digest for AB 2083 (2006), regarding amendment of Health & Safety Code section 1797.196.

9. Exhibit 7 is an accurate and complete copy of all of the legislative committee reports and the Legislative Counsel's Digest for SB 1436 (2012), regarding amendment of Health & Safety Code section 1797.196.

10. Exhibit 8 is the entirety of a publication of the federal Occupational Safety and Health Administration entitled Best Practices Guide: Fundamentals of a Workplace First-Aid Program (2006). I personally obtained this document from the Publications feature of the website of the federal Occupational Safety and Health Administration, at http://www.osha.gov/Publications/OSHA3317first-aid.pdf.

11. Exhibit 9 is a printout of from the target.com website in which a product known as the "HeartStart Home Defibrillator" is described and offered for sale. I personally located and printed this information from the target.com website on or about April 15, 2013. I have personal knowledge that this printout is substantially similar to the website's feature on sale of a defibrillator that was in effect at the time of the original complaint in this matter.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: April 17, 2013

By: ROBERT A. ROTH

(Proposed) Order

This matter came before the Court on appellants' Motion for Judicial Notice, pursuant to Evidence Code sections 452, 453 and 459; and California Rules of Court, rule 8.252 and 8.520. Good cause appearing, the Court takes judicial notice of Exhibits 1 through 9 attached to said motion for judicial notice.

IT IS SO ORDERED:

Date:

____

JUSTICE OF THE CALIFORNIA SUPREME COURT

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-K

(Mark One)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended February 2, 2008

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission file number **1-6049**

TARGET CORPORATION
(Exact name of registrant as specified in its charter)

Minnesota (State or other jurisdiction of incorporation or organization)	**41-0215170** (I.R.S. Employer Identification No.)
1000 Nicollet Mall, Minneapolis, Minnesota (Address of principal executive offices)	**55403** (Zip Code)

Registrant's telephone number, including area code: 612/304-6073

Securities Registered Pursuant To Section 12(B) Of The Act:

Title of Each Class	Name of Each Exchange on Which Registered
Common Stock, par value $.0833 per share	**New York Stock Exchange**
Preferred Share Purchase Rights	**New York Stock Exchange**

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Note – Checking the box above will not relieve any registrant required to file reports pursuant to Section 13 or 15(d) of the Exchange Act from their obligations under those Sections.

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company (as defined in Rule 12b-2 of the Act).

Large accelerated filer ☒ Accelerated filer ☐ Non-accelerated filer ☐ Smaller reporting company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes ☐ No ☒

Aggregate market value of the voting stock held by non-affiliates of the registrant on August 4, 2007 was $51,215,093,935, based on the closing price of $60.51 per share of Common Stock as reported on the New York Stock Exchange-Composite Index.

Indicate the number of shares outstanding of each of registrant's classes of Common Stock, as of the latest practicable date. Total shares of Common Stock, par value $.0833, outstanding at March 11, 2008 were 813,034,094.

DOCUMENTS INCORPORATED BY REFERENCE

1. Portions of Target's Proxy Statement to be filed on or about April 7, 2008 are incorporated into Part III.

PART I

Item 1. Business

General

Target Corporation (the Corporation or Target) was incorporated in Minnesota in 1902. We operate large-format general merchandise and food discount stores in the United States, which include Target and SuperTarget stores. We offer both everyday essentials and fashionable, differentiated merchandise at exceptional prices. Our ability to deliver a shopping experience that is preferred by our guests is supported by our strong supply chain and technology infrastructure, a devotion to innovation that is ingrained in our organization and culture, and our disciplined approach to managing our current business and investing in future growth. We operate as a single business segment.

Our credit card operations represent an integral component of our core retail business. Through our branded proprietary credit card and debit card products (REDcards), we strengthen the bond with our guests, drive incremental sales and contribute meaningfully to earnings. We also operate a fully integrated online business, Target.com. Although Target.com is small relative to our overall size, its sales are growing at a much more rapid pace than our in-store sales, and it provides important benefits to our stores and credit card operations.

We are committed to consistently delighting our guests, providing a workplace that is preferred by our team members and investing in the communities where we do business to improve the quality of life. We believe that this unwavering focus, combined with disciplined execution of the fundamentals of our strategy, will enable us to continue generating profitable market share growth and delivering superior shareholder value for many years to come.

Financial Highlights

Our fiscal year ends on the Saturday nearest January 31. Unless otherwise stated, references to years in this report relate to fiscal years, rather than to calendar years. Fiscal year 2007 (2007) ended February 2, 2008 and consisted of 52 weeks. Fiscal year 2006 (2006) ended February 3, 2007 and consisted of 53 weeks. Fiscal year 2005 (2005) ended January 28, 2006 and consisted of 52 weeks.

For information on key financial highlights, see the items referenced in Item 6, Selected Financial Data, and Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations, of this Form 10-K.

Seasonality

Due to the seasonal nature of our business, a substantially larger share of total annual revenues and earnings occur in the fourth quarter because it includes the peak sales period from Thanksgiving to the end of December.

Merchandise

We operate Target general merchandise stores with a wide assortment of general merchandise and a limited assortment of food items, as well as SuperTarget stores with a full line of food and general merchandise items. Target.com offers a wide assortment of general merchandise including many items found in our stores and a complementary assortment, such as extended sizes and colors, sold only online. A significant portion of our sales is from national brand merchandise. In addition, we sell merchandise under private-label brands including, but not limited to, Archer Farms®, Boots & Barkley®, Choxie®, Circo®, Durabuilt™, Embark®, Gilligan & O'Malley®, Home and Bullseye Design, Kaori™, Market Pantry®, Merona®, Playwonder®, ProSpirit®, Trutech® and Xhilaration®. We also sell merchandise through unique programs such as ClearRx℠, Global Bazaar and GO International®. In addition, we also sell merchandise under licensed brands including, but not limited to, C9 by Champion, Converse, Chefmate, Cherokee, Eddie Bauer, Fieldcrest, Genuine Kids by Osh Kosh, Isaac Mizrahi for Target, Kitchen Essentials by Calphalon, Liz Lange for Target, Michael Graves Design, Mossimo, Nick & Nora, Perfect Pieces by Victoria Hagan, Sean Conway, Simply Shabby Chic, Smith & Hawken, Sonia Kashuk, Thomas O'Brien, Waverly and Woolrich. We also generate revenue from in-store amenities such as Food Avenue®, Target Clinic℠, Target Pharmacy℠, and Target Photo℠, and from leased or licensed departments such as Optical, Pizza Hut, Portrait Studio and Starbucks.

For 2007, 2006 and 2005, percentage of sales by product category were as follows:

Item 1B. Unresolved Staff Comments

Not Applicable.

Item 2. Properties

The following table lists our retail stores as of February 2, 2008:

State	Number of Stores	Retail Sq. Ft. (in thousands)	State	Number of Stores	Retail Sq. Ft. (in thousands)
Alabama	18	2,554	Montana	7	780
Alaska	—	—	Nebraska	14	1,934
Arizona	45	5,800	Nevada	15	1,863
Arkansas	6	745	New Hampshire	8	1,023
California	225	28,836	New Jersey	38	4,925
Colorado	38	5,615	New Mexico	9	1,024
Connecticut	16	2,093	New York	58	7,718
Delaware	2	268	North Carolina	45	5,852
Florida	115	15,701	North Dakota	4	554
Georgia	51	6,845	Ohio	63	7,798
Hawaii	—	—	Oklahoma	10	1,455
Idaho	6	664	Oregon	18	2,166
Illinois	82	11,035	Pennsylvania	47	6,039
Indiana	32	4,207	Rhode Island	3	378
Iowa	21	2,855	South Carolina	18	2,224
Kansas	18	2,450	South Dakota	4	417
Kentucky	12	1,383	Tennessee	28	3,464
Louisiana	13	1,853	Texas	136	18,580
Maine	4	503	Utah	11	1,679
Maryland	32	4,082	Vermont	—	—
Massachusetts	30	3,803	Virginia	49	6,425
Michigan	57	6,690	Washington	34	3,968
Minnesota	71	10,032	West Virginia	5	626
Mississippi	4	489	Wisconsin	34	4,042
Missouri	33	4,321	Wyoming	2	187
			Total	**1,591**	**207,945**

The following table summarizes the number of owned or leased stores and distribution centers at February 2, 2008:

	Stores	Distribution Centers
Owned	1,352	26
Leased	73	5
Combined *(a)*	166	1
Total	**1,591**	**32** *(b)*

(a) *Properties within the "combined" category are primarily owned buildings on leased land.*
(b) *The 32 distribution centers have a total of 45,069 thousand square feet.*

We own our corporate headquarters buildings located in Minneapolis, Minnesota, and we lease and own additional office space in the United States. Our international sourcing operations have 34 office locations in 24 countries, all of which are leased. We also lease office space in Bangalore, India, where we operate various support functions. Our properties are in good condition, well maintained and suitable to carry on our business.

For additional information on our properties see also (1) Capital Expenditures section in Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations and (2) Note 12 and Note 21 of the Notes to Consolidated Financial Statements in Item 8, Financial Statements and Supplementary Data.

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-K

(Mark One)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

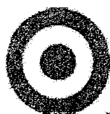
For the fiscal year ended January 31, 2009

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission file number **1-6049**



TARGET CORPORATION
(Exact name of registrant as specified in its charter)

Minnesota	**41-0215170**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
1000 Nicollet Mall, Minneapolis, Minnesota	**55403**
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: 612/304-6073

Securities Registered Pursuant To Section 12(B) Of The Act:

Title of Each Class	Name of Each Exchange on Which Registered
Common Stock, par value $.0833 per share	**New York Stock Exchange**

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Note – Checking the box above will not relieve any registrant required to file reports pursuant to Section 13 or 15(d) of the Exchange Act from their obligations under those Sections.

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company (as defined in Rule 12b-2 of the Act).

Large accelerated filer ☒ Accelerated filer ☐ Non-accelerated filer ☐ Smaller reporting company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes ☐ No ☒

Aggregate market value of the voting stock held by non-affiliates of the registrant on August 2, 2008 was $33,662,914,485, based on the closing price of $44.68 per share of Common Stock as reported on the New York Stock Exchange- Composite Index.

Indicate the number of shares outstanding of each of registrant's classes of Common Stock, as of the latest practicable date. Total shares of Common Stock, par value $.0833, outstanding at March 11, 2009 were 752,672,699.

DOCUMENTS INCORPORATED BY REFERENCE

1. Portions of Target's Proxy Statement to be filed on or about April 13, 2009 are incorporated into Part III.

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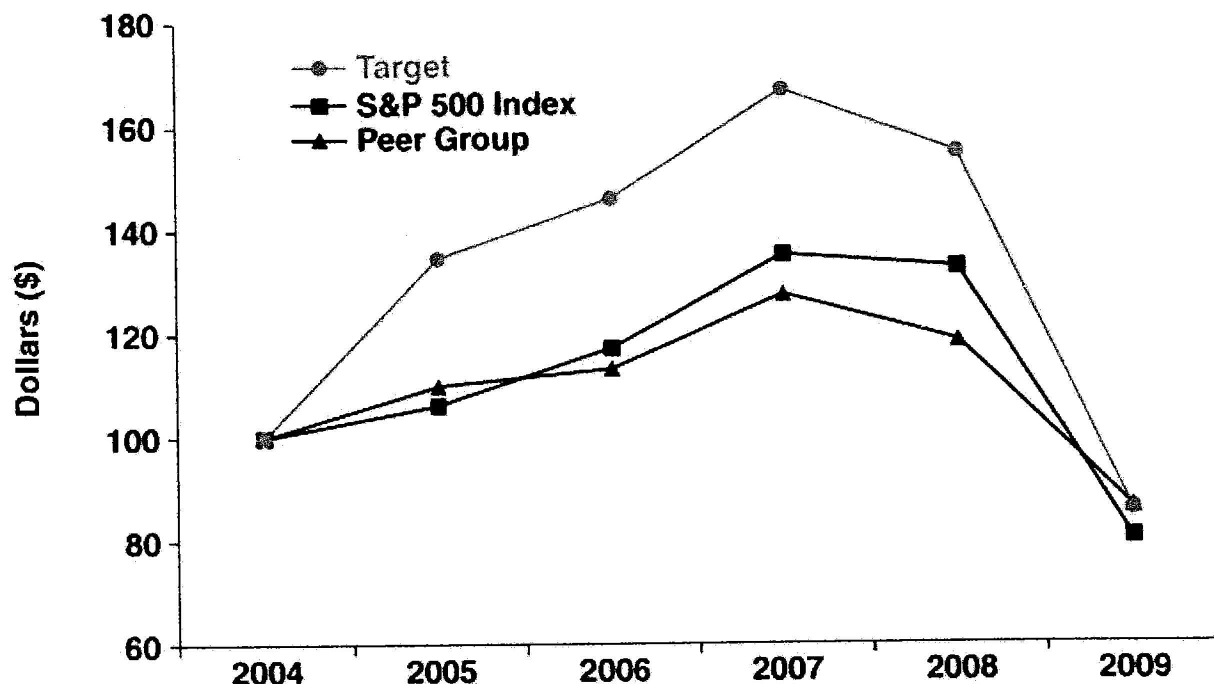

	Fiscal Years Ended					
	January 31, 2004	January 29, 2005	January 28, 2006	February 3, 2007	February 2, 2008	January 31, 2009
Target	$ 100.00	$ 134.62	$ 146.16	$ 166.98	$ 154.95	$ 85.91
S&P 500 Index	100.00	106.23	117.26	135.22	132.78	80.51
Peer Group	100.00	109.98	113.26	127.58	118.61	86.42

The graph above compares the cumulative total shareholder return on our common stock for the last five fiscal years with the cumulative total return on the S&P 500 Index and a peer group consisting of the companies comprising the S&P 500 Retailing Index and the S&P 500 Food and Staples Retailing Index (Peer Group) over the same period. The Peer Group index consists of 36 general merchandise, food and drug retailers and is weighted by the market capitalization of each component company. The graph assumes the investment of $100 in Target common stock, the S&P 500 Index and the Peer Group on January 31, 2004 and reinvestment of all dividends.

Item 6. Selected Financial Data

	As of or for the Year Ended					
	2008	**2007**	**2006*(a)***	**2005**	**2004**	**2003**
Financial Results: (millions)						
Total revenues	**$ 64,948**	$63,367	$ 59,490	$52,620	$46,839	$42,025
Earnings from continuing operations	**2,214**	2,849	2,787	2,408	1,885	1,619
Net Earnings	**2,214**	2,849	2,787	2,408	3,198	1,809
Per Share:						
Basic earnings per share	**2.87**	3.37	3.23	2.73	2.09	1.78
Diluted earnings per share	**2.86**	3.33	3.21	2.71	2.07	1.76
Cash dividends declared per share	**0.62**	0.54	0.46	0.38	0.31	0.27
Financial Position: (millions)						
Total assets	**44,106**	44,560	37,349	34,995	32,293	27,390
Long-term debt, including current portion	**18,752**	16,590	10,037	9,872	9,538	11,018

(a) *Consisted of 53 weeks.*

SENATE JUDICIARY COMMITTEE
Adam B. Schiff, Chairman
1999-2000 Regular Session

;B 911	S
;enator Figueroa	B
\s Amended April 8, 1999	
Iearing Date: April 13, 1999	9
:ivil/Health and Safety Codes	1
;WW:cjt	1

SUBJECT

Automatic External Defibrillators (AEDs):
Good Samaritan Immunity for Acquisition and Use of AEDs in Emergencies

DESCRIPTION

?his bill would provide a qualified immunity from civil
.iability for trained persons who use in good faith and
rithout compensation an automated external defibrillator
("AED") in rendering emergency care or treatment at the
scene of an emergency. The qualified immunity would also
extend to those businesses that purchased the device, the
nedical authority which prescribed the device, and the
agency which trained the person in the use of the AED.

?he immunity would not apply in cases of personal injury
resulting from gross negligence of wilfull or wanton
nisconduct.

(This analysis reflects author's amendments to be offered
in committee.)

BACKGROUND

\n AED is a medical device which is used to administer an
electric shock through the chest wall to the heart after
someone suffers cardiac arrest. Built-in computers assess
the patient's heart rhythm, determine whether the person is
in cardiac arrest, and signal whether to administer the
shock. Audible cues guide the user through the process.

(more)

?ortable AEDs are available upon a prescription from a
.edical authority. Their general cost is about $3,000.

CHANGES TO EXISTING LAW

Existing law , Health and Safety Code section 1799.102,
provides immunity from civil liability to any person who,
in good faith and without compensation or the expectation
of compensation, renders emergency care at the scene of an
emergency. Existing law, Civil Code section 1714.2, also
expressly provides immunity from civil liability to any
person who completes a designated cardiopulmonary
resuscitation (CPR) course and who, in good faith, renders
emergency cardiopulmonary resuscitation at the scene of an
emergency, without the expectation of receiving
compensation for providing the emergency care. Existing
law also exempts from civil liability any local agency,
entity of state or local government, or other public or
private organization which sponsors, authorizes, supports,
finances, or supervises the training of citizens in CPR.
(Health & Safety Code Section 1799.100.)

This bill would provide a qualified immunity from civil
liability to:
1) any person who, in good faith and not for compensation renders emergency care or treatment by the use of an automated external defibrillator at the scene of an emergency, when the person has met specified training requirements;
2) a person or entity who provides CPR and AED training to the good samaritan rendering emergency care with the use of an AED;
3) a physician or medical authority who prescribes the AED and any person or entity responsible for the site where an AED is located, for negligent acts of the good

samaritan in rendering emergency care with an AED, if that physician, medical authority, person, or entity has complied with certain training and maintenance requirements. (See Comment 2.)

The proposed qualified immunity would not apply in the case of personal injury resulting from the operator's gross negligence or willful or wanton misconduct.

COMMENT

1. Stated need for bill: AEDs can save lives, but liability fears are limiting its use

According to the sponsor, the American Heart Association ("AHA"), approximately 450,000 people suffer every year in the United States from sudden cardiac arrest, and the current survival rate for these victims is about five percent. Over 2,900 people suffer cardiac arrest in California every day. It is estimated that over 460 of these occur in public places and some 440 of those people die. "Every month that passes these 440 Californian's lives are at risk."

AHA states that cardiac arrest is a life-or-death situation, and the patient has very little chance of survival without defibrillation. However, the window of opportunity for saving lives through defibrillation is very small, being only 10-13 minutes even if CPR is administered correctly. According to the sponsor, in cases of sudden cardiac arrest, CPR is merely a maintenance tool, and defibrillation must take place to "shock" the patient's heart into a proper working rhythm. Thus, the public would be better served, and lives could be saved, if businesses and offices were encouraged to have AEDs on-site.
However, AHA asserts, many California businesses that would otherwise have an AED on site are unwilling to do so because of liability fears. The potential exposure for the business to defend itself whenever the use of an AED does not prevent death from occurring, is too great a risk.

While it is not known if any business has in fact been sued, the sponsor reports that the California businesses are reluctant to make the use of AEDs available in their facilities until this issue, real or perceived, is addressed. This bill, it is hoped, will address those liability concerns and encourage businesses to have AEDs on-site to aid in emergency situations.

2. Required training and maintenance requirements for qualified immunity

a. For operator

For the qualified immunity to apply, SB 911 would require the good samaritan operator to have completed a basic CPR and AED use course that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards adopted by the American Heart Association or the American Red Cross for CPR and AED use. Author's amendments in committee will further provide that the training requirement be met annually. This amendment was made to address concerns that the operator's training should be regular and up to date if he or she is going to be immunized from negligent actions. (Current EMS regulations call for a training class of not less than four hours covering, among other topics: a) the proper use, maintenance, and periodic inspection of the AED; b) the importance of CPR and defibrillation; c) assessment of an unconscious patient to determine if cardiac arrest has occurred and the appropriateness of using the AED; and d) information as to defibrillator safety precautions and training in determining if further usage is necessary.)

b. For business having AED on site

Proposed Civil Code section 1797.196, beginning page 4, line 4, requires a business acquiring an AED to satisfy all of the following conditions:
i) Comply with all regulations governing the training, use, and placement of an AED.
ii) Notify the local EMS agency of the existence, location and type of AED acquired.
iii) Ensure that expected AED users complete the required training for AED operators to qualify for the immunity.
iv) Ensure that the defibrillator is maintained and tested according to the manufacturer's operational guidelines. Author's amendments in committee will further provide that the owner shall conduct a check after each usage, and once every 30 days if the AED has not been used, and to keep records of such checks.
v) Ensure that the emergency medical services system is activated as soon as possible when an operator uses an AED, and that usage is reported to the local

EMS agency and the authorizing medical authority.
vi) Ensure that the prescribing medical authority is involved in developing a program to ensure compliance with the regulations and the requirements for training, notification and maintenance.

3. Amendment needed to clarify application of statute in wrongful death cases

The bill would make the immunity inapplicable "in the case of personal injury" that results from the operator's gross negligence or wilfull or wanton misconduct. As written, the language omits "wrongful death," thereby leaving open the interpretation that an operator's gross negligence or wilfull misconduct resulting in a victim's death would be immunized.

Suggested amendment: On page 3, line 34, after "personal injury" insert: or wrongful death

4. Position of Consumer Attorneys: none at the time of writing

Consumer Attorneys of California (CAOC) have traditionally opposed any extensions of immunity that would immunize a person from liability for the person's negligent conduct. They observe that the current "Good Samaritan" immunity already protects trained volunteers who render emergency medical services, but that this bill might be, if carefully drafted, an appropriate application of that law specifically as it applies to the use of AEDs. The key for CAOC is that users must be adequately trained, and the equipment must be regularly checked to ensure that it is in good working order. Otherwise, the statute may unintentionally create fertile grounds for negligence.

5. No risk of accidental misuse, asserts sponsor

According to the sponsor AEDs contain microcomputers to accurately identify sudden cardiac arrests and make extensive use of audible prompting and signals to provide operators with clear and concise instruction, making their use uncomplicated, intuitive, and nearly foolproof. Safeguards are built in to protect both operator and

victim and to ensure that the AED will only deliver a shock if, in fact, the device affirmatively determines that a victim is in sudden cardiac arrest. Further, the device does not allow for manual overrides, in the event a panicked operator tries to administer the shock even when the device finds that the victim is not in cardiac arrest.

(Intentional misuse would not be covered by the qualified

immunity.)

6. Further support

The California Medical Association (CMA), other professional medical groups, and various medical centers also support the bill, stating that when individuals suffer from sudden cardiac arrest, the use of a defibrillator significantly increases the survival rate of the victims. The CMA believes that increasing the usage of defibrillators in the life threatening emergency of cardiac arrest will save lives.

7. Technical musing

In three parts of the bill, SB 911 refers to an immunity from any civil damages "resulting from" any acts or omissions of the operator. In technical parlance, "legally caused by" would be the more modern and accurate reference. However, existing good samaritan statutes also use the term "resulting from" and confusion may ensue among laypersons as well as the court if this legislature were to use "legally caused by" in this statute, while leaving "resulting from" in the existing statutes. Thus, maintaining consistency between the various good samaritan laws by using the term "resulting from" instead of "legally caused by" in the new statute would not necessarily be foolish, given that the courts will likely apply the proper causation test in either event.

Support: American Red Cross; California Medical Ass'n.; California Chapter of the American College of Cardiology; American College of Emergency Physicians, California Chapter; Emergency Nurses Association of California; Northern California

Cardiology Associates; Kaiser Permanente; San Francisco Medical Society, Sacramento Chapter; California Labor Federation, AFL-CIO; Greater San Fernando Chamber of Commerce; Emergency Medical Services Administrators' Association of California; St. Joseph's Regional Health System; Medical Center; Riverside County Regional Medical Center; Woodland Healthcare; Survivalink; California Chamber of Commerce; numerous individual

Opposition: None Known

HISTORY

Source: American Heart Association

Related Pending Legislation: None Known

Prior Legislation: None Known

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SENATE RULES COMMITTEE | SB 911
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 445-6614 Fax: (916)
327-4478

CONSENT

Bill No: SB 911
Author: Figueroa (D), et al
Amended: 4/27/99
Vote: 21

SENATE JUDICIARY COMMITTEE : 8-0, 4/13/99
AYES: Burton, Escutia, Haynes, Morrow, O'Connell, Sher, Wright, Schiff
NOT VOTING: Peace

SUBJECT : Automatic External Defibrillators (AEDs): Good Samaritan Immunity for Acquisition and Use of AEDs in Emergencies

SOURCE : American Heart Association

DIGEST : This bill provides a qualified immunity from civil liability for trained persons who use in good faith and without compensation an automated external defibrillator ("AED") in rendering emergency care or treatment at the scene of an emergency. The qualified immunity also extends to those businesses that purchased the device, the physician who prescribed the device, and the agency which trained the person in the use of the AED, as specified.

The immunity would not apply in cases of personal injury or wrongful death resulting from gross negligence of willful or wanton misconduct.

CONTINUED

ANALYSIS : Existing law, Health and Safety Code section 1799.102, provides immunity from civil liability to any person who, in good faith and without compensation or the expectation of compensation, renders emergency care at the scene of an emergency. Existing law, Civil Code section 1714.2, also expressly provides immunity from civil liability to any person who completes a designated cardiopulmonary resuscitation (CPR) course and who, in good faith, renders emergency cardiopulmonary resuscitation at the scene of an emergency, without the expectation of receiving compensation for providing the emergency care. Existing law also exempts from civil liability any local agency, entity of state or local government, or other public or private organization which sponsors, authorizes, supports, finances, or supervises the training of citizens in CPR. (Health & Safety Code Section 1799.100.)

This bill would provide a qualified immunity from civil liability to:

1. Any person who has completed a basic CPR and AED use course within the preceding 12 months that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and with the standards of the American Heart Association or the American Red Cross for CPR and AED use, and who, in good faith and not for compensation renders emergency care or treatment by the use of an automated external defibrillator at the scene of an emergency.

2.A person or entity who provides CPR and AED training to the good samaritan rendering emergency care with the use of an AED.

3.A physician who prescribes the AED and any person or entity responsible for the site where an AED is located, for negligent acts of the good samaritan in rendering emergency care with an AED, if that physician, person, or entity has complied with certain training and maintenance

requirements.

The bill would make the immunity inapplicable "in the case of personal injury" or wrongful death, that results from the operator's gross negligence or willful or wanton misconduct.

The bill provides that nothing in this bill relieves a manufacturer, designer, developer, distributor, installer or supplier of an AED or defibrillator of any liability under any applicable statute or rule of law.

For purposes of this bill, "AED" or "defibrillator" means an automated or automatic external defibrillators.

The bill provides that in order to ensure public safety, any person who acquires an AED shall do all of the following:

1.Comply within all regulations governing the training, use, and placement of an AED.

2.Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.

The bill would require all of the following:

1.That expected AED users annually complete a training course in cardiopulmonary resuscitation and AED use that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards of the American Heart Association or the American Red Cross.

2.That the defibrillator is maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer, the American Heart Association, and the American Red Cross, and according to the rules and regulations set forth by the governmental authority under the Federal Drug Administration and any other applicable state and federal authority.

3.That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these periodic checks shall be maintained.

4.That any person who renders emergency care or treatment on a person in cardiac arrest by using an AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS agency.

5.That there is involvement of a licensed physician in developing a program to ensure compliance with regulations and requirements for training, notification, and maintenance.

6.A violation of this provision shall not be subject to penalties pursuant to Section 1798.206.

The proposed qualified immunity would not apply in the case of personal injury resulting from the operator's gross negligence or willful or wanton misconduct.

Background:

An AED is a medical device which is used to administer an electric shock through the chest wall to the heart after someone suffers cardiac arrest. Built-in computers assess the patient's heart rhythm, determine whether the person is in cardiac arrest, and signal whether to administer the shock. Audible cues guide the user through the process. Portable AEDs are available upon a prescription from a medical authority. Their general cost is about $3,000.

According to the sponsor AEDs contain microcomputers to accurately identify sudden cardiac arrests and make extensive use of audible prompting and signals to provide operators with clear and concise instruction, making their use uncomplicated, intuitive, and nearly foolproof. Safeguards are built in to protect both operator and victim and to ensure that the AED will only deliver a shock if, in fact, the device affirmatively determines that a victim is in sudden cardiac arrest. Further, the device does not allow for manual overrides, in the event a panicked operator tries to administer the shock even when the device finds that the victim is not in cardiac arrest.

(Intentional misuse would not be covered by the qualified immunity.)

FISCAL EFFECT : Appropriation: No Fiscal Com.: No Local: No

SUPPORT : (Verified 4/27/99)

American Heart Association (source)
American Red Cross
California Medical Association
California Chapter of the American College of Cardiology
American College of Emergency Physicians, California Chapter
Emergency Nurses Association of California

Northern California Cardiology Associates
Kaiser Permanente
San Francisco Medical Society, Sacramento Chapter
California Labor Federation, AFL-CIO
Greater San Fernando Chamber of Commerce
Emergency Medical Services Administrators' Association of California
St. Joseph's Regional Health System

ledica? Center
Riverside County Regional Medical Center
Woodland Healthcare
Survivalink
California Chamber of Commerce
California Hotel and Motel Association
California Fire Chiefs Association
Fire Districts Association of California

RGUMENTS IN SUPPORT : According to the sponsor, the American Heart Association ("AHA"), approximately 450,000 people suffer every year in the United States from sudden cardiac arrest, and the current survival rate for these victims is about five percent. Over 2,900 people suffer cardiac arrest in California every day. It is estimated that over 160 of these occur in public places and some 440 of those people die. "Every month that passes these 440 Californian's lives are at risk."

AHA states that cardiac arrest is a life-or-death situation, and the patient has very little chance of survival without defibrillation. However, the window of opportunity for saving lives through defibrillation is very small, being only 10-13 minutes even if CPR is administered correctly. According to the sponsor, in cases of sudden cardiac arrest, CPR is merely a maintenance tool, and defibrillation must take place to "shock" the patient's heart into a proper working rhythm. Thus, the public would be better served, and lives could be saved, if businesses and offices were encouraged to have AEDs on-site.

However, AHA asserts, many California businesses that would otherwise have an AED on site are unwilling to do so because of liability fears. The potential exposure for the

business to defend itself whenever the use of an AED does not prevent death from occurring, is too great a risk.

While it is not known if any business has in fact been sued, the sponsor reports that the California businesses are reluctant to make the use of AEDs available in their facilities until this issue, real or perceived, is addressed. This bill, it is hoped, will address those liability concerns and encourage businesses to have AEDs on-site to aid in emergency situations.

The California Medical Association (CMA), other professional medical groups, and various medical centers also support the bill, stating that when individuals suffer from sudden cardiac arrest, the use of a defibrillator significantly increases the survival rate of the victims. The CMA believes that increasing the usage of defibrillators in the life threatening emergency of cardiac arrest will save lives.

RJG:jk 4/28/99 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

ate of Hearing: June 8, 1999

ASSEMBLY COMMITTEE ON JUDICIARY
Sheila James Kuehl, Chair
SB 911 (Figueroa) - As Amended: April 27, 1999

UBJECT : AUTOMATIC EXTERNAL DEFIBRILLATORS (AEDs): GOOD
AMARITAN IMMUNITY FOR ACQUISITION AND USE OF AEDs IN
MERGENCIES

KEY ISSUE : SHOULD IMMUNITY FROM LIABILITY BE PROVIDED FOR
RAINED PERSONS WHO USE AEDs AT THE SCENE OF AN EMERGENCY IN
RDER TO SAVE LIVES, AS WELL AS FOR THOSE WHO MAKE AEDs
VAILABLE AND PROVIDE TRAINING FOR THEIR USE?

SUMMARY : Provides immunity from liability for certain trained
ersons who use in good faith and without compensation an
utomated external defibrillator ("AED") in rendering emergency
are or treatment at the scene of an emergency. Specifically,
this bill :

.)Provides a qualified immunity from civil liability to:

a) any person who, in good faith and not for compensation, renders emergency care or treatment by the use of an AED at the scene of an emergency, when the person has completed a specified training course within the preceding 12 months;

b) a person or entity who provides cardiopulmonary resuscitation (CPR) and AED training to the good samaritan rendering emergency care with the use of an AED;

c) a physician who prescribes the AED and any person or entity responsible for the site where an AED is located, for negligent acts of the good samaritan in rendering emergency care with an AED, if that physician, person, or entity has complied with certain training and maintenance requirements.

!)Specifies that the proposed qualified immunity would not apply in the case of personal injury or wrongful death resulting from the AED operator's gross negligence or willful or wanton misconduct.

3)Provides that nothing in the bill shall relieve a

manufacturer, designer, developer, distributor, installer, or supplier of an AED or defibrillator of any liability under any applicable statute or rule of law.

EXISTING LAW :

.)Provides immunity from civil liability to any person who, in good faith and without compensation or the expectation of compensation, renders emergency care at the scene of an emergency. (Health and Safety Code section 1799.102.)

?)Provides immunity from civil liability to any person who completes a designated CPR course and who, in good faith, renders emergency cardiopulmonary resuscitation at the scene of an emergency, without the expectation of receiving compensation for providing the emergency care. (Civil Code section 1714.2.)

3)Exempts from civil liability any local agency, entity of state or local government, or other public or private organization which sponsors, authorizes, supports, finances, or supervises the training of citizens in CPR. (Health & Safety Code section 1799.100.)

FISCAL EFFECT : Unknown

COMMENTS : This bill would provide a qualified immunity from
civil liability for trained persons who use, in good faith and
without compensation, an AED in rendering emergency care or
treatment at the scene of an emergency. The qualified immunity
would also extend to those businesses that purchased the device,
the physician who prescribed the device, and the agency which
trained the person in the use of the AED. The immunity would
not apply in cases of personal injury or wrongful death

resulting from gross negligence of willful or wanton misconduct.

Background . An AED is a medical device which is used to administer an electric shock through the chest wall to the heart after someone suffers cardiac arrest. Built-in computers assess the patient's heart rhythm, determine whether the person is in cardiac arrest, and signal whether to administer the shock. Audible cues guide the user through the process. Portable AEDs are available upon a prescription from a medical authority. Their general cost is about $3,000.

Stated need for bill: AEDs can save lives, but liability fears are limiting its use . According to the sponsor, the American Heart Association ("AHA"), approximately 450,000 people suffer every year in the United States from sudden cardiac arrest, and the current survival rate for these victims is about five percent. Over 2,900 people suffer cardiac arrest in California every day. It is estimated that over 460 of these occur in public places and some 440 of those people die. "Every month that passes these 440 Californian's lives are at risk."

AHA states that cardiac arrest is a life-or-death situation, and the patient has very little chance of survival without defibrillation. However, the window of opportunity for saving lives through defibrillation is very small, being only 10-13 minutes even if CPR is administered correctly. According to the sponsor, in cases of sudden cardiac arrest, CPR is merely a maintenance tool, and defibrillation must take place to "shock" the patient's heart into a proper working rhythm. Thus, the public would be better served, and lives could be saved, if businesses and offices were encouraged to have AEDs on site. However, AHA asserts, many California businesses that would otherwise have an AED on site are unwilling to do so because of liability fears. The potential exposure for the business to defend itself whenever the use of an AED does not prevent death from occurring, is too great a risk.

While it is not known if any business has in fact been sued, the sponsor reports that California businesses are reluctant to make AEDs available in their facilities until this issue, real or perceived, is addressed. This bill, it is hoped, will address those liability concerns and encourage businesses to have AEDs on site to aid in emergency situations.

No risk of accidental misuse, asserts sponsor . According to the sponsor, AEDs contain microcomputers to accurately identify sudden cardiac arrests and make extensive use of audible prompting and signals to provide operators with clear and concise instruction, making their use uncomplicated, intuitive, and nearly foolproof. Safeguards are built in to protect both operator and victim and to ensure that the AED will only deliver a shock if, in fact, the device affirmatively determines that a victim is in sudden cardiac arrest. Further, the device does not allow for manual overrides, in the event a panicked operator tries to administer the shock even when the device finds that the victim is not in cardiac arrest. (As noted above,

intentional misuse would not be covered by the qualified immunity.)

Required training and maintenance requirements for qualified immunity .

For AED operators : For the qualified immunity to apply, SB 911 would require the good samaritan operator to have completed a basic CPR and AED use course within the preceding 12 months that complies with regulations adopted by the Emergency Medical Services Authority (EMSA) and the standards adopted by the American Heart Association or the American Red Cross for CPR and AED use. Current EMSA regulations call for a training class of not less than four hours covering, among other topics: (1) the proper use, maintenance, and periodic inspection of the AED; (2) the importance of CPR and defibrillation; (3) assessment of an unconscious patient to determine if cardiac arrest has occurred and the appropriateness of using the AED; and (4) information as to defibrillator safety precautions and training in determining

if further usage is necessary.

For businesses having AEDs on site : In order to qualify for the bill's immunity protections, a business acquiring an AED must satisfy all of the following conditions: (1) comply with all regulations governing the training, use, and placement of an AED; (2) notify the local EMS agency of the existence, location and type of AED acquired; (c) ensure all of the following: (i) that expected AED users annually complete the required training for AED operators to qualify for the immunity; (ii) that the defibrillator is maintained and tested according to the manufacturer's operational guidelines; (iii) that the owner conduct a readiness check after each usage, and at least once every 30 days if the AED has not been used in the preceding 30 days, and to keep records of such checks; (iv) that the emergency medical services system is activated as soon as possible when an operator uses an AED, and that usage is reported to the local EMS agency and the authorizing medical authority; and, (v) that a licensed physician is involved in developing a program to ensure compliance with the regulations and the requirements for training, notification and maintenance. (See Proposed Civil Code section 1797.196, page 4, lines 5-39, page 5, lines 1-7.)

ARGUMENTS IN SUPPORT : The American Heart Association (AHA), the bill's sponsor, writes that "[t]o date, 21 states have passed

Good Samaritan protection for AED lay users. A statewide poll taken in February of this year shows that 86 percent of Californian's favor giving civil liability protection to trained AED users." According to AHA, "[o]ver 2,900 people suffer sudden cardiac arrest in California every month. An estimated 460 of these will occur in public places--and more than 450 of those people will die. The survival rate for victims of SCA outside of a hospital setting is less than 1 percent. The only hope for a victim of Sudden Cardiac Arrest is to be defibrillated within 4-10 minutes from the time of the incident. Even after 4 minutes, brain damage is a certainty. SB 911 will increase public access to defibrillation by providing protection from civil liability for entities and individuals who have been trained to use an AED."

AHA is also concerned, however, about the bill's requirement for annual training in the use of an AED. "We believe that the training interval requirements should not be arbitrarily set but should be based on current scientific medical data. This is the current policy of the California Emergency Medical Services Authority (EMSA) with input from organizations such as AHA. AHA is the nationally recognized authority on both CPR and AED training. We work with national and state EMSA's to determine the standards for training and training intervals based on scientific research and application. Currently AHA requires skills renewal on AED use every 2 years in order to maintain current documentation. Additionally, the California Code of Regulations, Title 22, developed by EMSA, requires the medical authority responsible for placing the AED to have a mechanism in place that will 'assure continued competency' and further requires 'periodic training, and skills proficiency demonstrations at least quarterly.'"

AHA believes that "[r]equiring specific AED training intervals in this legislation encroaches on the authority of the EMSA and bypasses their expertise. Selecting the optimal training interval requires ongoing educational research and could potentially change as technology and skills retention techniques advance. We believe that the American Heart Association's skills renewal interval in addition to the requirements of Title 22 are sound at this time."

The California Medical Association (CMA), other professional medical groups, and various medical centers also support the bill, stating that when individuals suffer from sudden cardiac

arrest, the use of a defibrillator significantly increases the survival rate of the victims. The CMA believes that increasing the usage of defibrillators in the life-threatening emergency of cardiac arrest will save lives.

PRIOR LEGISLATION : AB 2371 (Leonard) of 1998, died in Assembly Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION :

Support

American Heart Association (sponsor)
American Red Cross
American College of Emergency Physicians, California Chapter
California Chamber of Commerce
California Labor Federation, AFL-CIO
California Medical Association
California Chapter of the American College of Cardiology
Emergency Medical Services Administrators' Association of California
Emergency Nurses Association of California
Greater San Fernando Chamber of Commerce
Kaiser Permanente
Northern California Cardiology Associates
Riverside County Regional Medical Center
San Francisco Medical Society, Sacramento Chapter
St. Joseph's Regional Health System Medical Center
Survivalink
Woodland Healthcare
Various individuals

Opposition

None on file

Analysis Prepared by : Daniel Pone / JUD. / (916) 319-2334

ate of Hearing: June 29, 1999

ASSEMBLY COMMITTEE ON HEALTH
Martin Gallegos, Chair
SB 911 (Figueroa) - As Amended: June 15, 1999

SENATE VOTE : 35-0

UBJECT : Emergency Care: Automatic external defibrillator.

SUMMARY : Provides immunity from liability for certain trained ersons who use an automated external defibrillator to render mergency care to a person in cardiac arrest. Specifically, this bill :

.)Expresses legislative intent that a defibrillator may be used to save the life of a person in cardiac arrest if:

a) The person has completed a basic cardiopulmonary resuscitation (CPR) and defibrillator course that complies with regulations adopted by the state Emergency Medical Services Authority and the standards of the American Heart Association or American Red Cross.

b) The care is rendered in good faith without compensation at the scene of an emergency.

!)Exempts a person or entity providing CPR and defibrillator training to a person who renders emergency defibrillator care, or a physician involved in the placement of a defibrillator, from being held liable for civil damages for the acts of the person rendering care.

3)Prohibits a person rendering defibrillator care to save a person's life from being subject to civil liability.

1)Provides that the protections against civil liability do not apply to personal injury or wrongful death resulting from gross negligence or willful or wanton misconduct. Provides that nothing in this bill is intended to relieve a manufacturer, designer, developer, distributor, installer, or supplier of a defibrillator of liability.

5)Requires any person who acquires a defibrillator to ensure that expected users of the defibrillator complete a training

course, to maintain and regularly test the defibrillator, and to report any use of a defibrillator to the local emergency medical services system.

EXISTING LAW :

1)Provides immunity from civil liability to any person who, in good faith and without compensation or the expectation of compensation, renders emergency care at the scene of an emergency.

2)Provides immunity from civil liability to any person who completes a designated CPR course, and who, in good faith, renders emergency CPR at the scene of an emergency, without expectation of receiving compensation for providing the emergency care.

FISCAL EFFECT : Unknown

COMMENTS :

1)PURPOSE OF THIS BILL . This bill extends existing "Good Samaritan" protections, which provide immunity from civil liability for persons who intervene to help individuals who are in a life threatening situation at the scene of an emergency, to a person who uses an automatic external defibrillator to aid a person in cardiac arrest. These protections only apply to a person who has undergone CPR and defibrillator training that is approved by the state Emergency Medical Services Authority. The author notes that the survival rate for victims of sudden cardiac arrest is less than 5%, and that the only realistic chance these victims have for survival is defibrillation. However, businesses are reluctant to incorporate the use of defibrillators in their

facilities because current law does not explicitly confer immunity upon the use of a defibrillator in an emergency situation.

2) SUPPORT. The Beverly Hills CPR Program supports this bill and is in the process of initiating a public access defibrillator program in Beverly Hills to ensure availability of defibrillators in public places throughout the community, as well as trained providers to use them. The CPR Program fears that if the provisions of this bill are not enacted, liability concerns will limit the availability of this lifesaving

technology. Heartstream, Inc. is a subsidiary of Hewlett-Packard that manufactures automatic external defibrillators. Hewlett-Packard notes that unlike a manual defibrillator, an automatic defibrillator assesses the patient's heart rhythm to determine whether defibrillation is necessary. If defibrillation is necessary, the defibrillator will signal the operator to shock. If defibrillation is not necessary, the defibrillator will not permit a shock to be administered. Hewlett-Packard notes that surviving sudden cardiac arrest is directly dependent upon the time that passes from the onset of the attack to medical care being provided. Hewlett-Packard asserts that there is generally a window of less than ten minutes during which there is a chance of survival.

3) PRIOR LEGISLATION. This bill is substantially similar to AB 2371 (Leonard) of 1998, which passed the Assembly Health Committee, but failed passage in the Assembly Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

American Heart Association
Beverly Hills CPR Program
California Society for Cardiac Rehabilitation
City of Cerritos
Hewlett-Packard

Opposition

None on file

Analysis Prepared by: Ann Blackwood / HEALTH / (916) 319-2097

SENATE RULES COMMITTEE | SB 911
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 445-6614 Fax: (916)
327-4478

UNFINISHED BUSINESS

ill No: SB 911
uthor: Figueroa (D), et al
mended: 6/15/99
ote: 21

SENATE JUDICIARY COMMITTEE : 8-0, 4/13/99
YES: Burton, Escutia, Haynes, Morrow, O'Connell, Sher, Wright, Schiff
OT VOTING: Peace

SENATE FLOOR : 35-0, 4/29/99 (Consent)
YES: Alpert, Bowen, Brulte, Burton, Chesbro, Costa, Dunn, Figueroa, Hayden, Haynes, Hughes, Johannessen, Johnson, Johnston, Kelley, Knight, Lewis, McPherson, Monteith, Morrow, Mountjoy, Murray, O'Connell, Ortiz, Peace, Perata, Polanco, Poochigian, Rainey, Schiff, Sher, Solis, Speier, Vasconcellos, Wright
OT VOTING: Alarcon, Baca, Escutia, Karnette, Leslie

ASSEMBLY FLOOR : 73-0, 7/6/99 (Passed on Consent) - See last page for vote

SUBJECT : Automatic External Defibrillators (AEDs): Good Samaritan Immunity for Acquisition and Use of AEDs in Emergencies

SOURCE : American Heart Association

DIGEST : This bill provides a qualified immunity from civil liability for trained persons who use in good faith and without compensation an automated external

CONTINUED

defibrillator ("AED") in rendering emergency care or treatment at the scene of an emergency. The qualified immunity also extends to those businesses that purchased the device, the physician who prescribed the device, and the agency which trained the person in the use of the AED, as specified.

The immunity would not apply in cases of personal injury or wrongful death resulting from gross negligence of willful or wanton misconduct.

Assembly Amendments :

1. Delete requirement that a CPR or AED course be completed with the preceding 12 months.

2. Make clarifying change.

ANALYSIS : Existing law, Health and Safety Code section 1799.102, provides immunity from civil liability to any person who, in good faith and without compensation or the expectation of compensation, renders emergency care at the scene of an emergency. Existing law, Civil Code section 1714.2, also expressly provides immunity from civil liability to any person who completes a designated cardiopulmonary resuscitation (CPR) course and who, in good faith, renders emergency cardiopulmonary resuscitation at the scene of an emergency, without the expectation of receiving compensation for providing the emergency care.

Existing law also exempts from civil liability any local agency, entity of state or local government, or other public or private organization which sponsors, authorizes, supports, finances, or supervises the training of citizens in CPR. (Health & Safety Code Section 1799.100.)

This bill would provide a qualified immunity from civil liability to:

1. Any person who has completed a basic CPR and AED use course that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and with the standards of the American Heart Association or the American Red Cross for CPR and AED use, and who, in good faith and not for compensation renders emergency care or treatment by the use of an automated external defibrillator at the scene of an emergency.

2. A person or entity who provides CPR and AED training to the good samaritan rendering emergency care with the use of an AED.

3. A physician who prescribes the AED and any person or entity responsible for the site where an AED is located, for negligent acts of the good samaritan in rendering emergency care with an AED, if that physician, person, or entity has complied with certain training and maintenance requirements.

The bill would make the immunity inapplicable "in the case of personal injury" or wrongful death, that results from the operator's gross negligence or willful or wanton misconduct.

The bill provides that nothing in this bill relieves a manufacturer, designer, developer, distributor, installer or supplier of an AED or defibrillator of any liability under any applicable statute or rule of law.

For purposes of this bill, "AED" or "defibrillator" means an automated or automatic external defibrillators.

The bill provides that in order to ensure public safety, any person who acquires an AED shall do all of the following:

1. Comply within all regulations governing the training, use, and placement of an AED.

2. Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.

The bill would require all of the following:

1. That expected AED users complete a training course in cardiopulmonary resuscitation and AED use that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards of the American Heart Association or the American Red Cross.

2. That the defibrillator is maintained and regularly tested according to the operation and maintenance guidelines set

forth by the manufacturer, the American Heart Association, and the American Red Cross, and according to any applicable rules and regulations set forth by the governmental authority under the federal Food and Drug Administration and any other applicable state and federal authority.

;.That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these periodic checks shall be maintained.

;.That any person who renders emergency care or treatment on a person in cardiac arrest by using an AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS agency.

;.That there is involvement of a licensed physician in developing a program to ensure compliance with

regulations and requirements for training, notification, and maintenance.

5.A violation of this provision shall not be subject to penalties pursuant to Section 1798.206.

The proposed qualified immunity would not apply in the case of personal injury resulting from the operator's gross negligence or willful or wanton misconduct.

Background:

An AED is a medical device which is used to administer an electric shock through the chest wall to the heart after someone suffers cardiac arrest. Built-in computers assess the patient's heart rhythm, determine whether the person is in cardiac arrest, and signal whether to administer the shock. Audible cues guide the user through the process. Portable AEDs are available upon a prescription from a medical authority. Their general cost is about $3,000.

According to the sponsor AEDs contain microcomputers to accurately identify sudden cardiac arrests and make extensive use of audible prompting and signals to provide operators with clear and concise instruction, making their use uncomplicated, intuitive, and nearly foolproof. Safeguards are built in to protect both operator and victim and to ensure that the AED will only deliver a shock if, in fact, the device affirmatively determines that a victim is in sudden cardiac arrest. Further, the device does not allow for manual overrides, in the event a panicked operator tries to administer the shock even when the device finds that the victim is not in cardiac arrest.

(Intentional misuse would not be covered by the qualified immunity.)

FISCAL EFFECT : Appropriation: No Fiscal Com.: No Local: No

SUPPORT : (Verified 7/7/99)

American Heart Association (source)
American Red Cross

alifornia Medical Association
alifornia Chapter of the American College of Cardiology
merican College of Emergency Physicians, California
Chapter
mergency Nurses Association of California
orthern California Cardiology Associates
aiser Permanente
an Francisco Medical Society, Sacramento Chapter
alifornia Labor Federation, AFL-CIO
reater San Fernando Chamber of Commerce
mergency Medical Services Administrators' Association of
California
t. Joseph's Regional Health System
edical Center
iverside County Regional Medical Center
oodland Healthcare
urvivalink
alifornia Chamber of Commerce
alifornia Hotel and Motel Association
alifornia Fire Chiefs Association
ire Districts Association of California
0+ and Strong
everly Hills CPR Program
alifornia Ambulance Association
alifornia Association of Professional Liability Insurers
alifornia Cardiovascular Disease Prevention Coalition
alifornia Fire Chiefs Association
alifornia Society of Cardiac Rehabilitation
alifornia Society of Health-System Pharmacists
ities of Cerritos, Chula Vista, Coronado, Del Mar, El
ajon, and Los Angeles
ivil Justice Association of California
ounty of San Mateo, Office of the Sheriff
mergency Nurses Association of California
ewlett Packard
edwood City San Mateo County Chamber of Commerce

an Mateo County Emergency Medical Care Committee
ransamerica Corporation
9 Individual Letters

ARGUMENTS IN SUPPORT : According to the sponsor, the merican Heart Association ("AHA"), approximately 450,000 eople suffer every year in the United States from sudden ardiac arrest, and the current survival rate for these ictims is about five percent. Over 2,900 people suffer ardiac arrest in California every day. It is estimated hat over 460 of these occur in public places and some 440 f those people die. "Every month that passes these 440 alifornian's lives are at risk."

HA states that cardiac arrest is a life-or-death ituation, and the patient has very little chance of urvival without defibrillation. However, the window of pportunity for saving lives through defibrillation is very mall, being only 10-13 minutes even if CPR is administered orrectly. According to the sponsor, in cases of sudden ardiac arrest, CPR is merely a maintenance tool, and efibrillation must take place to "shock" the patient's eart into a proper working rhythm. Thus, the public would e better served, and lives could be saved, if businesses nd offices were encouraged to have AEDs on-site.

owever, AHA asserts, many California businesses that would therwise have an AED on site are unwilling to do so ecause of liability fears. The potential exposure for the usiness to defend itself whenever the use of an AED does ot prevent death from occurring, is too great a risk.

While it is not known if any business has in fact been sued, the sponsor reports that the California businesses are reluctant to make the use of AEDs available in their facilities until this issue, real or perceived, is addressed. This bill, it is hoped, will address those liability concerns and encourage businesses to have AEDs on-site to aid in emergency situations.

'he California Medical Association (CMA), other
›rofessional medical groups, and various medical centers
ılso support the bill, stating that when individuals suffer
:rom sudden cardiac arrest, the use of a defibrillator
ıignificantly increases the survival rate of the victims.
'he CMA believes that increasing the usage of
lefibrillators in the life threatening emergency of cardiac
ırrest will save lives.

ASSEMBLY FLOOR :
ıYES: Aanestad, Ackerman, Alquist, Aroner, Ashburn, Baldwin, Bates, Battin, Baugh, Bock, Brewer, Briggs, Calderon, Campbell, Corbett, Correa, Cox, Cunneen, Davis, Dickerson, Ducheny, Dutra, Firebaugh, Florez, Floyd, Frusetta, Gallegos, Granlund, Havice, Hertzberg, Honda, House, Jackson, Keeley, Knox, Kuehl, Leach, Lempert, Leonard, Longville, Lowenthal, Maddox, Maldonado, Margett, Mazzoni, McClintock, Migden, Nakano, Olberg, Oller, Robert Pacheco, Rod Pacheco, Pescetti, Reyes, Romero, Runner, Scott, Shelley, Soto, Steinberg, Strickland, Strom-Martin, Thompson, Thomson, Torlakson, Washington, Wayne, Wesson, Wiggins, Wildman, Wright, Zettel, Villaraigosa
IOT VOTING: Cardenas, Cardoza, Cedillo, Kaloogian, Machado, Papan, Vincent

ιJG:jk 7/7/99 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

Senate Bill No. 911

CHAPTER 163

An act to add Section 1714.21 to the Civil Code, and to add Section 1797.196 to the Health and Safety Code, relating to emergency care.

[Approved by Governor July 22, 1999. Filed with Secretary of State July 23, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 911, Figueroa. Emergency care: automatic external defibrillator: acquisition and liability.

Existing law provides immunity from civil liability to any person who, in good faith and without compensation or the expectation of compensation, renders emergency care at the scene of an emergency. Existing law expressly provides immunity from civil liability to any person who completes a designated cardiopulmonary resuscitation (CPR) course and who, in good faith, renders emergency cardiopulmonary resuscitation at the scene of an emergency, without the expectation of receiving compensation for providing the emergency care.

This bill would provide immunity from civil liability to (1) any person who, in good faith and not for compensation renders emergency care or treatment by the use of an automated external defibrillator at the scene of an emergency, has completed a basic CPR and automated external defibrillator (AED) use course that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards of the American Heart Association or the American Red Cross for CPR and AED use, (2) a person or entity who provides CPR and AED training to a person who renders emergency care pursuant to (1), and (3) a physician who is involved with the placement of an AED and any person or entity responsible for the site where an AED is located if that physician, medical authority, person, or entity has complied with certain requirements. The bill would provide that its protections shall not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who renders emergency care or treatment by the use of an AED.

Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, authorizes the Emergency Services Authority to establish minimum standards for the training and use of automatic external defibrillators by individuals not otherwise licensed or certified for the use of the device.

This bill would require any person who acquires an automatic external defibrillator to comply with specified requirements in the bill.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature that an automated external defibrillator may be used for the purpose of saving the life of another person in cardiac arrest when used in accordance with Section 1714.21 of the Civil Code.

SEC. 2. Section 1714.21 is added to the Civil Code, to read:

1714.21. (a) For purposes of this section, the following definitions shall apply:

(1) "AED" or "defibrillator" means an automated or automatic external defibrillator.

(2) "CPR" means cardiopulmonary resuscitation.

(b) A person who has completed a basic CPR and AED use course that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards of the American Heart Association or the American Red Cross for CPR and AED use, and who, in good faith and not for compensation, renders emergency care or treatment by the use of an AED at the scene of an emergency shall not be liable for any civil damages resulting from any acts or omissions in rendering the emergency care.

(c) A person or entity who provides CPR and AED training to a person who renders emergency care pursuant to subdivision (b) shall not be liable for any civil damages resulting from any acts or omissions of the person rendering the emergency care.

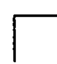
(d) A physician who is involved with the placement of an AED and any person or entity responsible for the site where an AED is located shall not be liable for any civil damages resulting from any acts or omissions of a person who renders emergency care pursuant to subdivision (b) if that physician, person, or entity has complied with all requirements of Section 1797.196 of the Health and Safety Code that apply to that physician, person, or entity.

(e) The protections specified in this section shall not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who renders emergency care or treatment by the use of an AED.

(f) Nothing in this section shall relieve a manufacturer, designer, developer, distributor, installer, or supplier of an AED or defibrillator of any liability under any applicable statute or rule of law.

SEC. 3. Section 1797.196 is added to the Health and Safety Code, to read:

1797.196. (a) For purposes of this section, "AED" or "defibrillator" means an automated or automatic external defibrillator.



(b) In order to ensure public safety, any person who acquires an AED shall do all of the following:

(1) Comply with all regulations governing the training, use, and placement of an AED.

(2) Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.

(3) Ensure all of the following:

(A) That expected AED users complete a training course in cardiopulmonary resuscitation and AED use that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards of the American Heart Association or the American Red Cross.

(B) That the defibrillator is maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer, the American Heart Association, and the American Red Cross, and according to any applicable rules and regulations set forth by the governmental authority under the federal Food and Drug Administration and any other applicable state and federal authority.

(C) That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these periodic checks shall be maintained.

(D) That any person who renders emergency care or treatment on a person in cardiac arrest by using an AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS agency.

(E) That there is involvement of a licensed physician in developing a program to ensure compliance with regulations and requirements for training, notification, and maintenance.

(c) A violation of this provision shall not be subject to penalties pursuant to Section 1798.206.

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Date of Hearing: May 7, 2002

ASSEMBLY COMMITTEE ON JUDICIARY
Ellen M. Corbett, Chair
AB 2041 (Vargas) - As Amended: April 16, 2002

SUBJECT : IMMUNITY FROM LIABILITY FOR ACQUIRERS OF LIFE-SAVING DEFIBRILLATORS AND FOR ALL "GOOD SMARITAN" USERS OF SUCH EQUIPMENT

KEY ISSUES :

1)SHOULD "GOOD SMARITANS" WHO VOLUNTARILY USE AUTOMATED EXTERNAL DEFIBRILLATORS (AEDs) AT THE SCENE OF AN EMERGENCY TO TRY TO SAVE SOMEONE'S LIFE BE IMMUNE FROM NEGLIGENCE SUITS, WHETHER OR NOT THEY HAVE BEEN SPECIFICALLY TRAINED TO USE SUCH AUTOMATED DEVICES?

2)SHOULD BUILDING OWNERS OR OTHERS WHO VOLUNTARILY ACQUIRE AED's TO POTENTIALLY SAVE THE LIVES OF BUILDING TENANTS AND MEMBERS OF THE PUBLIC ALSO BE IMMUNE FROM NEGLIGENCE SUITS SO LONG AS CERTAIN SAFETY STANDARDS ARE MET?

3)SHOULD THE COMMITTEE PERMIT THIS BILL TO MOVE FORWARD AS THE AUTHOR AND COMMITTEE COUNSEL MEET WITH REPRESENTATIVES OF THE CONSUMER ATTORNEYS, THE AUTHOR OF THE ORIGINAL LEGISLATION IN THIS AREA, AND OTHERS TO SEE IF CONSENSUS LANGUAGE CAN BE CRAFTED TO FURTHER THE AVAILABILITY OF THESE LIFE-SAVING DEVICES?

SYNOPSIS

In 1999, the Legislature first provided for qualified immunity to "Good Samaritans" who voluntarily apply AED's at the scene of an emergency to try to save heart victim's lives. Such immunity was limited, however, to only those "Good Samaritans" who have completed a specified training course within the preceding year. Untrained members of the public are not yet shielded from potential negligence suits, though it appears unlikely though not impossible that such suits would or have ever been pursued under these "Good Samaritan" circumstances. Nor does the current immunity attach in the situation where personal injury or wrongful death results from the "Good Samaritan's" gross negligence or willful or wanton misconduct. In addition, the qualified immunity above does not apply to the manufacturers,

suppliers, or installers of AEDs.

This bill, which is sponsored by the City of San Diego and is supported by the state's building owners and public health organizations, seeks to encourage greater availability of these apparently "fail safe" life-saving devices in public and private buildings across the state by broadening the scope of the current immunity provided. The bill would grant immunity, regardless of prior training, to all "Good Samaritans" who voluntarily use AED's at the scene of an emergency who help to try to save someone's life, and it would also grant immunity to building owners or others who voluntarily acquire such safety devices to potentially save the lives of building tenants and members of the public, if specified safety standards are met.

The Consumer Attorneys of California generally opposes similar measures they contend are solely based on the "fear of liability" rather than hard evidence of such law suits. However the organization has communicated to the author and to the Committee that it is willing to work with the author and Committee counsel to attempt to craft some amendments to the bill which will "move the ball" down the court to encourage greater availability of these life-saving devices across the state.

SUMMARY : Seeks to encourage greater availability of these apparently "fail safe" life-saving devices in public and private buildings across the state by broadening the immunity provided under current law. Specifically, this bill :

1)Grants immunity, regardless of prior training, to all "Good Samaritans" who voluntarily use AED's at the scene of an emergency who help to try to save someone's life, and;

2)Also grants immunity to building owners or others who voluntarily acquire such safety devices to potentially save the lives of building tenants and members of the public, if specified safety standards are met.

EXISTING LAW :

1)Provides immunity from civil liability to any person who, in good faith and without compensation or the expectation of compensation, renders emergency care at the scene of an emergency. (Health and Safety Code section 1799.102.)

2)Provides immunity from civil liability to any person who completes a designated CPR course and who, in good faith, renders emergency cardiopulmonary resuscitation at the scene of an emergency, without the expectation of receiving compensation for providing the emergency care. (Civil Code section 1714.2.)

3)Exempts from civil liability any local agency, entity of state or local government, or other public or private organization which sponsors, authorizes, supports, finances, or supervises the training of citizens in CPR. (Health & Safety Code section 1799.100.)

4)Provides immunity from liability for certain trained persons who use in good faith and without compensation an automated external defibrillator (AED) in rendering emergency care or treatment at the scene of an emergency. This qualified immunity does not apply in the case of personal injury or wrongful death resulting from the AED operator's gross negligence or willful or wanton misconduct. Nor does it apply to the manufacturer, designer, developer, distributor, installer, or supplier of an AED or defibrillator. It only apples to:

a) any person who, in good faith and not for compensation, renders emergency care or treatment by the use of an AED at the scene of an emergency, when the person has completed a specified training course within the preceding 12 months;

b) a person or entity who provides cardiopulmonary resuscitation (CPR) and AED training to the good samaritan rendering emergency care with the use of an AED;

c) a physician who prescribes the AED and any person or entity responsible for the site where an AED is located, for negligent acts of the "Good Samaritan" in rendering emergency care with an AED, if that physician, person, or entity has complied with certain training and maintenance requirements. (Civil Code section 1714.21 and Health and Safety Code section 1797.196.)

FISCAL EFFECT : As currently in print this bill is keyed non-fiscal.

COMMENTS : In 1999, Senator Liz Figueroa carried SB 911 (which was subsequently signed into law) to provide for qualified immunity to "Good Samaritans" who voluntarily use AED's at the scene of an emergency to try to save heart victim's lives. Though her original legislation provided broad immunity for such "Good Samaritans" to spur the availability and use of such devices across the state, her bill was ultimately trimmed down such that the immunity currently provided is limited to only those "Good Samaritans" who complete a specified training course within the preceding year. Untrained members of the public are not yet shielded from potential negligence suits (though it was clearly understood at the time that such suits were unlikely, though not impossible). The Figueroa defibrillator law also extends qualified immunity to those businesses that purchased the device, the physician who prescribed the device, and the agency which trained the person in the use of the AED under specified circumstances.

In support of the measure, the author writes:

Daily, we are all vulnerable to sudden cardiac arrest and may be affected by the inability or fear of a layperson to use the AED, because of the potential legal ramifications. Public building owners who would like to install AEDs are being advised not to do so because of the limited immunity from liability. An owner would only be immune if the individual using the AED had received specified training. Given the fact that occupants and visitors to multi-tenant office buildings are not under the control of the property owner, and that the required training is fairly extensive, it is unlikely that the training requirement standard which triggers immunity could be met. Therefore it is unlikely that building owners will install AEDs.

Although SB 911 of 1999 has helped encourage some entities to install AED's, it appears clear that such devices have not yet been as widely distributed in many public and private buildings to help save the lives of heart attack victims. This bill, which is sponsored by the City of San Diego and is supported by the state's building owners and many public health organizations, seeks to encourage much greater availability of these apparently "fail safe" life-saving devices in public and private buildings across the state by broadening the scope of

the current immunity provided. The bill would grant immunity, regardless of prior training, to all "Good Samaritans" who voluntarily use AED's at the scene of an emergency who help to try to save someone's life, and it would also grant immunity to building owners or others who voluntarily acquire such safety devices to potentially save the lives of building tenants and members of the public, if specified safety standards are met, including standards regarding the placement and proper maintenance of AED's.

Consumer Attorneys Agree to Work With Author to Address Concerns : The Consumer Attorneys of California generally opposes similar measures they contend are solely based on the "fear of liability" rather than hard evidence of such law suits. However the organization has communicated to the author and to the Committee that it is willing to work with the author and Committee counsel to attempt to craft some amendments to the bill which will "move the ball" down the court to encourage greater availability of these life-saving devices across the state.

Background . An AED is a medical device which is used to administer an electric shock through the chest wall to the heart after someone suffers cardiac arrest. Built-in computers assess the patient's heart rhythm, determine whether the person is in cardiac arrest, and signal whether to administer the shock. Audible cues guide the user through the process. Portable AEDs are available upon a prescription from a medical authority. Their general cost is about $3,000.

AEDs can save lives . According to the sponsor, the City of San Diego, approximately 450,000 people suffer every year in the United States from sudden cardiac arrest, and the current survival rate for these victims is about five percent. Over 2,900 people suffer cardiac arrest in California every day. It is estimated that over 460 of these occur in public places and some 440 of those people die. "Every month that passes these 440 Californian's lives are at risk."

According to the American Heart Association (AHA), cardiac arrest is a life-or-death situation, and the patient has very little chance of survival without defibrillation. However, the window of opportunity for saving lives through defibrillation is very small, being only 10-13 minutes even if CPR is administered correctly. According to AHA, in cases of sudden cardiac arrest,

CPR is merely a maintenance tool, and defibrillation must take place to "shock" the patient's heart into a proper working rhythm. Thus, the public would be better served, and lives could be saved, if businesses and offices across California are

better encouraged to have AEDs on site. However, AHA asserts, many California businesses that would otherwise have an AED on site are still unwilling to do so, even with SB 911 of 1999, because of liability fears. The potential exposure for the business to defend itself whenever the use of an AED does not prevent death from occurring, they state, is too great a risk.

While it is not known if any business has in fact ever been sued, and it is highly doubtful, the sponsor reports that California public entities and businesses remain reluctant to make AEDs available in their facilities until this issue, real or perceived, is more fully addressed with the changes contained in this legislation. This bill, it is hoped, will address those liability concerns and encourage public and private facilities across the state to have AEDs on site to aid in emergency situations and save lives.

No risk of accidental misuse, according to the American Heart Association . According to the AHA, AEDs contain microcomputers to accurately identify sudden cardiac arrests and make extensive use of audible prompting and signals to provide operators with clear and concise instruction, making their use uncomplicated, intuitive, and nearly foolproof. Safeguards are built in to protect both operator and victim and to ensure that the AED will only deliver a shock if, in fact, the device affirmatively determines that a victim is in sudden cardiac arrest. Further, the device does not allow for manual overrides, in the event a panicked operator tries to administer the shock even when the device finds that the victim is not in cardiac arrest. (As noted above, intentional misuse would continue to not be covered by the immunity contained in this bill.)

Training and maintenance requirements contained in current law .

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For AED operators : For the qualified immunity to apply under current law, the "Good Samaritan" operator must have completed a basic CPR and AED use course within the preceding 12 months that complies with regulations adopted by the Emergency Medical Services Authority (EMSA) and the standards adopted by the American Heart Association or the American Red Cross for CPR and

AED use. Current EMSA regulations call for a training class of not less than four hours covering, among other topics: (1) the proper use, maintenance, and periodic inspection of the AED; (2) the importance of CPR and defibrillation; (3) assessment of an unconscious patient to determine if cardiac arrest has occurred and the appropriateness of using the AED; and (4) information as to defibrillator safety precautions and training in determining if further usage is necessary.

For businesses having AEDs on site : In order to qualify under current law for immunity protection, a business acquiring an AED must satisfy all of the following conditions: (1) comply with all regulations governing the training, use, and placement of an AED; (2) notify the local EMS agency of the existence, location and type of AED acquired; (c) ensure all of the following: (i) that expected AED users annually complete the required training for AED operators to qualify for the immunity; (ii) that the defibrillator is maintained and tested according to the manufacturer's operational guidelines; (iii) that the owner conduct a readiness check after each usage, and at least once every 30 days if the AED has not been used in the preceding 30 days, and to keep records of such checks; (iv) that the emergency medical services system is activated as soon as possible when an operator uses an AED, and that usage is reported to the local EMS agency and the authorizing medical authority; and, (v) that a licensed physician is involved in developing a program to ensure compliance with the regulations and the requirements for training, notification and maintenance.

ARGUMENTS IN SUPPORT : The California Medical Association (CMA), other professional medical groups, and various medical centers support the bill, stating that when individuals suffer from sudden cardiac arrest, the use of a defibrillator significantly increases the survival rate of the victims. The CMA believes that increasing the usage of defibrillators in the life-threatening emergency of cardiac arrest will save lives.

The Building Owners and Managers Association of California (BOMA) supports the bill, writing that:

> Current law provides a very limited amount of liability protection for property owners who install AEDs, in the unlikely event that use of the device causes harm. An owner would only be immune if the

individual using the AED had received specified training. Given the fact that occupants and visitors to multi-tenant office buildings are not under the control of the property owner, and that the required training is fairly extensive, it is unlikely that the training requirement standard which triggers immunity can be met. Therefore it is unlikely that building owners will install AEDs.

It is unfortunate that property owners have to face a Hobson's choice - either to install AEDs and face the prospect that they can be sued if the use of the AED causes harm, or not to install AEDs and thereby diminish the chances of saving the life of someone who might suffer a heart attack on their premises.

AB 2041 would grant immunity to building owners who install AEDs in their buildings, without regard to whether the individual using the AED has undergone specified training? Given the proven life saving potential of AEDs, the ease of using the device by almost anyone, and the inherent fail-safe protections of modem AEDs, BOMA California believes that broader immunity from liability for building owners who acquire and install AEDs is warranted.

The California Association of Joint Powers Authorities (CAJPA) supports the bill, stating it is an organization of joint powers authorities established by a broad range of local government entities, including cities, counties, school districts and other special districts. It writes:

Why is the immunity provided by AB 2041 important? The value of AEDs is that they be sited in all facilities open to the public so that whenever a patient suffers sudden cardiac arrest, a potential rescue is available. Under current law, the facility can be liable if unauthorized persons gain access to the AED. It makes little sense to have a limited immunity that forces facilities to place the machines in inaccessible places to ensure that only "trained" people have access. Simply put, lives will be unnecessarily lost. From the perspective of public sector facilities, such as schools, libraries, city halls, and the like, the risk under current law is

that the "trained" person may not be on duty at the time a need arises. As a measure that protects the public health, and as a measure that protects scarce public resources from wasteful litigation, AB 2041 is a good bill.

The San Diego Regional Chamber of Commerce supports AB 2041, stating:

For the past year, owners and occupiers of buildings have been encouraged to purchase and install AEDs. However, existing law protects from liability only those who have undertaken specific training in the use of the equipment. Additionally, for the liability protection to flow to the "acquirer" a number of things must occur, including the mandated training of "expected users" including "agents" of the acquirer. These limited liability provisions, particularly in light of the advancement in technology, represent a major obstacle in the purchase and installation of these devices?

PRIOR LEGISLATION :

SB 911 (Figueroa) of 1999, Ch. 163, Stats. 1999.
AB 2371 (Leonard) of 1998, died in the Assembly Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION :

Support

City of San Diego (sponsor)
Building Owners and Managers Association of California (BOMA)
California Medical Association (CMA)
California Association of Joint Powers Authorities (CAJPA)
San Diego Regional Chamber of Commerce

Opposition

Consumer Attorneys of California (unless amended in future)

Analysis Prepared by : Drew Liebert / JUD. / (916) 319-2334

ASSEMBLY THIRD READING
AB 2041 (Vargas)
As Amended April 16, 2002
Majority vote

JUDICIARY 12-0

Ayes:	Corbett, Harman, Dutra, Jackson, Longville, Robert Pacheco, Rod Pacheco, Shelley, Steinberg, Vargas, Wayne, Aroner		

SUMMARY : Seeks to encourage greater availability in public and private buildings across the state of automatic external defibrillators (AEDs) which are apparently "fail safe" life-saving devices by broadening the immunity provided under current law. Specifically, this bill grants immunity:

1)Regardless of prior training, to all "Good Samaritans" who voluntarily use AEDs at the scene of an emergency who help to try to save someone's life.

2)To building owners or others who voluntarily acquire AED's to potentially save the lives of building tenants and members of the public, if specified safety standards are met.

EXISTING LAW :

1)Provides immunity from civil liability to any person who, in good faith and without compensation or the expectation of compensation, renders emergency care at the scene of an emergency.

2)Provides immunity from civil liability to any person who completes a designated cardiopulmonary resuscitation (CPR) course and who, in good faith, renders emergency at the scene of an emergency, without the expectation of receiving compensation for providing the emergency care.

3)Exempts from civil liability any local agency, entity of state

or local government, or other public or private organization which sponsors, authorizes, supports, finances, or supervises the training of citizens in CPR.

4)Provides immunity from liability for certain trained persons who use in good faith and without compensation an automated external defibrillator (AED) in rendering emergency care or treatment at the scene of an emergency. This qualified immunity does not apply in the case of personal injury or wrongful death resulting from the AED operator's gross negligence or willful or wanton misconduct. Nor does it apply to the manufacturer, designer, developer, distributor, installer, or supplier of an AED or defibrillator.

FISCAL EFFECT : None

COMMENTS : SB 911 (Figueroa), Chapter 163, Statutes of 1999, provides for qualified immunity to "Good Samaritans" who voluntarily use AEDs at the scene of an emergency to try to save heart victims' lives. Though her original legislation provided broad immunity for such "Good Samaritans" to spur the availability and use of such devices across the state, SB 911 was ultimately trimmed down such that the immunity currently provided is limited to only those "Good Samaritans" who complete a specified training course within the preceding year. Untrained members of the public are not yet shielded from potential negligence suits (though it was clearly understood at the time that such suits were unlikely, though not impossible). The SB 911 also extends qualified immunity to those businesses that purchased the device, the physician who prescribed the device, and the agency which trained the person in the use of the AED under specified circumstances.

In support of this bill, the author writes:

Daily, we are all vulnerable to sudden cardiac arrest and may be affected by the inability or fear of a layperson to use the AED, because of the potential legal ramifications. Public building owners who would like to install AEDs are being advised not to do so because of the limited immunity from liability. An owner would only be immune if the individual using the AED had received specified training. Given the fact that occupants and visitors to multi-tenant office buildings are not under the control of the property

owner, and that the required training is fairly extensive, it is unlikely that the training requirement standard which triggers immunity could be met. Therefore it is unlikely that building owners will install AEDs.

Although SB 911 has helped encourage some entities to install AEDs, it appears clear that such devices have not yet been as widely distributed in many public and private buildings to help save the lives of heart attack victims. This bill, which is sponsored by the City of San Diego and is supported by the state's building owners and many public health organizations, seeks to encourage much greater availability of these apparently "fail safe" life-saving devices in public and private buildings across the state by broadening the scope of the current immunity provided. This bill would grant immunity, regardless of prior training, to all "Good Samaritans" who voluntarily use AEDs at the scene of an emergency who help to try to save someone's life, and it would also grant immunity to building owners or others who voluntarily acquire such safety devices to potentially save the lives of building tenants and members of the public, if specified safety standards are met, including standards regarding the placement and proper maintenance of AEDs.

The Consumer Attorneys of California generally oppose similar measures they contend are solely based on the "fear of liability" rather than hard evidence of such law suits. However the organization has communicated to the author and to the Committee that it is willing to work with the author and Committee counsel to attempt to craft some amendments to the bill which will "move the ball" down the court to encourage greater availability of these life-saving devices across the state.

Analysis Prepared by : Drew Liebert / JUD. / (916) 319-2334

FN: 0004586

SENATE JUDICIARY COMMITTEE
Martha M. Escutia, Chair
2001-2002 Regular Session

AB 2041 | A
Assembly Member Vargas | B
As Amended April 16, 2002
Hearing Date: August 6, 2002 | 2
Civil Code | 0
GWW:cjt | 4
1

SUBJECT

Automatic External Defibrillators (AEDs): Qualified Immunity for Good Samaritan's Use of AED and for Building Owner's Acquisition of AEDs

DESCRIPTION

This bill would broaden the current immunity for the use or purchase of an AED. The bill would repeal the CPR and AED use training requirement for a Good Samaritan user of an AED in rendering emergency care. It would also repeal or substantially relax the current requirement that building owners and others who acquire AEDs must ensure that expected AED users complete an accepted CPR and AED course as a condition of immunizing that building owner from any liability arising from the use of the acquired AED.

The immunities would not apply in cases of gross negligence or willful or wanton misconduct.

(This analysis reflects author's amendments to be offered in Committee.)

BACKGROUND

An AED is a medical device which is used to administer an electric shock through the chest wall to the heart after someone suffers cardiac arrest. Built-in computers assess the patient's heart rhythm, determine whether the person is in cardiac arrest, and signal whether to administer the shock. Audible cues guide the user through the process.

(more)

Portable AEDs are available upon a prescription from a medical authority. Their general cost is about $3,000.

In 1999, the Legislature enacted SB 911 (Figueroa) to provide a qualified immunity from civil liability for trained persons who use in good faith and without compensation an automated external defibrillator ("AED") in rendering emergency care or treatment at the scene of an emergency. The qualified immunity would also extend to those businesses that purchased the device, the medical authority which prescribed the device, and the agency which trained the person in the use of the AED, provided that specified training and maintenance requirements were met. The immunities do not apply in cases of personal injury resulting from gross negligence of wilfull or wanton misconduct.

According to the sponsor, the County of San Diego, the training requirement is a significant obstacle to the ability of property owners to equip their buildings with AEDs. This bill would significantly relax the training requirements with the goal of encouraging more public and private building owners to buy AED devices for their buildings.

CHANGES TO EXISTING LAW

Existing law, Civil Code Section 1714.21, provides a qualified immunity from civil liability to:
(1) any person who, in good faith and not for compensation renders emergency treatment by the use of an automated external defibrillator (AED) at the scene of an emergency, has completed a basic CPR and AED use course that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards of the

American Heart Association or the American Red Cross for CPR and AED use; and
(2) a person or entity (e.g., a building owner) who provides CPR and AED training to a person who renders emergency care pursuant to (1) above.

The immunity does not apply in cases of gross negligence or willful or wanton misconduct.

Existing law , Health and Safety Code Section 1797.196,

requires any person who acquires an AED to comply with all regulations governing the training, use and placement of an AED and ensure all of the following:
(1) That expected AED users complete an accepted training course in CPR and AED use;
(2)That the AED is regularly maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer;
(3) That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these periodic checks are also required;
(4)That any person who renders emergency care or treatment by using an AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS (Emergency Medical Services) agency;
(5) That there is involvement of a licensed physician in developing a program to ensure compliance with the regulations and requirements for training, notification, and maintenance;
This bill would substantially revise the above provisions.

1)It would repeal the Civil Code requirement that an AED user must have completed a basic CPR or AED course as a condition of obtaining a civil immunity from liability for using the AED in rendering emergency care in good faith and not for compensation at the scene of an emergency.
2)It would repeal the Health and Safety Code requirement that any building owner or other person that acquires an AED must ensure that expected AED users complete a CPR and AED use training course. Instead, the building owner or acquirer only need ensure that not less than one employee complete an accepted training course in CPR and AED use. For entities with more than one employee onsite where the AED is located, that there is at least one employee who has completed an accepted CPR and AED use training course who is reasonably available during normal business hours to respond to an emergency that requires the use of an AED.

The bill would also require building owners to:
Prepare a written plan describing the procedures to be followed in the event of an emergency requiring the use

of an AED. The plan shall require the user to immediately notify "911" and trained office personnel at the start of AED procedures.
Ensure that tenants receive annually a brochure approved as to content and style by the American Heart Association or the American Red Cross which describes the proper use of an AED, and that similar information is posted next to any installed AED.
Notify building tenants not less than once a year as to the location of AED's in the building.
Offer training for their tenants at least once a year when building owners and managers do not have employees onsite. Costs of training would be as mutually agreed upon.

The bill does not require a building owner to buy an AED for any building.

COMMENT

1. Stated need: Current training requirements are a major obstacle to AED placement

In support of AB 2041, the author writes: "Daily, we are all vulnerable to sudden cardiac arrest and may be affected by the inability or fear of a layperson to use the AED, because of the potential legal ramifications. Public building owners who would like to install AEDs are being advised not to do so because of the limited immunity from liability. An owner would only be immune if the individual using the AED had received specified training. Given the fact that occupants and visitors to multi-tenant office buildings are not under the control of the property owner, and that the required training is fairly extensive, it is unlikely that the training requirement standard which triggers immunity could be met. Therefore it is unlikely that building owners will install AEDs."

The San Diego Regional Chamber of Commerce supports AB 2041, stating:
"For the past year, owners and occupiers of buildings have been encouraged to purchase and install AEDs. However, existing law protects from liability only those who have undertaken specific training in the use of the

equipment. Additionally, for the liability protection to flow to the 'acquirer' a number of things must occur, including the mandated training of 'expected users' including 'agents' of the acquirer. These limited liability provisions, particularly in light of the advancement in technology, represent a major obstacle in the purchase and installation of these devices."

The American Heart Association (AHA), in strong support of the bill, states that cardiac arrest is a life-or-death situation, and the patient has very little chance of survival without defibrillation. However, the window of opportunity for saving lives through defibrillation is very small, being only 10-13 minutes even if CPR is administered correctly. According to the AHA, CPR is merely a maintenance tool, and defibrillation must take place to "shock" the patient's heart into a proper working rhythm. Without an AED, CPR will probably not be enough. Thus, the public would be better served, and lives could be saved, if businesses and offices were encouraged to have AEDs onsite.

2. Key question: Should training requirements for AED users be repealed or substantially relaxed?

Current law indeed requires, as a condition of the immunity, that an operator complete a basic CPR and AED use course that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards adopted by the American Heart Association or the American Red Cross for CPR and AED use. This policy was enacted to ensure that the operator was trained and capable of using the unit in an emergency if he or she is going to be immunized from negligent actions.

Current EMS regulations call for a training class of not less than four hours covering, among other topics: a) the proper use, maintenance, and periodic inspection of the AED; b) the importance of CPR and defibrillation; c) assessment of an unconscious patient to determine if cardiac arrest has occurred and the appropriateness of using the AED; and d) information as to defibrillator safety precautions and training in determining if further usage is necessary.

The American Red Cross of California opposes AB 2401 because of its proposed extension of the immunity to persons who are not trained to use these devices as required under current law. The Red Cross writes:

"While we applaud your effort to increase access to these life-saving devices, we believe some training is necessary to use them safely. Operating AEDs is designed to be very simple, but there are a number of

considerations arising from their use that are not covered by the voice and visual prompts generated by the devices.

"These considerations are, however, covered under training programs required under current law. Additionally, AEDs are not intended to be the sole modality when treating a cardiac emergency. CPR is a vital link to a victim's survival, and accordingly, the American Red Cross combines AED and CPR training in the same program."

"At the very least, those responsible for the AED device and those required to respond to emergencies should be trained to use these devices."

GIVEN THE CONCERNS OF THE AMERICAN RED CROSS, SHOULD THE CPR AND AED USE TRAINING REQUIREMENTS IN EXISTING LAW BE REPEALED OR SUBSTANTIALLY RELAXED, AS PROPOSED?

IN LIGHT OF THE NEED TO ADMINISTER CPR IN CONJUNCTION WITH THE USE OF AN AED, WOULD AN AED IN A BUILDING FULL OF UNTRAINED PEOPLE BE OF ANY USE?

The Apple Valley Fire Protection District also opposes AB 2041, urging that retention of the CPR/AED training requirements is necessary to maintain the integrity of emergency medical systems across California.

3. Would the substitute procedures provide any measure of safety for building occupants and visitors?

In lieu of the current requirement that building owners ensure that "expected" AED users be trained in CPR and AED use, this bill would instead provide the immunity if the building owner meets the following:

a) No less than one employee complete an accepted training course in CPR and AED use . If the building were a small one and the employee was there all the time, this standard might suffice. However, the rule would equally to apply to skyscraper buildings filled with hundreds or thousands of tenants, and to a building housing a small business with less than five or ten employees.

b) For entities who have more than one employee onsite where the AED is located, that there is at least one employee who has completed an accepted CPR and AED training course "reasonably available" to respond to an emergency that requires the use of an AED, "during normal operating hours." In this situation, the building owner may well have 10 or 20 employees onsite, but only one of them needs to be trained in CPR and AED procedures. And that person needs only to be "reasonably available." This language is intended to allow that one trained employee to go to lunch or to tend to his or her other functions that may take him or her away from the building, without the owner losing the immunity.

Since AED usage should be accompanied be the trained administration of CPR, it is not clear what public policy is promoted by encouraging the placement of AEDs in buildings without requiring the availability of trained personnel to monitor and maximize its use.

SHOULD NOT THE TRAINING REQUIREMENTS BE STRENGTHENED, TO ASSURE SOME MEASURE OF SAFETY TO BUILDING TENANTS?

c) Building owners and managers who do not have employees onsite shall offer training for their tenants at least once a year. The provision needs to be clarified to ensure that the building owners are offering American Red Cross training or some other accepted training course, as opposed to doing it themselves.

SHOULD THIS PROVISION BE CLARIFIED TO REQUIRE THE

OFFERED TRAINING TO BE AN ACCEPTED CPR AND AED TRAINING PROGRAM?

4. CAOC opposition

The Consumer Attorneys of California (CAOC) are opposed to AB 2041. Although it has engaged in substantial discussions with the sponsor, as have Committee staff, CAOC is still very concerned about the removal of the training requirements. It argues that if users and acquirers are going to be immunized for negligent conduct, they should at least take the responsibility of ensuring that a user know how to operate the equipment and that building owners take minimum steps to ensure that the equipment is safe to use and is used safely.

At the very least, CAOC argues that the bill should be sunsetted so that the Legislature may revisit this issue in the event unforeseen consequences result.

IF ENACTED, SHOULD THE BILL BE AMENDED WITH A THREE-YEAR SUNSET?

5. City of Los Angeles is requesting amendments

The City of Los Angeles supports the bill but requests an amendment to require the AED service provider to report annually on the use of AED's to the local Emergency Medical Services Authority.

6. No risk of accidental misuse, asserts AHA

According to the AHA, AEDs contain microcomputers to accurately identify sudden cardiac arrests and make extensive use of audible prompting and signals to provide operators with clear and concise instruction, making their use uncomplicated, intuitive, and nearly foolproof. Safeguards are built in to protect both operator and victim and to ensure that the AED will only deliver a shock if, in fact, the device affirmatively determines that a victim is in sudden cardiac arrest. Further, the device does not allow for manual overrides, in the event a panicked operator tries to administer the shock even when the device finds that the victim is not in cardiac arrest.

Intentional misuse would not be covered by the qualified immunity.

Support: Building Owners and Managers Association of California (BOMA); California Medical Association (CMA); California Association of Joint Power Authorities (CAJPA); San Diego Regional Chamber of Commerce; Cities of Los Angeles, Palm Desert, and Claremont

Opposition: American Red Cross; Consumer Attorneys of California; Apple Valley Fire Protection District;

HISTORY

Source: City of San Diego

Related Pending Legislation: None Known

Prior Legislation: SB 911 (Figueroa), Chapter 163, Statutes of 1999

Prior Vote: Assembly Floor 76 - 0
Assembly Judiciary Committee: 12 - 0

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SENATE RULES COMMITTEE | AB 2041
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THIRD READING

Bill No: AB 2041
Author: Vargas (D)
Amended: 8/14/02 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE : 5-0, 8/6/02
AYES: Escutia, Ackerman, Kuehl, O'Connell, Sher

ASSEMBLY FLOOR : 76-0, 5/13/02 - See last page for vote

SUBJECT : Liability: emergency care

SOURCE : City of San Diego

DIGEST : This bill broadens the current immunity for the use or purchase of an AED. The bill repeals the CPR and AED **use training requirement for a Good Samaritan user of an** AED in rendering emergency care. It also repeals or substantially relaxes the current requirement that building owners and others who acquire AEDs must ensure that expected AED users complete an accepted CPR and AED course as a condition of immunizing that building owner from any liability arising from the use of the acquired AED.

The immunities would not apply in cases of gross negligence or willful or wanton misconduct.

ANALYSIS : Existing law, Civil Code Section 1714.21, provides a qualified immunity from civil liability to:

1. Any person who, in good faith and not for compensation

CONTINUED

renders emergency treatment by the use of an automated external defibrillator (AED) at the scene of an emergency, has completed a basic CPR and AED use course that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards of the American Heart Association or the American Red Cross for CPR and AED use; and

2. A person or entity (e.g., a building owner) who provides CPR and AED training to a person who renders emergency care pursuant to (1) above.

The immunity does not apply in cases of gross negligence or willful or wanton misconduct.

Existing law, Health and Safety Code Section 1797.196, requires any person who acquires an AED to comply with all regulations governing the training, use and placement of an AED and ensure all of the following:

1. That expected AED users complete an accepted training course in CPR and AED use.

2. That the AED is regularly maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer.

3. That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these periodic checks are also required.

4. That any person who renders emergency care or treatment by using an AED activates the emergency medical services

system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS (Emergency Medical Services) agency.

5. That there is involvement of a licensed physician in developing a program to ensure compliance with the regulations and requirements for training, notification, and maintenance.

This bill would substantially revise the above provisions.

1. It would repeal the Civil Code requirement that an AED user must have completed a basic CPR or AED course as a condition of obtaining a civil immunity from liability for using the AED in rendering emergency care in good faith and not for compensation at the scene of an emergency.

2. It would repeal the Health and Safety Code requirement that any building owner or other person that acquires an AED must ensure that expected AED users complete a CPR and AED use training course. Instead, the building owner or acquirer only need ensure that not less than one employee complete an accepted training course in CPR and AED use. For entities with more than one employee onsite where the AED is located, that there is at least one employee who has completed an accepted CPR and AED use training course who is reasonably available during normal business hours to respond to an emergency that requires the use of an AED.

The bill would also require building owners to:

1. Prepare a written plan describing the procedures to be followed in the event of an emergency requiring the use of an AED. The plan shall require the user to immediately notify "911" and trained office personnel at the start of AED procedures.

2. Ensure that tenants receive annually a brochure approved as to content and style by the American Heart Association or the American Red Cross which describes the proper use of an AED, and that similar information is posted next to any installed AED.

3. Notify building tenants not less than once a year as to the location of AED's in the building.

4. Offer training for their tenants at least once a year when building owners and managers do not have employees onsite. Costs of training would be as mutually agreed upon.

The bill does not require a building owner to buy an AED for any building.

The provisions of the bill become operative on January 1, 2008.

Background :

An AED is a medical device which is used to administer an electric shock through the chest wall to the heart after someone suffers cardiac arrest. Built-in computers assess the patient's heart rhythm, determine whether the person is in cardiac arrest, and signal whether to administer the shock. Audible cues guide the user through the process. Portable AEDs are available upon a prescription from a medical authority. Their general cost is about $3,000.

In 1999, the Legislature enacted SB 911 (Figueroa) to provide a qualified immunity from civil liability for trained persons who use in good faith and without compensation an automated external defibrillator ("AED") in

rendering emergency care or treatment at the scene of an emergency. The qualified immunity would also extend to those businesses that purchased the device, the medical authority which prescribed the device, and the agency which trained the person in the use of the AED, provided that specified training and maintenance requirements were met. The immunities do not apply in cases of personal injury resulting from gross negligence of willfull or wanton misconduct.

According to the sponsor, the County of San Diego, the training requirement is a significant obstacle to the ability of property owners to equip their buildings with AEDs. This bill would significantly relax the training requirements with the goal of encouraging more public and private building owners to buy AED devices for their buildings.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No Local: No

SUPPORT : (Verified 8/14/02)

City of San Diego (source)
Building Owners and Managers Association of California (BOMA)
California Medical Association (CMA)
California Association of Joint Power Authorities (CAJPA)
San Diego Regional Chamber of Commerce
Cities of Los Angeles, Palm Desert, and Claremont

ARGUMENTS IN SUPPORT : In support of AB 2041, the author writes: "Daily, we are all vulnerable to sudden cardiac arrest and may be affected by the inability or fear of a layperson to use the AED, because of the potential legal ramifications. Public building owners who would like to install AEDs are being advised not to do so because of the limited immunity from liability. An owner would only be immune if the individual using the AED had received specified training. Given the fact that occupants and visitors to multi-tenant office buildings are not under the control of the property owner, and that the required training is fairly extensive, it is unlikely that the training requirement standard which triggers immunity could be met. Therefore it is unlikely that building owners will install AEDs."

The San Diego Regional Chamber of Commerce supports AB 2041, stating:
"For the past year, owners and occupiers of buildings have been encouraged to purchase and install AEDs. However, existing law protects from liability only those who have undertaken specific training in the use of the equipment. Additionally, for the liability protection to flow to the 'acquirer' a number of things must occur, including the mandated training of 'expected users' including 'agents' of the acquirer. These limited liability provisions, particularly in light of the advancement in technology, represent a major obstacle in the purchase and installation of these devices."

The American Heart Association (AHA), in strong support of the bill, states that cardiac arrest is a life-or-death situation, and the patient has very little chance of survival without defibrillation. However, the window of opportunity for saving lives through defibrillation is very small, being only 10-13 minutes even if CPR is administered

correctly. According to the AHA, CPR is merely a maintenance tool, and defibrillation must take place to "shock" the patient's heart into a proper working rhythm. Without an AED, CPR will probably not be enough. Thus, the public would be better served, and lives could be saved, if businesses and offices were encouraged to have AEDs onsite.

ASSEMBLY FLOOR :

AYES: Aanestad, Alquist, Aroner, Ashburn, Bates, Bogh, Briggs, Calderon, Bill Campbell, John Campbell, Canciamilla, Cardenas, Cardoza, Chan, Chavez, Chu, Cogdill, Cohn, Corbett, Correa, Cox, Daucher, Diaz, Dickerson, Dutra, Firebaugh, Florez, Frommer, Harman, Havice, Hertzberg, Hollingsworth, Horton, Jackson, Keeley, Kehoe, Kelley, Koretz, La Suer, Leonard, Leslie, Longville, Lowenthal, Maddox, Maldonado, Matthews, Migden, Mountjoy, Nakano, Nation, Negrete McLeod, Oropeza, Robert Pacheco, Rod Pacheco, Papan, Pavley, Pescetti, Reyes, Richman, Runner, Salinas, Shelley, Simitian, Steinberg, Strickland, Strom-Martin, Thomson, Vargas, Washington, Wayne, Wiggins, Wright, Wyland, Wyman, Zettel, Wesson

RJG:jk 8/14/02 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

SENATE RULES COMMITTEE | AB 2041
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2041
Author: Vargas (D)
Amended: 8/14/02 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE : 5-0, 8/6/02
AYES: Escutia, Ackerman, Kuehl, O'Connell, Sher

ASSEMBLY FLOOR : 76-0, 5/13/02 - See last page for vote

SUBJECT : Liability: emergency care

SOURCE : City of San Diego

DIGEST : This bill broadens the current immunity for the use or purchase of an AED. The bill repeals the CPR and AED use training requirement for a Good Samaritan user of an AED in rendering emergency care. It also repeals or substantially relaxes the current requirement that building owners and others who acquire AEDs must ensure that expected AED users complete an accepted CPR and AED course as a condition of immunizing that building owner from any liability arising from the use of the acquired AED.

The immunities would not apply in cases of gross negligence or willful or wanton misconduct.

ANALYSIS : Existing law, Civil Code Section 1714.21, provides a qualified immunity from civil liability to:

1. Any person who, in good faith and not for compensation

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renders emergency treatment by the use of an automated external defibrillator (AED) at the scene of an emergency, has completed a basic CPR and AED use course that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards of the American Heart Association or the American Red Cross for CPR and AED use; and

2. A person or entity (e.g., a building owner) who provides CPR and AED training to a person who renders emergency care pursuant to (1) above.

The immunity does not apply in cases of gross negligence or willful or wanton misconduct.

Existing law, Health and Safety Code Section 1797.196, requires any person who acquires an AED to comply with all regulations governing the training, use and placement of an AED and ensure all of the following:

1. That expected AED users complete an accepted training course in CPR and AED use.

2. That the AED is regularly maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer.

3. That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these periodic checks are also required.

4. That any person who renders emergency care or treatment by using an AED activates the emergency medical services

system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS (Emergency Medical Services) agency.

5. That there is involvement of a licensed physician in developing a program to ensure compliance with the regulations and requirements for training, notification, and maintenance.

This bill would substantially revise the above provisions.

1. It would repeal the Civil Code requirement that an AED user must have completed a basic CPR or AED course as a condition of obtaining a civil immunity from liability for using the AED in rendering emergency care in good faith and not for compensation at the scene of an emergency.

2. It would repeal the Health and Safety Code requirement that any building owner or other person that acquires an AED must ensure that expected AED users complete a CPR and AED use training course. Instead, the building owner or acquirer only need ensure that not less than one employee complete an accepted training course in CPR and AED use. For entities with more than one employee onsite where the AED is located, that there is at least one employee who has completed an accepted CPR and AED use training course who is reasonably available during normal business hours to respond to an emergency that requires the use of an AED.

The bill would also require building owners to:

1. Prepare a written plan describing the procedures to be followed in the event of an emergency requiring the use of an AED. The plan shall require the user to immediately notify "911" and trained office personnel at the start of AED procedures.

2. Ensure that tenants receive annually a brochure approved as to content and style by the American Heart Association or the American Red Cross which describes the proper use of an AED, and that similar information is posted next to any installed AED.

3. Notify building tenants not less than once a year as to the location of AED's in the building.

4. Offer training for their tenants at least once a year when building owners and managers do not have employees onsite. Costs of training would be as mutually agreed upon.

The bill does not require a building owner to buy an AED for any building.

The provisions of the bill become operative on January 1, 2008.

Background :

An AED is a medical device which is used to administer an electric shock through the chest wall to the heart after someone suffers cardiac arrest. Built-in computers assess the patient's heart rhythm, determine whether the person is in cardiac arrest, and signal whether to administer the shock. Audible cues guide the user through the process. Portable AEDs are available upon a prescription from a medical authority. Their general cost is about $3,000.

In 1999, the Legislature enacted SB 911 (Figueroa) to provide a qualified immunity from civil liability for trained persons who use in good faith and without compensation an automated external defibrillator ("AED") in

rendering emergency care or treatment at the scene of an emergency. The qualified immunity would also extend to those businesses that purchased the device, the medical authority which prescribed the device, and the agency which trained the person in the use of the AED, provided that specified training and maintenance requirements were met. The immunities do not apply in cases of personal injury resulting from gross negligence of willfull or wanton misconduct.

According to the sponsor, the County of San Diego, the training requirement is a significant obstacle to the ability of property owners to equip their buildings with AEDs. This bill would significantly relax the training requirements with the goal of encouraging more public and private building owners to buy AED devices for their buildings.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No Local: No

SUPPORT : (Verified 8/14/02)

City of San Diego (source)
California Medical Association (CMA)
California Association of Joint Power Authorities (CAJPA)
San Diego Regional Chamber of Commerce
Cities of Los Angeles, Palm Desert, and Claremont

ARGUMENTS IN SUPPORT : In support of AB 2041, the author writes: "Daily, we are all vulnerable to sudden cardiac arrest and may be affected by the inability or fear of a layperson to use the AED, because of the potential legal ramifications. Public building owners who would like to install AEDs are being advised not to do so because of the limited immunity from liability. An owner would only be immune if the individual using the AED had received specified training. Given the fact that occupants and visitors to multi-tenant office buildings are not under the control of the property owner, and that the required training is fairly extensive, it is unlikely that the training requirement standard which triggers immunity could be met. Therefore it is unlikely that building owners will install AEDs."

The San Diego Regional Chamber of Commerce supports AB 2041, stating:
"For the past year, owners and occupiers of buildings have been encouraged to purchase and install AEDs. However, existing law protects from liability only those who have undertaken specific training in the use of the equipment. Additionally, for the liability protection to flow to the 'acquirer' a number of things must occur, including the mandated training of 'expected users' including 'agents' of the acquirer. These limited liability provisions, particularly in light of the advancement in technology, represent a major obstacle in the purchase and installation of these devices."

The American Heart Association (AHA), in strong support of the bill, states that cardiac arrest is a life-or-death situation, and the patient has very little chance of survival without defibrillation. However, the window of opportunity for saving lives through defibrillation is very small, being only 10-13 minutes even if CPR is administered correctly. According to the AHA, CPR is merely a maintenance tool, and defibrillation must take place to

"shock" the patient's heart into a proper working rhythm. Without an AED, CPR will probably not be enough. Thus, the public would be better served, and lives could be saved, if businesses and offices were encouraged to have AEDs onsite.

ASSEMBLY FLOOR :
AYES: Aanestad, Alquist, Aroner, Ashburn, Bates, Bogh, Briggs, Calderon, Bill Campbell, John Campbell,

Canciamilla, Cardenas, Cardoza, Chan, Chavez, Chu, Cogdill, Cohn, Corbett, Correa, Cox, Daucher, Diaz, Dickerson, Dutra, Firebaugh, Florez, Frommer, Harman, Havice, Hertzberg, Hollingsworth, Horton, Jackson, Keeley, Kehoe, Kelley, Koretz, La Suer, Leonard, Leslie, Longville, Lowenthal, Maddox, Maldonado, Matthews, Migden, Mountjoy, Nakano, Nation, Negrete McLeod, Oropeza, Robert Pacheco, Rod Pacheco, Papan, Pavley, Pescetti, Reyes, Richman, Runner, Salinas, Shelley, Simitian, Steinberg, Strickland, Strom-Martin, Thomson, Vargas, Washington, Wayne, Wiggins, Wright, Wyland, Wyman, Zettel, Wesson

RJG:jk 8/20/02 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

SENATE RULES COMMITTEE | AB 2041
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THIRD READING

Bill No: AB 2041
Author: Vargas (D)
Amended: 8/22/02 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE : 5-0, 8/6/02
AYES: Escutia, Ackerman, Kuehl, O'Connell, Sher

ASSEMBLY FLOOR : 76-0, 5/13/02 - See last page for vote

SUBJECT : Liability: emergency care

SOURCE : City of San Diego

DIGEST : This bill broadens the current immunity for the use or purchase of an AED. The bill repeals the CPR and AED use training requirement for a Good Samaritan user of an AED in rendering emergency care. It also repeals or substantially relaxes the current requirement that building owners and others who acquire AEDs must ensure that expected AED users complete an accepted CPR and AED course as a condition of immunizing that building owner from any liability arising from the use of the acquired AED.

The immunities from civil liabilities would not apply in cases of gross negligence or willful or wanton misconduct.

Senate Floor Amendments of 8/22/02 made technical/clarifying changes.

ANALYSIS : Existing law, Civil Code Section 1714.21,

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provides a qualified immunity from civil liability to:

1. Any person who, in good faith and not for compensation renders emergency treatment by the use of an automated external defibrillator (AED) at the scene of an emergency, has completed a basic CPR and AED use course that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards of the American Heart Association or the American Red Cross for CPR and AED use; and

2. A person or entity (e.g., a building owner) who provides CPR and AED training to a person who renders emergency care pursuant to (1) above.

The immunity does not apply in cases of gross negligence or willful or wanton misconduct.

Existing law, Health and Safety Code Section 1797.196, requires any person who acquires an AED to comply with all regulations governing the training, use and placement of an AED and ensure all of the following:

1. That expected AED users complete an accepted training course in CPR and AED use.

2. That the AED is regularly maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer.

3. That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these periodic checks are also required.

4. That any person who renders emergency care or treatment by using an AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS (Emergency Medical Services) agency.

5. That there is involvement of a licensed physician in developing a program to ensure compliance with the regulations and requirements for training, notification,

and maintenance.

This bill would substantially revise the above provisions.

1. It would repeal the Civil Code requirement that an AED user must have completed a basic CPR or AED course as a condition of obtaining a civil immunity from liability for using the AED in rendering emergency care in good faith and not for compensation at the scene of an emergency.

2. It would repeal the Health and Safety Code requirement that any building owner or other person that acquires an AED must ensure that expected AED users complete a CPR and AED use training course. Instead, the building owner or acquirer only need ensure that not less than one employee complete an accepted training course in CPR and AED use. After the first five AED units are acquired, for each additional five AED units acquired, one employee would be required to be trained beginning with the first AED acquired. Acquirers of AED untis are required to have trained employees who should be available to respond to an emergency that may involve the use of an AED unit during normal operating hours.

The bill would also require building owners to:

1. Prepare a written plan describing the procedures to be followed in the event of an emergency requiring the use of an AED. The plan shall require the user to immediately notify "911" and trained office personnel at the start of AED procedures.

2. Ensure that tenants receive annually a brochure approved as to content and style by the American Heart Association or the American Red Cross which describes the proper use of an AED, and that similar information is posted next to any installed AED.

3. Notify building tenants not less than once a year as to the location of AED's in the building.

4. Offer training for their tenants at least once a year

when building owners and managers do not have employees onsite. Costs of training would be as mutually agreed upon.

The bill does not require a building owner to buy an AED for any building.

The provisions of the bill become operative on January 1, 2008.

Existing law authorizes the EMS Authority to establish minimum standards for AED use and training by unlicensed or uncertified individuals. Exiting law requires specified persons to meet those standards.

This bill would expand the authorization to establish standards and would delete the requirement that specified persons meet those standards.

Background :

An AED is a medical device which is used to administer an electric shock through the chest wall to the heart after someone suffers cardiac arrest. Built-in computers assess the patient's heart rhythm, determine whether the person is in cardiac arrest, and signal whether to administer the shock. Audible cues guide the user through the process. Portable AEDs are available upon a prescription from a medical authority. Their general cost is about $3,000.

In 1999, the Legislature enacted SB 911 (Figueroa) to provide a qualified immunity from civil liability for trained persons who use in good faith and without compensation an automated external defibrillator ("AED") in rendering emergency care or treatment at the scene of an emergency. The qualified immunity would also extend to those businesses that purchased the device, the medical authority which prescribed the device, and the agency which trained the person in the use of the AED, provided that specified training and maintenance requirements were met. The immunities do not apply in cases of personal injury resulting from gross negligence of willfull or wanton misconduct.

According to the sponsor, the County of San Diego, the training requirement is a significant obstacle to the ability of property owners to equip their buildings with AEDs. This bill would significantly relax the training requirements with the goal of encouraging more public and private building owners to buy AED devices for their buildings.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No Local: No

SUPPORT : (Verified 8/14/02) (Unable to verify at time of writing)

City of San Diego (source)
California Medical Association (CMA)
California Association of Joint Power Authorities (CAJPA)
San Diego Regional Chamber of Commerce
Cities of Los Angeles, Palm Desert, and Claremont

ARGUMENTS IN SUPPORT : In support of AB 2041, the author writes: "Daily, we are all vulnerable to sudden cardiac arrest and may be affected by the inability or fear of a layperson to use the AED, because of the potential legal ramifications. Public building owners who would like to install AEDs are being advised not to do so because of the limited immunity from liability. An owner would only be immune if the individual using the AED had received specified training. Given the fact that occupants and visitors to multi-tenant office buildings are not under the control of the property owner, and that the required training is fairly extensive, it is unlikely that the training requirement standard which triggers immunity could be met. Therefore it is unlikely that building owners will install AEDs."

The San Diego Regional Chamber of Commerce supports AB 2041, stating:
"For the past year, owners and occupiers of buildings have been encouraged to purchase and install AEDs. However, existing law protects from liability only those who have undertaken specific training in the use of the equipment. Additionally, for the liability protection to flow to the 'acquirer' a number of things must occur, including the

mandated training of 'expected users' including 'agents' of the acquirer. These limited liability provisions, particularly in light of the advancement in technology, represent a major obstacle in the purchase and installation of these devices."

The American Heart Association (AHA), in strong support of the bill, states that cardiac arrest is a life-or-death

situation, and the patient has very little chance of survival without defibrillation. However, the window of opportunity for saving lives through defibrillation is very small, being only 10-13 minutes even if CPR is administered correctly. According to the AHA, CPR is merely a maintenance tool, and defibrillation must take place to "shock" the patient's heart into a proper working rhythm. Without an AED, CPR will probably not be enough. Thus, the public would be better served, and lives could be saved, if businesses and offices were encouraged to have AEDs onsite.

ASSEMBLY FLOOR :
AYES: Aanestad, Alquist, Aroner, Ashburn, Bates, Bogh, Briggs, Calderon, Bill Campbell, John Campbell, Canciamilla, Cardenas, Cardoza, Chan, Chavez, Chu, Cogdill, Cohn, Corbett, Correa, Cox, Daucher, Diaz, Dickerson, Dutra, Firebaugh, Florez, Frommer, Harman, Havice, Hertzberg, Hollingsworth, Horton, Jackson, Keeley, Kehoe, Kelley, Koretz, La Suer, Leonard, Leslie, Longville, Lowenthal, Maddox, Maldonado, Matthews, Migden, Mountjoy, Nakano, Nation, Negrete McLeod, Oropeza, Robert Pacheco, Rod Pacheco, Papan, Pavley, Pescetti, Reyes, Richman, Runner, Salinas, Shelley, Simitian, Steinberg, Strickland, Strom-Martin, Thomson, Vargas, Washington, Wayne, Wiggins, Wright, Wyland, Wyman, Zettel, Wesson

RJG:jk 8/24/02 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

Assembly Bill No. 2041

CHAPTER 718

An act to amend Section 1714.21 of the Civil Code, to amend Section 1797.190 of, and to amend, repeal, and add Section 1797.196 of, the Health and Safety Code, relating to liability.

[Approved by Governor September 20, 2002. Filed with Secretary of State September 20, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2041, Vargas. Liability: emergency care.

Existing law provides immunity from civil liability to any person who completes a basic cardiopulmonary resuscitation (CPR) or automatic external defibrillator (AED) course that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards of the American Heart Association or the American Red Cross, and who, in good faith, renders emergency care by the use of an AED at the scene of an emergency, without the expectation of receiving compensation for providing the emergency care.

This bill would revise those provisions by deleting the requirement that a person complete a basic CPR or AED course. The bill would further provide immunity from civil liability to a person or entity that acquires an AED for emergency use and renders emergency care, if that person or entity is in compliance with specified requirements.

Existing law authorizes the EMS Authority to establish minimum standards for AED use and training by unlicensed or uncertified individuals. Existing law requires specified persons to meet those standards.

This bill would expand the authorization to establish standards and would delete the requirement that specified persons meet those standards.

This bill would also require that the supplier of an AED notify the local EMS authority of the existence, location, and type of AED acquired, and provide to the acquirer specified information governing the use and maintenance of the AED. The bill would additionally require certain persons or entities that have acquired an AED to ensure employee training in CPR and AED use, as specified, and to follow particular emergency safety procedures. The bill would specify that the above requirements shall remain effective until January 1, 2008.

The people of the State of California do enact as follows:

SECTION 1. Section 1714.21 of the Civil Code is amended to read:

1714.21. (a) For purposes of this section, the following definitions shall apply:

(1) "AED" or "defibrillator" means an automated or automatic external defibrillator.

(2) "CPR" means cardiopulmonary resuscitation.

(b) Any person who, in good faith and not for compensation, renders emergency care or treatment by the use of an AED at the scene of an emergency is not liable for any civil damages resulting from any acts or omissions in rendering the emergency care.

(c) A person or entity who provides CPR and AED training to a person who renders emergency care pursuant to subdivision (b) is not liable for any civil damages resulting from any acts or omissions of the person rendering the emergency care.

(d) A person or entity that acquires an AED for emergency use pursuant to this section is not liable for any civil damages resulting from any acts or omissions in the rendering of the emergency care by use of an AED, if that person or entity has complied with subdivision (b) of Section 1797.196 of the Health and Safety Code.

(e) A physician who is involved with the placement of an AED and any person or entity responsible for the site where an AED is located is not liable for any civil damages resulting from any acts or omissions of a person who renders emergency care pursuant to subdivision (b), if that physician, person, or entity has complied with all of the requirements of Section 1797.196 of the Health and Safety Code that apply to that physician, person, or entity.

(f) The protections specified in this section do not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who renders emergency care or treatment by the use of an AED.

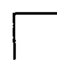
(g) Nothing in this section shall relieve a manufacturer, designer, developer, distributor, installer, or supplier of an AED or defibrillator of any liability under any applicable statute or rule of law.

SEC. 2. Section 1797.190 of the Health and Safety Code is amended to read:

1797.190. The authority may establish minimum standards for the training and use of automatic external defibrillators.

SEC. 3. Section 1797.196 of the Health and Safety Code is amended to read:

1797.196. (a) For purposes of this section, "AED" or "defibrillator" means an automated or automatic external defibrillator.



(b) In order to ensure public safety, any person or entity that acquires an AED is not be liable for any civil damages resulting from any acts or omissions in the rendering of the emergency care under subdivision (b) of Section 1714.21 of the Civil Code, if that person or entity does all of the following:

(1) Complies with all regulations governing the placement of an AED.

(2) Ensures all of the following:

(A) That the AED is maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer, the American Heart Association, and the American Red Cross, and according to any applicable rules and regulations set forth by the governmental authority under the federal Food and Drug Administration and any other applicable state and federal authority.

(B) That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these checks shall be maintained.

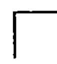
(C) That any person who renders emergency care or treatment on a person in cardiac arrest by using an AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS agency.

(D) For every AED unit acquired up to five units, no less than one employee per AED unit shall complete a training course in cardiopulmonary resuscitation and AED use that complies with the regulations adopted by the Emergency Medical Service Authority and the standards of the American Heart Association or the American Red Cross. After the first five AED units are acquired, for each additional five AED units acquired, one employee shall be trained beginning with the first AED unit acquired. Acquirers of AED units shall have trained employees who should be available to respond to an emergency that may involve the use of an AED unit during normal operating hours.

(E) That there is a written plan that describes the procedures to be followed in the event of an emergency that may involve the use of an AED, to ensure compliance with the requirements of this section. The written plan shall include, but not be limited to, immediate notification of 911 and trained office personnel at the start of AED procedures.

(3) Building owners ensure that tenants annually receive a brochure, approved as to content and style by the American Heart Association or American Red Cross, which describes the proper use of an AED, and also ensure that similar information is posted next to any installed AED.

(4) No less than once a year, building owners will notify their tenants as to the location of AED units in the building.



(c) Any person or entity that supplies an AED shall do all of the following:

(1) Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.

(2) Provide to the acquirer of the AED all information governing the use, installation, operation, training, and maintenance of the AED.

(d) A violation of this provision is not subject to penalties pursuant to Section 1798.206.

(e) The protections specified in this section do not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who renders emergency care or treatment by the use of an AED.

(f) Nothing in this section or Section 1714.21 shall be construed to require a building owner or a building manager to acquire and have installed an AED in any building.

(g) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 4. Section 1797.196 is added to the Health and Safety Code, to read:

1797.196. (a) For purposes of this section, "AED" or "defibrillator" means an automated or automatic external defibrillator.

(b) In order to ensure public safety, any person who acquires an AED shall do all of the following:

(1) Comply with all regulations governing the training, use, and placement of an AED.

(2) Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.

(3) Ensure all of the following:

(A) That expected AED users complete a training course in cardiopulmonary resuscitation and AED use that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards of the American Heart Association or the American Red Cross.

(B) That the defibrillator is maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer, the American Heart Association, and the American Red Cross, and according to any applicable rules and regulations set forth by the governmental authority under the federal Food and Drug Administration and any other applicable state and federal authority.

(C) That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these periodic checks shall be maintained.

(D) That any person who renders emergency care or treatment on a person in cardiac arrest by using an AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS agency.

(E) That there is involvement of a licensed physician in developing a program to ensure compliance with regulations and requirements for training, notification, and maintenance.

(c) A violation of this provision is not subject to penalties pursuant to Section 1798.206.

(d) This section shall become operative on January 1, 2008.

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Date of Hearing: March 16, 2005

ASSEMBLY COMMITTEE ON EDUCATION
Jackie Goldberg, Chair
AB 254 (Nakanishi) - As Introduced: February 8, 2005

SUBJECT : Emergency medical services: automatic external defibrillators (AED)

SUMMARY : Exempts public or private K-12 schools from liability associated with the use of AED's and provides clarification of the tenant notice requirements applicable to commercial, residential and industrial buildings. Specifically, this bill :

1) Clarifies that building owners of commercial, residential, or industrial buildings must meet the following in order to be exempt from liability for civil damages associated with the use of an AED:

a) Ensure that tenants annually receive a brochure, approved by the American Heart Association or American Red Cross, that describes the proper use of an AED;

b) Ensure that similar information is posted next to any installed AED; and

c) Notify their tenants, no less than once a year, of the location of AED units when and AED is placed in a commercial, residential or industrial building.

2) Requires the principal or superintendent of a public or private K-12 school to meet the following in order to be exempt from liability for civil damages associated with the use of an AED:

a) Ensure that the school administrators and staff annually receive a brochure, approved as to contents and style by the American Heart Association or the American Red Cross, that describes the proper use of an AED;

b) Ensure that similar information is posted next to every AED; and

c) Notify, at least annually, school employees of the location of all AED units on the campus.

EXISTING LAW

1) Establishes the Emergency Medical Services (EMS) System and the Prehospital Emergency Medical Care Personnel Act which permits each county to establish an EMS program under which the county is required to designate a local EMS agency. The act authorizes the local EMS agency to implement a trauma care system if the system meets the minimum standards set forth in the regulations established by the Emergency Medical Services Authority and the authority has approved a plan.

2) Authorizes the authority to establish minimum standards for the training and use of automatic external defibrillators and requires persons or entities that acquire the defibrillators to comply with maintenance, testing, and training requirements, which are scheduled to change on January 1, 2008.

3) Provides, until January 1, 2008, immunity from civil damages for those persons or entities, and sets forth tenant notice and other requirements for building owners in which an AED is placed.

FISCAL EFFECT : According to Legislative Counsel, this bill is non-fiscal.

COMMENTS : This bill was introduced in part as a response to a situation between Salinas Valley Medical Center and the Salinas City Elementary and Salinas Union High School districts which has already been resolved . According to Liz Lazar with the Salinas Valley Medical Center, the center received a grant from the Children's Miracle Network to implement a HeartSave Program which would allow the center to evaluate AED needs in the

community and develop and help implement an appropriate program to address the needs. When the medical center approached schools in the community, 5 of the 19 schools that were approach refused to place AED's on campuses because the schools were initially told they would not be covered under their risk management company for insurance purposes. The risk management company was asked to re-evaluate their decision, which they have done, and now all 19 schools will participate in the program.

Is it necessary to make distinctions in the law for schools to place AED's on campus ? According to the author, "existing law

provides liability protection for AED users in buildings under certain circumstances, but is silent on the issue of AEDs in schools." The author claims that some school districts (i.e. Salinas Elementary and High School districts) are refusing to allow AEDs to be used in their schools because they are afraid of increased liability costs.

Existing law states however that "any person or entity that acquires an AED is not liable for civil damages" if the person or entity meets the specified requirements. School districts therefore are already covered under this statute. The author, however, would like to see more explicit language regarding how schools should comply with this law.

Barriers to school districts providing AED's on campus go beyond liability issues . While Salinas schools are able to participate in a program that would allow their schools to provide AED's on campus at no cost to the districts, not all districts may be so lucky. Public entities (including schools) that acquire an AED must maintain and test the unit, keep records on the readiness of the unit, train at least one staff per 5 units on site, develop a written plan describing procedures for the use of an AED in an emergency and provide information brochures in order to be covered under the "Good Samaritan" law. Districts have expressed concerns about these costs in addition to their concerns regarding liability.

The National Association of School Nurses also cautions that while early defibrillation is an important element in the survival of a cardiac victim, defibrillation must be combined with other elements such as early access to EMS, early CPR and early access to Advanced Cardiac Care. They also claim that there is a current lack of data on the necessary educational training requirements for responders utilizing AED's and that more research is needed on the efficacy of these devices. Information such as this may also make schools less likely to place AED's on campus.

What is an AED and why should they be located on school campuses ? Defibrillation is a process in which an electronic device (e.g. AED) helps reestablish normal contraction rhythms in a heart that is not beating properly by delivering an electric shock to the heart.

Sudden cardiac death (SCD) often occurs in active, outwardly

healthy people. According to the Early Defibrillation Law and Policy Center, each year nearly 2,000 children and young adults between the ages of 5 and 24 become victims of SCD. As many as 1 in 100,000-300,000 school age athletes die annually of cardiac related causes. Many of these deaths occur on school and college campuses and most are unpredictable.

According to the HeartSave program, emergency medical services (EMS) can have response times of anywhere from 8 to 30 minutes. Survival rates from ventricular fibrillation can exceed 90% if defibrillation occurs in the first 1-2 minutes. The chances of survival decline by 7-10% per minute for every minute thereafter. Studies have shown AEDs are easy to use and are capable of being operated by non-trained individuals, including untrained sixth graders.

Author's amendments . The author would like to take the following amendments in committee:

Page 3, Line 14: Delete "commercial, residential or industrial"

Page 3, Line 20: Delete "commercial, residential or industrial"

The American Red Cross has requested the author take these amendments as they are concerned that specifically listing the types of buildings may exclude other types of buildings, such as government buildings, from current law.

Prior related legislation . SB 911 (Figueroa), Chapter 163, Statutes of 1999 established the "Good Samaritan" law for acquisition and use of AED's in emergencies. The bill provided a qualified immunity from civil liability for trained persons who use in good faith and without compensation an automated external defibrillator ("AED") in rendering emergency care or treatment at the scene of an emergency.

AB 2041 (Vargas), Chapter 718, Statutes of 2002 extended the "Good Samaritan" law by broadening the immunity for the use or purchase of an AED.

Arguments in support . According to the author, "Individuals and groups are purchasing Automatic External Defibrillators (AEDs) for high-traffic areas such as banks, government buildings, and schools. Some school districts are refusing to allow AEDs to be used in their schools because they are afraid of increased

liability costs. AEDs can save lives, and placement in schools should be encouraged, not discouraged. AEDs are used for people suffering not just from heart attacks, but also from sudden cardiac arrest, an affliction that occurs in people of all ages. Schools are often used as shelters during natural disasters or national security emergencies. Since schools are gathering points during such high-stress events, it makes even more sense that AEDs be available their."

REGISTERED SUPPORT / OPPOSITION :

Support

American Heart Association
American Red Cross of California
California Medical Association
California School Nurses Association
EMS Safety Services, Inc.
Individuals

Opposition

None on file.

Analysis Prepared by : Misty Padilla / ED. / (916) 319-2087

SENATE JUDICIARY COMMITTEE
Senator Joseph L. Dunn, Chair
2005-2006 Regular Session

AB 254
Assembly Member Nakanishi
As Amended March 30, 2005
Hearing Date: June 28, 2005
Health and Safety Code
GWW:rm

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SUBJECT

Automatic External Defibrillators (AED):
Immunity Standards for Voluntary Placement in K - 12 Schools

DESCRIPTION

This bill would specify the notification and staffing requirements that must be met when a public or private K - 12 school voluntarily installs an AED on school grounds and wishes immunity from civil liability resulting from any acts or omissions in using the AED's use to render emergency care.

This bill, because it amends a general law scheduled for sunset on January 1, 2008, will sunset on that date unless the sunset is extended or repealed.

(This analysis reflects author's amendments to be offered in committee. See Comment 2.)

BACKGROUND

An AED is a small, lightweight medical device used to assess a person's heart rhythm and, if necessary, administer an electric shock through the chest wall to restore a normal heart rhythm in victims of sudden cardiac arrest. Built-in computers assess the patient's heart rhythm, determine whether the person is in cardiac arrest, and signal whether to administer the shock. Audible cues

(more)

guide the user through the process. Portable AEDs are available upon a prescription from a medical authority. Their general cost is about $2,500 to $3,000 per unit.

AEDs are said to be "fool-proof," but some AEDs have been recalled recently by its manufacturer. (AED's by Access CardioSystems recalled due to serious issues in performance. November 9, 2004, EMSNetwork News.) In addition, AED malfunctions have been reported, with most malfunctions attributable to a weak or discharged battery.

According the American College of Emergency Physicians (ACEP) website, if a person suffers a sudden cardiac arrest, chances of survival decrease by 7 to 10 percent for each minute that passes without defibrillation. A victim's best chance for survival is when there is revival within four minutes. However, AEDs are less successful when the victim has been in cardiac arrest for more than a few minutes, especially if cardiopulmonary resuscitation (CPR) is not also provided.

The ACEP supports increased public access to AEDs that is coordinated with community medical services systems and with appropriate training.

In 1999, the Legislature enacted SB 911 (Figueroa) to provide a qualified immunity from civil liability for trained persons who use in good faith and without compensation an AED in rendering emergency care or treatment at the scene of an emergency. The qualified immunity would also extend to those businesses that purchased the device, the medical authority that prescribed the device, and the agency that trained the person in the AED use, provided that specified training and maintenance requirements were met. The immunities do not apply in

cases of personal injury resulting from gross negligence of willful or wanton misconduct.

In 2002, the Legislature enacted AB 2041 (Vargas), Chapter 718, Statutes of 2002, to modify the conditions for immunizing the AED user and building owner. It eliminated the CPR and AED-use training requirements for users and relaxed the facility's training and staffing requirements. AB 2041 was enacted with a five-year sunset to allow an assessment of its broader immunity provisions.

This bill amends the Vargas bill to specifically apply its provisions to voluntary placement of an AED in a public or private K - 12 school. Like the Vargas bill, its provisions will also expire on January 1, 2008 unless that sunset is extended or repealed.

CHANGES TO EXISTING LAW

Existing law , Civil Code Section 1714.21, immunizes from civil liability:

(1)Any person who, in good faith and not for compensation renders emergency treatment by the use of an automated external defibrillator (AED) at the scene of an emergency.

(2) A person or entity (e.g., a building owner) who provides CPR and AED training to a person who renders emergency care pursuant to (1) above. (However, CPR and AED training is not required for the Good Samaritan user's immunity.)

(3) A person or entity that acquires an AED for emergency use if the person or entity has complied with specified training and staffing requirements, as set forth in subdivision (b) of Section 1797.196 of the Health and Safety Code.

The immunity does not apply in cases of gross negligence or willful or wanton misconduct.

Existing law , scheduled for sunset on January 1, 2008, provides any person or entity that acquires an AED with an immunity from liability for its use by any person rendering emergency care under Civil Code Section 1714.21, if the person or entity ensures all of the following:

That the AED is regularly maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer;

That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these periodic checks are also required;

That any person who renders emergency care or treatment by using an AED activates the emergency medical services system as soon as possible, and reports any use of the

AED to the licensed physician and to the local Emergency Medical Services (EMS) agency;

That for every AED unit acquired up to five units, no less than one employee per AED unit shall complete a CPR training course that complies with specified standards;

That acquirers of AED units shall have trained employees who should be available to respond to an emergency that may involve the use of an AED unit during normal business hours;

That building owners prepare a written plan describing the procedures to be followed in the event of an emergency requiring the use of an AED. The plan shall require the user to immediately notify "911" and trained office personnel at the start of AED procedures; and

That building owners ensure that tenants receive an American Heart Association or American Red Cross approved brochure describing the proper use of an AED, that similar information is posted next to any installed AED unit, and that tenants are notified of AED locations no less than once a year.

(Health and Safety Code Section 1797.196.)

This bill would amend that code section to also apply its provisions specifically to the placement of an AED in a public or private K- 12 school. Specifically, in lieu of the building owner, the school principal would be responsible for ensuring that the school administrators and staff annually receive the approved brochure regarding AED usage, that similar information is posted next to every AED installed on school grounds, and that school employees are notified at least annually as to the location of all AED units on the campus. The bill would also specify that the school principal is responsible for designating the trained employee or employees who should be available to respond to an emergency during normal operating hours that may involve use of an AED, and would define "normal operating hours" for K - 12 schools as "during the hours of classroom instruction and school-sponsored activities occurring on school grounds."

Like the general provisions of Health and Safety Code Section 1797.196, the provisions of AB 254 will sunset on January 1, 2008.

COMMENT

1. Stated need for bill

According to the author, "existing law provides liability protection for AED users in buildings under certain circumstances, but is silent on the issue of AEDs in schools." The author asserts that some school districts (i.e. Salinas Elementary and High School districts) are anxious to install AEDs on the school campuses but are hesitant because of potential liability issues.

While the existing law specifies procedures for building owners to follow in order to obtain the immunity, that requirement becomes cumbersome when the building owner is a school district and the sheer bureaucracy of a school district may impede effective communications.

Thus, he asserts that specific, but similar, requirements should be enacted for schools that wish to install AEDs on the school campus, in order to provide clear guidance so that they could comport with the conditions for the immunity.

In support of AB 254, proponents state that AEDs can save lives, and placement in schools should be encouraged. EMS Safety Services writes: "With many cardiac arrest episodes occurring on the sporting fields and campuses or our children's schools there needs to be a level of civil liability protection for those that operate, train, sell and manufacture AEDs (for our schools."

The California School Nurses Organization writes: "Many schools already have AEDs, however schools and school employees do not have the same liability protection afforded to other buildings."

This bill would resolve those liability concerns by establishing specific requirements, similar to the requirements for building owners, that a school must follow to obtain immunity from potential civil liability for injuries resulting from the use of an AED installed on school grounds.

2. Amendments to be offered in committee to address AED

implementation issues regarding use during school hours

The following cleanup and implementing amendments will be offered by the author in committee.

On page 3, line 17, after "owners" insert: shall
(This amendment corrects a grammar error.)

On page 3, in line 27, line 31, and line 33, strike out

"or superintendent"
(These amendments would designate the principal as the responsible party for issuing the necessary brochures and notices. Giving either the principal or superintendent the responsibility was thought to invite confusion, if not a battle over turf.)

On page 3. line 34, after the period insert: "The principal shall designate the trained employees who should be available to respond to an emergency that may involve the use of an AED during normal operating hours. As used in this paragraph, "normal operating hours" means "during the hours of classroom instruction and any school-sponsored activity occurring on school grounds."

(This amendment adds provisions that parallel the provisions applicable to building owners who install AEDs, but which are made school-specific.)

3. Measure is silent on AED usage during non-school hours, but a practical solution exists

While these amendments address implementation issues regarding AED use during school hours, they do not, and the bill does not, address issues that may arise from use of school facilities by outside parties. Unlike private buildings, public school buildings are often made available to the general public for general use. Committee staff is not certain that the current provisions will protect a school from liability for injuries allegedly resulting from misuse of an AED (or use of a faulty AED) on the school grounds by a person on the grounds after school hours pursuant to a public or community event.

Perhaps the answer lies in the fact that AEDs will

probably not be installed in the common areas of the school, available like a fire extinguisher for quick access and use, but kept instead in the school nurse's, or prinicipal, or physical education instructor's office. In that event, case, those offices would not be open for public access after school hours, thus preventing the school's potential exposure to liability for AED misuse.

4. AEDs are not the cure-all, in and of itself

Notwithstanding the wish of human nature for the AED to be the answer for all heart attack situations, the National Association of School Nurses cautions that while early defibrillation is an important element in the survival of a cardiac victim, defibrillation must be combined with other elements such as early access to EMS, early CPR and early access to Advanced Cardiac Care.

As noted in the background information, the American College of Emergency Physicians supports increased public access to AEDs that is coordinated with community medical services systems and with appropriate training. Existing law and AB 254 is consistent with that position.

5. The potential benefit of AED placement on school grounds

Sudden cardiac death (SCD) often occurs in active, outwardly healthy people. According to the Early Defibrillation Law and Policy Center, each year nearly 2,000 children and young adults between the ages of 5 and 24 become victims of SCD. As many as 1 in 100,000-300,000 school age athletes die annually of cardiac related causes. Many of these deaths occur on school and college campuses and most are unpredictable.

According to the HeartSave program, emergency medical services (EMS) can have response times of anywhere from 8 to 30 minutes. Survival rates from ventricular fibrillation can exceed 90% if defibrillation occurs in the first 1-2 minutes. However, the chances of survival decline by 7-10% per minute for every minute thereafter. Studies have shown that AEDs are capable of being operated by non-trained individuals, including untrained

sixth graders.

6. Very small chance of misuse or misapplication, asserts Heart Association

According to the American Heart Association (AHA), AEDs contain microcomputers to accurately identify sudden cardiac arrests and make extensive use of audible prompting and signals to provide operators with clear and concise instruction, making their use uncomplicated, intuitive, and nearly foolproof. AHA's website states that "an AED will almost never decide to shock an adult victim when the victim is in non-VF (ventricular fibrillation: irregular heart rhythm). AEDs 'miss' fine (sic) VF only about 5% of the time. The internal computer uses complex analysis algorithms to determine whether to shock?. The AED will make the correct 'shock' decision more than 95 of 100 times and a correct 'no shock indicated' decision in more than 98 of 100 times. This level of accuracy is greater than the accuracy of emergency professionals."

AHA also reports that the device does not allow for manual overrides, in the event a panicked operator tries to administer the shock even when the device finds that the victim is not in cardiac arrest.

Intentional misuse would not be covered by the qualified immunity.

Support: American Heart Association; American Red Cross of California; California Medical Association; California School Nurses Association; EMS Safety Services, Inc.; Emergency Medical Services Administrators' Association of California; Salinas Union High School District; Five individuals who survived their heart attacks with AED assistance

Opposition:None Known

HISTORY

Source:Author

Related Pending Legislation:AB 1507 (Pavley) would require health studios to buy and install an AED in their facilities and would provide a similar conditional immunity. It is set for hearing on June 28.

Prior Legislation: SB 911 (Figueroa), Chapter 163, Statutes of 1999 established the "Good Samaritan" law for acquisition and use of AED's in emergencies. The bill provided a qualified immunity from civil liability for trained persons who use in good faith and without compensation an automated external defibrillator ("AED") in rendering emergency care or treatment at the scene of an emergency.

AB 2041 (Vargas), Chapter 718, Statutes of 2002 extended the "Good Samaritan" law by broadening the immunity for the use or purchase of an AED, established more flexible training and staffing standards for builder owners that install AEDs, and required owners to notify building tenants of AED locations and to provide a brochure as to its use.

Prior Vote:Assembly Floor (71 - 0)
Assembly Education Committee (10 - 0)

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SENATE RULES COMMITTEE | AB 254
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 445-6614 Fax: (916) 327-4478

THIRD READING

Bill No: AB 254
Author: Nakanishi (R)
Amended: 7/6/05 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE : 6-0, 6/28/05
AYES: Dunn, Morrow, Ackerman, Cedillo, Figueroa, Kuehl
NO VOTE RECORDED: Escutia

ASSEMBLY FLOOR : 71-0, 4/7/05 (Passed on Consent) - See last page for vote

SUBJECT : Emergency medical services: automatic external defibrillator

SOURCE : Author

DIGEST : This bill specifies the notification and staffing requirements that must be met when a public or private K-12 school voluntarily installs an automatic external defibrillator (AED) on school grounds and wishes immunity from civil liability resulting from any acts or omissions in using the AED's use to render emergency care. This bill, because it amends a general law scheduled for sunset on January 1, 2008, will sunset on that date unless the sunset is extended or repealed.

ANALYSIS : Existing law, Civil Code Section 1714.21, immunizes from civil liability:

CONTINUED

1. Any person who, in good faith and not for compensation renders emergency treatment by the use of an automated external defibrillator (AED) at the scene of an emergency.

2. A person or entity (e.g., a building owner) who provides CPR and AED training to a person who renders emergency care pursuant to (1) above. (However, CPR and AED training is not required for the Good Samaritan user's immunity.)

3. A person or entity that acquires an AED for emergency use if the person or entity has complied with specified training and staffing requirements, as set forth in subdivision (b) of Section 1797.196 of the Health and Safety Code.

The immunity does not apply in cases of gross negligence or willful or wanton misconduct.

Existing law, scheduled for sunset on January 1, 2008, provides any person or entity that acquires an AED with an immunity from liability for its use by any person rendering emergency care under Civil Code Section 1714.21, if the person or entity ensures all of the following:

1. That the AED is regularly maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer.

2. That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these periodic checks are also required.

3. That any person who renders emergency care or treatment by using an AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the licensed physician and to the local Emergency Medical Services (EMS) agency.

4. That for every AED unit acquired up to five units, no less than one employee per AED unit shall complete a CPR training course that complies with specified standards.

5. That acquirers of AED units shall have trained employees who should be available to respond to an emergency that may involve the use of an AED unit during normal business hours.

6. That building owners prepare a written plan describing the procedures to be followed in the event of an emergency requiring the use of an AED. The plan shall require the user to immediately notify "911" and trained office personnel at the start of AED procedures.

7. That building owners ensure that tenants receive an American Heart Association or American Red Cross approved brochure describing the proper use of an AED, that similar information is posted next to any installed AED unit, and that tenants are notified of AED locations no less than once a year. (Health and Safety Code Section 1797.196.)

This bill amends that code section to also apply its provisions specifically to the placement of an AED in a public or private K-12 school. Specifically, in lieu of the building owner, the school principal would be responsible for ensuring that the school administrators and staff annually receive the approved brochure regarding AED usage, that similar information is posted next to every AED installed on school grounds, and that school employees are notified at least annually as to the location of all AED units on the campus. The bill also specifies that the school principal is responsible for designating the trained employee or employees who should be available to respond to an emergency during normal operating hours that may involve use of an AED, and defines "normal operating hours" for K-12 schools as "during the hours of classroom instruction and school-sponsored activities occurring on school grounds."

Like the general provisions of Health and Safety Code Section 1797.196, the provisions of AB 254 will sunset on January 1, 2008.

Background

An AED is a small, lightweight medical device used to assess a person's heart rhythm and, if necessary, administer an electric shock through the chest wall to restore a normal heart rhythm in victims of sudden cardiac arrest. Built-in computers assess the patient's heart rhythm, determine whether the person is in cardiac arrest, and signal whether to administer the shock. Audible cues guide the user through the process. Portable AEDs are available upon a prescription from a medical authority. Their general cost is about $2,500 to $3,000 per unit.

AEDs are said to be "fool-proof," but some AEDs have been recalled recently by its manufacturer. (AED's by Access CardioSystems recalled due to serious issues in performance. November 9, 2004, EMSNetwork News.) In addition, AED malfunctions have been reported, with most malfunctions attributable to a weak or discharged battery.

According the American College of Emergency Physicians (ACEP) website, if a person suffers a sudden cardiac arrest, chances of survival decrease by seven to 10 percent

for each minute that passes without defibrillation. A victim's best chance for survival is when there is revival within four minutes. However, AEDs are less successful when the victim has been in cardiac arrest for more than a few minutes, especially if cardiopulmonary resuscitation (CPR) is not also provided.

The ACEP supports increased public access to AEDs that is coordinated with community medical services systems and with appropriate training.

In 1999, the Legislature enacted SB 911 (Figueroa) to provide a qualified immunity from civil liability for trained persons who use in good faith and without compensation an AED in rendering emergency care or treatment at the scene of an emergency. The qualified immunity would also extend to those businesses that purchased the device, the medical authority that prescribed the device, and the agency that trained the person in the AED use, provided that specified training and maintenance requirements were met. The immunities do not apply in cases of personal injury resulting from gross negligence of willful or wanton misconduct.

In 2002, the Legislature enacted AB 2041 (Vargas), Chapter 718, Statutes of 2002, to modify the conditions for immunizing the AED user and building owner. It eliminated the CPR and AED-use training requirements for users and relaxed the facility's training and staffing requirements. AB 2041 was enacted with a five-year sunset to allow an assessment of its broader immunity provisions.

This bill amends the Vargas bill to specifically apply its provisions to voluntary placement of an AED in a public or private K - 12 school. Like the Vargas bill, its provisions will also expire on January 1, 2008 unless that sunset is extended or repealed.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No Local: No

SUPPORT : (Verified 7/6/05)

American Heart Association
American Red Cross of California
California Medical Association
California School Nurses Association
EMS Safety Services, Inc.
Emergency Medical Services Administrators' Association of California
Salinas Union High School District;

ARGUMENTS IN SUPPORT : In support of this bill, proponents state that AEDs can save lives, and placement in schools should be encouraged. EMS Safety Services writes: "With many cardiac arrest episodes occurring on the sporting fields and campuses or our children's schools there needs to be a level of civil liability protection for those that operate, train, sell and manufacture AEDs for our schools."

The California School Nurses Organization writes: "Many schools already have AEDs, however schools and school employees do not have the same liability protection afforded to other buildings."

This bill resolves those liability concerns by establishing specific requirements, similar to the requirements for building owners, that a school must follow to obtain immunity from potential civil liability for injuries resulting from the use of an AED installed on school grounds.

ASSEMBLY FLOOR :

AYES: Aghazarian, Arambula, Baca, Bass, Benoit, Berg, Bermudez, Blakeslee, Bogh, Calderon, Canciamilla, Chan, Chavez, Chu, Cogdill, Cohn, Coto, Daucher, De La Torre, DeVore, Dymally, Emmerson, Evans, Garcia, Goldberg, Hancock, Harman, Haynes, Jerome Horton, Shirley Horton, Houston, Huff, Jones, Karnette, Keene, Klehs, Koretz, La Malfa, Laird, Leno, Leslie, Levine, Liu, Matthews, Maze, McCarthy, Montanez, Mullin, Nakanishi, Nava, Negrete McLeod, Niello, Oropeza, Parra, Pavley, Plescia, Sharon Runner, Ruskin, Saldana, Salinas, Spitzer, Strickland, Torrico, Tran, Vargas, Villines, Walters, Wolk, Wyland, Yee, Nunez

NO VOTE RECORDED: Frommer, Gordon, La Suer, Lieber, Mountjoy, Nation, Richman, Ridley-Thomas, Umberg

RJG:nl 7/6/05 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

CONCERNENCE IN SENATE AMENDMENTS
AB 254 (Nakanishi)
As Amended July 6, 2005
Majority vote

ASSEMBLY:	71-0	(April 7, 2005)	SENATE:	38-0	(July 7, 2005)

Original Committee Reference: ED.

SUMMARY : Requires the principal of a public or private K-12 school to meet the following in order to be exempt from liability for civil damages associated with the use of an automatic external defibrillator (AED):

1)Ensure that the school administrators and staff annually receive a brochure, approved as to contents and style by the American Heart Association or the American Red Cross, that describes the proper use of an AED.

2)Ensure that similar information is posted next to every AED.

3)Notify, at least annually, school employees of the location of all AED units on the campus.

The Senate amendments :

1)Require the principal to designate the trained employees who will be available to respond to an emergency that may involve the use of an AED during normal operating hours.

2)Define "normal operating hours" as the hours of classroom instruction and any school-sponsored activity occurring on school grounds.

3)Delete "superintendent" as one of the persons responsible for ensuring schools meet the specified requirements in order to be exempt from liability.

EXISTING LAW :

1)Establishes the Emergency Medical Services (EMS) System and the Prehospital Emergency Medical Care Personnel Act (Act) which permits each county to establish an EMS program under

which the county is required to designate a local EMS agency. The Act authorizes the local EMS agency to implement a trauma care system if the system meets the minimum standards set forth in the regulations established by the Emergency Medical Services Authority and the authority has approved a plan.

2)Authorizes the authority to establish minimum standards for the training and use of AEDs and requires persons or entities that acquire AEDs to comply with maintenance, testing, and training requirements, which are scheduled to change on January 1, 2008.

3)Provides, until January 1, 2008, immunity from civil damages for those persons or entities, and sets forth tenant notice and other requirements for building owners in which an AED is placed.

FISCAL EFFECT : According to Legislative Counsel, this bill is non-fiscal.

COMMENTS : This bill was introduced in part as a response to a situation between Salinas Valley Medical Center and the Salinas City Elementary and Salinas Union High School districts. According to the Salinas Valley Medical Center, the center received a grant from the Children's Miracle Network to implement a HeartSave Program which would allow the center to evaluate AED needs in the community and develop and help implement an appropriate program to address the needs. When the medical center approached schools in the community, five of the 19 schools that were approach refused to place AEDs on campuses because the schools were initially told they would not be covered under their risk management company for insurance purposes. The risk management company was asked to re-evaluate their decision, which they have done, and now all 19 schools

will participate in the program.

According to the author, "Existing law provides liability protection for AED users in buildings under certain circumstances, but is silent on the issue of AEDs in schools." The author claims that some school districts (i.e., Salinas Elementary and High School districts) are refusing to allow AEDs to be used in their schools because they are afraid of increased liability costs. Existing law states however that "any person or entity that acquires an AED is not liable for civil damages" if the person or entity meets the specified requirements. School

districts therefore are already covered under this statute. The author, however, would like to see more explicit language regarding how schools should comply with this law.

Prior related legislation: SB 911 (Figueroa), Chapter 163, Statutes of 1999, established the "Good Samaritan" law for acquisition and use of AEDs in emergencies. The bill provided a qualified immunity from civil liability for trained persons who use in good faith and without compensation an AED in rendering emergency care or treatment at the scene of an emergency.

AB 2041 (Vargas), Chapter 718, Statutes of 2002, extended the "Good Samaritan" law by broadening the immunity for the use or purchase of an AED.

Analysis Prepared by : Misty Padilla / ED. / (916) 319-2087

FN: 0011572

Assembly Bill No. 254

CHAPTER 111

An act to amend Section 1797.196 of the Health and Safety Code, relating to emergency medical services.

[Approved by Governor July 25, 2005. Filed with Secretary of State July 25, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

AB 254, Nakanishi. Emergency medical services: automatic external defibrillators.

Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, permits each county to establish an emergency medical services program under which the county is required to designate a local emergency medical services agency (EMS agency). The act authorizes the local EMS agency to implement a trauma care system if the system meets the minimum standards set forth in the regulations established by the Emergency Medical Services Authority and the authority has approved a plan.

Existing law authorizes the authority to establish minimum training and other standards for the use of automatic external defibrillators and requires persons or entities that acquire the defibrillators to comply with maintenance, testing, and training requirements, which are scheduled to change on January 1, 2008. Existing law, until January 1, 2008, provides immunity from civil damages for those persons or entities, and sets forth tenant notice and other requirements for building owners in which an AED is placed.

This bill would set forth a principal's staff-notification and other duties for an AED placed in a public or private K–12 school.

The people of the State of California do enact as follows:

SECTION 1. Section 1797.196 of the Health and Safety Code, as amended by Section 181 of Chapter 62 of the Statutes of 2003, is amended to read:

1797.196. (a) For purposes of this section, "AED" or "defibrillator" means an automated or automatic external defibrillator.

(b) In order to ensure public safety, any person or entity that acquires an AED is not liable for any civil damages resulting from any acts or omissions in the rendering of the emergency care under subdivision (b) of Section 1714.21 of the Civil Code, if that person or entity does all of the following:

(1) Complies with all regulations governing the placement of an AED.

(2) Ensures all of the following:

(A) That the AED is maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer, the American Heart Association, and the American Red Cross, and according to any applicable rules and regulations set forth by the governmental authority under the federal Food and Drug Administration and any other applicable state and federal authority.

(B) That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these checks shall be maintained.

(C) That any person who renders emergency care or treatment on a person in cardiac arrest by using an AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS agency.

(D) For every AED unit acquired up to five units, no less than one employee per AED unit shall complete a training course in cardiopulmonary resuscitation and AED use that complies with the regulations adopted by the Emergency Medical Service Authority and the standards of the American Heart Association or the American Red Cross. After the first five AED units are acquired, for each additional five AED units acquired, one employee shall be trained beginning with the first AED unit acquired. Acquirers of AED units shall have trained employees who should be available to respond to an emergency that may involve the use of an AED unit during normal operating hours.

(E) That there is a written plan that describes the procedures to be followed in the event of an emergency that may involve the use of an AED, to ensure compliance with the requirements of this section. The written plan shall include, but not be limited to, immediate notification of 911 and trained office personnel at the start of AED procedures.

(3) When an AED is placed in a building, building owners shall ensure that tenants annually receive a brochure, approved as to content and style by the American Heart Association or American Red Cross, which describes the proper use of an AED, and also ensure that similar information is posted next to any installed AED.

(4) When an AED is placed in a building, no less than once a year, building owners shall notify their tenants as to the location of AED units in the building.

(5) When an AED is placed in a public or private K–12 school, the principal shall ensure that the school administrators and staff annually receive a brochure, approved as to contents and style by the American Heart Association or the American Red Cross, that describes the proper use of an AED. The principal shall also ensure that similar information is posted next to every AED. The principal shall, at least annually, notify school employees as to the location of all AED units on the campus. The principal shall designate the trained employees who shall be available to respond to an emergency that may involve the use of an AED during normal operating hours. As used in this paragraph, "normal operating

hours" means during the hours of classroom instruction and any school-sponsored activity occurring on school grounds.

(c) Any person or entity that supplies an AED shall do all of the following:

(1) Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.

(2) Provide to the acquirer of the AED all information governing the use, installation, operation, training, and maintenance of the AED.

(d) A violation of this provision is not subject to penalties pursuant to Section 1798.206.

(e) The protections specified in this section do not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who renders emergency care or treatment by the use of an AED.

(f) Nothing in this section or Section 1714.21 may be construed to require a building owner or a building manager to acquire and have installed an AED in any building.

(g) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

O

Date of Hearing: March 21, 2006

ASSEMBLY COMMITTEE ON JUDICIARY
Dave Jones, Chair
AB 2083 (Vargas) - As Introduced: February 16, 2006

PROPOSED CONSENT (As Proposed to Be Amended)

SUBJECT : AUTOMATIC EXTERNAL DEFIBRILLATORS (AEDs): IMMUNITY: EXTENSION OF SUNSET DATE

KEY ISSUE : SHOULD THE SUNSET DATE FOR QUALIFIED IMMUNITY TO THOSE WHO USE AEDs BE EXTENDED?

SYNOPSIS

This bill is part of a continuing effort by policy-makers in California to encourage the proliferation and use of automatic external defibrillators (AEDs) in easily accessible locations. AEDs are portable medical devices used to administer an electric shock through the chest wall to the heart after someone suffers cardiac arrest. They are reportedly "fail safe" and there has been no known successful lawsuit brought against an individual for the use or misuse of these devices. This Committee has, with the help of the American Heart Association, the Consumer Attorneys of California, and other interested parties, helped fashion several measures over the years to help spur the availability and use of AEDs. For example, in 2002, the Committee approved AB 2041 (Ch. 718 of 2002) by Assemblyman Vargas which broadened the current immunity for the use or purchase of an AED in an effort to encourage their purchase and use, repealed the CPR and AED use training requirement for a Good Samaritan user of an AED in rendering emergency care, and substantially relaxed the requirement that building owners and others who acquire AEDs ensure that expected AED users complete an accepted CPR and AED course as a condition of immunizing the building owners from liability arising from the use of the AED. These protections do not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who renders emergency care or treatment by the use of an AED. This measure, following in those earlier bills' footsteps, extends the sunset date for the qualified immunity for an additional 5 years.

SUMMARY : Extends the sunset date for another 5 years on the

operative provisions of existing law which provide immunity from civil damages for persons or entities that acquire AEDs and comply with maintenance, testing, and training requirements.

EXISTING LAW :

1)Provides immunity from civil liability to any person who, in good faith and without compensation or the expectation of compensation, renders emergency care at the scene of an emergency. (Health and Safety Code section 1799.102.)

2)Provides immunity from civil liability to any person who completes a designated CPR course and who, in good faith, renders emergency cardiopulmonary resuscitation at the scene of an emergency, without the expectation of receiving compensation for providing the emergency care. (Civil Code section 1714.2.)

3)Exempts from civil liability any local agency, entity of state or local government, or other public or private organization which sponsors, authorizes, supports, finances, or supervises the training of citizens in cardiopulmonary resuscitation (CPR). (Health & Safety Code section 1799.100.)

4)Provides immunity from liability for certain trained persons who use in good faith and without compensation an AED in rendering emergency care or treatment at the scene of an emergency. This qualified immunity does not apply in the case of personal injury or wrongful death resulting from the AED operator's gross negligence or willful or wanton misconduct. Nor does it apply to the manufacturer, designer, developer, distributor, installer, or supplier of an AED or defibrillator. (Civil Code section 1714.21 and Health & Safety Code section 1797.196.)

5)Substantially relaxed the requirement that building owners and others who acquire AEDs must ensure that expected AED users complete an accepted CPR and AED course as a condition of immunizing that building owner from any liability arising from the use of the acquired AED. Maintained the requirement that any immunities from civil liabilities in this context would not apply in cases of gross negligence or willful or wanton misconduct. (Health and Safety Code section 1797.196.)

6)For a five-year period beginning July 7, 2007, requires a

health studio, as defined, to acquire, maintain, and train personnel in the use of automatic external defibrillators, as specified. (Health and Safety Code section 104113.)

FISCAL EFFECT : As currently in print, this bill is keyed non-fiscal.

COMMENTS : This bill seeks to extend the sunset date on the operative provisions of current law for another 5 years. Current law authorizes the Emergency Medical Services Authority (EMS) to establish minimum training and other standards for the use of automatic external defibrillators (AEDs), and requires persons or entities that acquire an AED to comply with maintenance, testing, and training requirements, which are scheduled to change on January 1, 2008, and provides immunity from civil damages for those persons or entities, and establishes requirements for building owners who purchase AEDs. In support, the author writes:

> When cardiac arrest occurs, time is of the essence. The general public believes that basic CPR alone will get a victim's heart back to proper working rhythm after cardiac arrest. This is not true. It really serves as a maintenance tool providing oxygen to both the brain and heart muscle until defibrillation can take place. Defibrillation is the process of providing an electric shock to the heart, and it must be done within minutes in order for the victim to have a reasonable chance at survival. Early defibrillation is the key to a survivable cardiac arrhythmia. In fact, a victim's chances of survival are reduced by 7 to 10 percent with every minute that passes without defibrillation, with few attempts at resuscitation succeeding after 10 minutes.
>
> Increased access to Automatic External Defibrillators (AEDs) has proven to increase survival rates. For instance, in June 1999, AEDs were mounted 1 minute apart in plain view at Chicago's O'Hare and Midway airports. In the first 10 months, 14 cardiac arrests occurred, with 12 of the 14 victims in ventricular fibrillation. Nine of the 14 victims (64 percent) were revived with an AED and had no brain damage.

An AED is a medical device which is used to administer an electric shock through the chest wall to the heart after someone

suffers cardiac arrest. Built-in computers assess the patient's heart rhythm, determine whether the person is in cardiac arrest, and signal whether to administer the shock. Audible cues guide the user through the process. Portable AEDs are available upon a prescription from a medical authority. Their general cost is about $3,000.

AEDs can save lives . According to the American Heart Association (AHA), cardiac arrest is a life-or-death situation, and the patient has very little chance of survival without defibrillation. However, the window of opportunity for saving lives through defibrillation is very small, being only 10-13 minutes even if CPR is administered correctly. According to AHA, in cases of sudden cardiac arrest, CPR is merely a maintenance tool, and defibrillation must take place to "shock" the patient's heart into a proper working rhythm. Thus, the public would be better served, and lives could be saved, if businesses and offices across California are better encouraged to have AEDs on site.

No risk of accidental misuse, according to the American Heart Association . According to the AHA, AEDs contain microcomputers to accurately identify sudden cardiac arrests and make extensive use of audible prompting and signals to provide operators with clear and concise instruction, making their use uncomplicated, intuitive, and nearly foolproof. Safeguards are built in to protect both operator and victim and to ensure that the AED will only deliver a shock if, in fact, the device affirmatively determines that a victim is in sudden cardiac arrest. Further, the device does not allow for manual overrides, in the event a panicked operator tries to administer the shock even when the device finds that the victim is not in cardiac arrest.

AED availability . According to staff research, the move in the last few years to increase the number of AEDs available to first responder units such as police and fire, as well as in high-traffic areas, such as airports and casinos, has been met with overwhelming community support. A survey of worldwide news sources indicates that AEDs have been responsible for many saved lives after cardiac arrest incidents and that AEDs are in such high demand that schools and local communities have taken to outside fundraising to purchase the equipment.

In Ireland, a proposal is pending before the government that requires every fire station in the country to have an AED. Some

rural areas are more than 100 miles away from the nearest hospital and firefighters are the closest, and fastest, first responders in the areas. A 2004 news article cited a study that put the survival rate for people who experience cardiac arrest at 1% in Ireland, compared to those in the U.S. at 30%. Advocates of AEDs believe that wide spread use and access to AEDs should significantly increase this percentage.

Across the United States there has been a major push for wide spread access to AEDs, especially where children are concerned. A high school student in New York State had a heart attack after competing in a wrestling match. A bystander trained in both CPR and AED use came to his aid and attempted CPR but did not get a response. She then called for the AED, which are mandated by New York Law in every school, and was able to bring the young man back. As of January 22, 2006, in New York, everyone who is trained CPR will also have to be trained to use AEDs as well. In Georgia, one neighborhood raised funds to purchase an AED after a boy was struck by a baseball while playing and could not be resuscitated. Local fire departments in Georgia are pushing for communities to pool funds and purchase the units for neighborhood use.

The AEDs have been used successfully in such places as California's Ontario Airport, and Connecticut's Foxwoods Casino. According to a Foxwoods' security director, the casino has 15 AEDs on the property and has used them more than 40 times in the last four years, and more than 300 security personnel and emergency medical technicians at the casino are trained to use the machines. In the Minneapolis Airport, passengers waiting for flights can receive basic training on how to use the machine in about 5 minutes. The passengers are trained by firefighters at stations in the airport and the program is funded by Medtronic which makes AEDs. The goal of all these programs is to make AEDs as familiar as fire extinguishers and as readily available to the general public. The FDA has even approved of their over-the-counter purchase without a prescription.

No known lawsuits against users of AEDs . A search of the Lexis Nexis database revealed no news articles, or successful federal or state cases, suing for liability against users of AEDs. The cases found were regarding AEDs and uses by businesses such as airlines and gyms. Plaintiffs claimed the failure of the businesses to provide AEDs contributed to the deaths of their loved ones from cardiac arrest.

In one case from New York, a products liability cause of action was brought against the AED manufacturer, as well as New York City, when an AED used by EMT's failed to administer an

electrical shock to a woman in cardiac arrest. The products liability claim against the manufacturer was dismissed on summary judgment as the evidence revealed a problem with the rechargeable batteries used to power the device, and not a flaw with the device itself.

Committee staff research indicates that these devices are virtually "idiot-proof" and easy enough for a child to use (all though that is not recommended). No negative reaction has been found regarding the use of the AEDs, or any suit filed against someone using the AEDs. This is most likely due to the design programming that will not allow the user to administer an electric shock needlessly, therefore creating little chance of user-error in administering the AED. The only possible negative comment was that, hypothetically speaking, someone with a living will/Do Not Resuscitate (DNR) order may be in public and suffer a cardiac episode. A bystander, unable to know the person has a DNR, or what his/her specific medical wishes are, may administer the AED against his/her wishes. While possible, this concern is likely so remote that it is of little concern. For the most part, it should be safe to assume that someone suffering a cardiac episode and about to die, would like to be resuscitated and saved if possible. To that end, creating the broadest amount of access to AEDs should be the goal.

While the risk of lawsuit is minimal, California public entities and businesses remain reluctant to make AEDs available in their facilities until this issue, real or perceived, is more fully addressed. This bill, it is hoped, will address those liability concerns and encourage public and private facilities across the state to have AEDs on site to aid in emergency situations and save lives.

Author's Amendment : In order to ensure very substantial opportunity for evidence to come to the Legislature about the effectiveness of this law, the author has agreed to amend the bill to add an additional five year sunset.

Prior Legislation . AB 1507 (Pavley) of 2005, Ch. 431, for a five-year period beginning July 7, 2007, requires a health studio, as defined, to acquire, maintain, and train personnel in

the use of automatic external defibrillators, as specified.

AB 254 (Nakanishi) of 2005, Ch. 111, set forth a principal's staff-notification and other duties for an AED placed in a public or private K-12 school.

AB 2670 (Benoit) of 2004, which would exempt public safety personnel from having to complete training in AED use, as required under current law in order to qualify for immunity and provide that public safety personnel test, maintain, and check the defibrillators for readiness, died in this Committee.

AB 2041 (Vargas) of 2002, Ch. 718, broadened the current immunity for the use or purchase of an AED in an effort to encourage their purchase and use, repealed the CPR and AED use training requirement for a Good Samaritan user of an AED in rendering emergency care, and substantially relaxed the requirement that building owners and others who acquire AEDs ensure that expected AED users complete an accepted CPR and AED course as a condition of immunizing the building owners from liability arising from the use of the AED.

SB 911 (Figueroa) of 1999, Ch. 163, provided for qualified immunity to "Good Samaritans" who voluntarily apply AEDs at the scene of an emergency to try to save heart victim's lives, so long as those persons had training in the use of an AED.

REGISTERED SUPPORT / OPPOSITION :

Support

American Heart Association (co-sponsor)
City of San Diego (co-sponsor)
California Medical Association

Opposition

None on file

Analysis Prepared by : Drew Liebert / JUD. / (916) 319-2334

SENATE JUDICIARY COMMITTEE
Senator Joseph L. Dunn, Chair
2005-2006 Regular Session

AB 2083 A
Assembly Member Vargas B
As Amended May 30, 2006
Hearing Date: June 13, 2006 2
Health and Safety Code 0
GWW:cjt 8
3

SUBJECT

Automatic External Defibrillators (AED):
Five-Year Extension of Qualified Immunity for AED Purchase and Use

DESCRIPTION

This bill would extend to January 1, 2013 the law granting builder owners a qualified immunity from civil liability when they install AEDs and follow specified training, maintenance and staffing requirements. That immunity would otherwise sunset on January 1, 2008.

BACKGROUND

An AED is a small, lightweight medical device used to assess a person's heart rhythm and, if necessary, administer an electric shock through the chest wall to restore a normal heart rhythm in victims of sudden cardiac arrest. Built-in computers assess the patient's heart rhythm, determine whether the person is in cardiac arrest, and signal whether to administer the shock. Audible cues guide the user through the process. Portable AEDs are available at a general cost of about $2,500 to $3,000 per unit. Up until September 2004, a medical prescription was needed for an AED purchase. However, on September 16, 2004, the federal Food and Drug Administration approved for sale without a prescription a home defibrillator unit that had been designed for use by laypersons.

AEDs are said to be "fool-proof," but some AEDs have been recalled recently by the manufacturer. (AED's by Access CardioSystems recalled due to serious issues in performance. November 9, 2004, EMSNetwork News.) In addition, AED malfunctions have been reported, with most malfunctions attributable to a weak or discharged battery.

According the American College of Emergency Physician's (ACEP) website, if a person suffers a sudden cardiac arrest, chances of survival decrease by 7 to 10 percent for each minute that passes without defibrillation. A victim's best chance for survival is when there is revival within four minutes. However, AEDs are less successful when the victim has been in cardiac arrest for more than a few minutes, especially if cardiopulmonary resuscitation (CPR) is not also provided.

The ACEP supports increased public access to AEDs as part of a comprehensive emergency response plan that is coordinated with community medical services systems and with appropriate training. The National Center for Early Defibrillation adds that attention to maintenance and the development of procedures to enable quick access to the AED are also necessary

In 1999, the Legislature enacted SB 911 (Figueroa) to provide a qualified immunity from civil liability for trained persons who use in good faith and without compensation an AED in rendering emergency care or treatment at the scene of an emergency. The qualified immunity would also extend to those businesses that purchased the device, the medical authority that prescribed the device, and the agency that trained the person in the

AED use, provided that specified training and maintenance requirements were met. The immunities do not apply in cases of personal injury resulting from gross negligence or willful or wanton misconduct.

In 2002, the Legislature enacted AB 2041 (Vargas), Chapter 718, Statutes of 2002, to broaden the immunity for the AED user and business purchaser. It eliminated the CPR and AED-use training requirements for users and relaxed the facility's training and staffing requirements. AB 2041 was enacted with a five-year sunset to allow an assessment of

(more)

its broader immunity provisions.

That sunset is set to expire on January 1, 2008. This bill would extend that sunset by five years to January 1, 2013.

CHANGES TO EXISTING LAW

Existing law , Civil Code Section 1714.21, immunizes from civil liability:

1) Any person who, in good faith and not for compensation renders emergency treatment by the use of an automated external defibrillator (AED) at the scene of an emergency.
2) A person or entity (e.g., a building owner) that provides CPR and AED training to a person who renders emergency care as a Good Samaritan. (However, CPR and AED training is not required for the Good Samaritan user's immunity.)
3) A person or entity that acquires an AED for emergency use if the person or entity has complied with specified training and staffing requirements, as set forth in subdivision (b) of Section 1797.196 of the Health and Safety Code.

The immunity does not apply in cases of gross negligence or willful or wanton misconduct.

Existing law , Health and Safety Code Section 1797.196, which is slated for sunset on January 1, 2008, provides any person or entity that acquires an AED with a qualified immunity from civil liability for its use by any person rendering emergency care under Civil Code Section 1714.21, if the person or entity ensures all of the following:

a) The AED is regularly maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer.
b) The AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these periodic checks are also required.
c) Any person who renders emergency care or treatment by using an AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the licensed physician and to the local Emergency

Medical Services (EMS) agency.

d) For every AED unit acquired up to five units, no less than one employee per AED unit shall complete a CPR training course that complies with specified standards. After five units, at least one employee shall be trained for every additional five AEDs installed.
e) Acquirers of AED units shall have trained employees who should be available to respond to an emergency that may involve the use of an AED unit during normal business hours.
f) Building owners must prepare a written plan describing the procedures to be followed in the event of an emergency requiring the use of an AED. The plan shall require the user to immediately notify "911" and trained office personnel at the start of AED procedures.
g) Building owners must ensure that tenants receive an American Heart Association or American Red Cross approved brochure describing the proper use of an AED, that similar information is posted next to any installed AED unit, and that tenants are notified of AED locations no less than once a year.

This bill would extend the sunset date for these Health and Safety Code provisions to January 1, 2013.

COMMENT

1. Stated need for bill

In support of his measure, the author writes:

> When cardiac arrest occurs, time is of the essence. The general public believes that basic CPR alone will get a victim's heart back to proper working rhythm after cardiac arrest. This is not true. It really serves as a maintenance tool providing oxygen to both the brain and heart muscle until defibrillation can take place. Defibrillation is the process of providing an electric shock to the heart, and it must be done within minutes in order for the victim to have a reasonable chance at survival. Early defibrillation is the key to a survivable cardiac arrhythmia. In fact, a victim's chances of survival are reduced by 7 to 10 percent with every minute that passes without defibrillation, with few attempts at resuscitation

> succeeding after 10 minutes.
>
> Increased access to Automatic External Defibrillators (AEDs) has proven to increase survival rates. For instance, in June 1999, AEDs were mounted 1 minute apart in plain view at Chicago's O'Hare and Midway airports. In the first 10 months, 14 cardiac arrests occurred, with 12 of the 14 victims in ventricular fibrillation. Nine of the 14 victims (64 percent) were revived with an AED and had no brain damage.

2. The potential benefit of AED placement in buildings

Sudden cardiac arrest (SCA) can affect persons who seem fit and active, as well as those obviously unfit. Indeed, strenuous exercise has been shown to be a trigger for sudden cardiac arrest. One supporter, The National Center for Early Defibrillation, asserts that the risk of SCA during exercise is significantly higher than at times of no exertion.

Proponents also note that SCA strikes more than 250,000 people each year in the United States. Of this number, only 7% survive. Proponents also point out that 60% of SCA victims experience heart arrhythmias (Ventricular Fibrillation) that are "shockable" with an AED, and that the purpose of the electrical shock provided by an AED is to restore the SCA victim's heart to a normal rhythm. One proponent, the American Heart Association (AHA), asserts that cardiac arrest is a life-or-death situation, and the patient has very little chance of survival without defibrillation.

According to the HeartSave program, emergency medical services (EMS) can have response times of anywhere from 8 to 30 minutes. This is too late for almost all SCA victims. Survival rates from ventricular fibrillation can exceed 90% if defibrillation occurs in the first 1-2 minutes. However, the chances of survival decline by 10% per minute for every minute thereafter.

Proponents thus assert that placement of AEDs in buildings can save lives, and that building owners should not be deterred from buying and installing AEDs out of the fear of potential liability if the AED is used or not

used during a health emergency. This bill seeks to encourage the purchase and placement of AEDs in public and private buildings by providing a qualified immunity to the building owner for the use or non-use of an AED during a health emergency. (Committee staff is unaware of any lawsuits in California against a building owner or user for use or non-use of an AED during an emergency. However, it is possible that the mere potential for

liability, real or perceived, has deterred many builder owners from installing the units.)

3. AEDs are not the cure-all, in and of itself

Notwithstanding the wish of human nature for the AED to be the answer for all sudden cardiac arrest situations, the National Association of School Nurses cautions that while early defibrillation is an important element in the survival of a cardiac victim, defibrillation must be combined with other elements such as early access to EMS, early CPR and early access to Advanced Cardiac Care.

As noted in the background information, the American College of Emergency Physicians supports increased public access to AEDs that is coordinated with community medical services systems and with appropriate training.

4. Consumer Attorneys are neutral

The Consumer Attorneys of California have a "neutral" position on AB 2083. They do observe, though, that a sunset date for the AED immunity law is still necessary, given the limited experience under the current law and the recent reports of AED malfunctions.

5. Very small chance of misuse or misapplication, asserts Heart Association

According to the sponsor, American Heart Association, AEDs contain microcomputers to accurately identify sudden cardiac arrests and make extensive use of audible prompting and signals to provide operators with clear and concise instruction, making their use uncomplicated, intuitive, and nearly foolproof. AHA's website states that "an AED will almost never decide to shock an adult victim when the victim is in non-VF (ventricular

fibrillation: irregular heart rhythm). AEDs 'miss' find VF only about 5% of the time. The internal computer uses complex analysis algorithms to determine whether to shock?. The AED will make the correct 'shock' decision more than 95 of 100 times and a correct 'no shock indicated' decision in more than 98 of 100 times. This level of accuracy is greater than the accuracy of emergency professionals."

AHA also reports that the device does not allow for manual overrides, in the event a panicked operator tries to administer the shock even when the device finds that the victim is not in cardiac arrest.

Intentional misuse would not be covered by the qualified immunity.

Support: American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO; California Apartment Association; California Medical Ass'n.; Civil Justice Association of California; Emergency Nurses Ass'n., California State Council; San Diego Medical Service Enterprise

Opposition: None Known

HISTORY

Source: American Heart Association; City of San Diego

Related Pending Legislation: None Known

Prior Legislation: SB 911 (Figueroa), Chapter 163, Statutes of 1999 established the "Good Samaritan" law for acquisition and use of AED's in emergencies. The bill provided a qualified immunity from civil liability for trained persons who use in good faith and without compensation an "AED" in rendering emergency care or treatment at the scene of an emergency.

AB 2041 (Vargas), Chapter 718, Statutes of 2002 extended the "Good Samaritan" law by broadening the immunity for the use or purchase of an AED, established more flexible

training and staffing standards for builder owners that install AEDs, and required owners to notify building tenants of AEDs.

AB 254 (Nakanishi), Chapter 111, Statutes of 2005, enacted specific staff-notification rules and other duties of a principal for immunizing a school and its employees for any injury resulting from the use of an AED voluntarily installed in a private or public K - 12 school.

AB 1507 (Pavley), Chapter 431, Statutes of 2005, effective July 1, 2007, requires a health studio to acquire, maintain, and train personnel in the use of AEDs, and immunizes the health studio from liability when the entity complies with the statutory framework.

Prior Vote: Assembly Floor: 75 - 0
Assembly Judiciary Committee: 7 - 0

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SENATE RULES COMMITTEE | AB 2083
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1020 N Street, Suite 524
(916) 651-1520 Fax: (916)
327-4478

CONSENT

Bill No: AB 2083
Author: Vargas (D), et al
Amended: 5/30/06 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE : 5-0, 6/13/06
AYES: Dunn, Morrow, Escutia, Harman, Kuehl

ASSEMBLY FLOOR : 75-0, 4/20/06 - See last page for vote

SUBJECT : Automatic external defibrillators (AEDs): five-year extension of qualified immunity for AED purchase and use

SOURCE : American Heart Association
City of San Diego

DIGEST : This bill extends to January 1, 2013, the law granting builder owners a qualified immunity from civil liability when they install AEDs and follow specified training, maintenance and staffing requirements. That immunity otherwise sunsets on January 1, 2008.

ANALYSIS : Existing law, Section 1714.21 of the Civil Code, immunizes from civil liability:

1. Any person who, in good faith and not for compensation renders emergency treatment by the use of an AED at the scene of an emergency.

CONTINUED

2. A person or entity (e.g., a building owner) that provides CPR and AED training to a person who renders emergency care as a Good Samaritan. (However, CPR and AED training is not required for the Good Samaritan user's immunity.)

3. A person or entity that acquires an AED for emergency use if the person or entity has complied with specified training and staffing requirements, as set forth in subdivision (b) of Section 1797.196 of the Health and Safety Code.

The immunity does not apply in cases of gross negligence or willful or wanton misconduct.

Existing law, Section 1797.196 of the Health and Safety Code, which is slated for sunset on January 1, 2008, provides any person or entity that acquires an AED with a qualified immunity from civil liability for its use by any person rendering emergency care under Section 1714.21 of the Civil Code, if the person or entity ensures all of the following:

1. The AED is regularly maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer.

2. The AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these periodic checks are also required.

3. Any person who renders emergency care or treatment by using an AED activates the emergency medical services

system as soon as possible, and reports any use of the AED to the licensed physician and to the local Emergency Medical Services (EMS) agency.

4. For every AED unit acquired up to five units, no less than one employee per AED unit shall complete a CPR training course that complies with specified standards. After five units, at least one employee shall be trained for every additional five AEDs installed.

5. Acquirers of AED units shall have trained employees who should be available to respond to an emergency that may involve the use of an AED unit during normal business hours.

6. Building owners must prepare a written plan describing the procedures to be followed in the event of an emergency requiring the use of an AED. The plan shall require the user to immediately notify "911" and trained office personnel at the start of AED procedures.

7. Building owners must ensure that tenants receive an American Heart Association or American Red Cross approved brochure describing the proper use of an AED, that similar information is posted next to any installed AED unit, and that tenants are notified of AED locations no less than once a year.

This bill extends the sunset date for these Health and Safety Code provisions to January 1, 2013.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No Local: No

SUPPORT : (Verified 6/15/06)

American Heart Association (co-source)
City of San Diego (co-source)
American Federation of State, County and Municipal Employees, AFL-CIO
California Apartment Association
California Medical Association
Civil Justice Association of California
Emergency Nurses Association, California State Council
San Diego Medical Service Enterprise

ARGUMENTS IN SUPPORT : The bill's author writes:

"When cardiac arrest occurs, time is of the essence. The general public believes that basic CPR alone will get a victim's heart back to proper working rhythm after cardiac arrest. This is not true. It really serves as a maintenance tool providing oxygen to both

the brain and heart muscle until defibrillation can take place. Defibrillation is the process of providing an electric shock to the heart, and it must be done within minutes in order for the victim to have a reasonable chance at survival. Early defibrillation is the key to a survivable cardiac arrhythmia. In fact, a victim's chances of survival are reduced by 7 to 10 percent with every minute that passes without defibrillation, with few attempts at resuscitation succeeding after 10 minutes.

"Increased access to Automatic External Defibrillators (AEDs) has proven to increase survival rates. For instance, in June 1999, AEDs were mounted 1 minute apart in plain view at Chicago's O'Hare and Midway airports. In the first 10 months, 14 cardiac arrests occurred, with 12 of the 14 victims in ventricular fibrillation. Nine of the 14 victims (64 percent) were revived with an AED and had no brain damage."

ASSEMBLY FLOOR :
AYES: Aghazarian, Arambula, Baca, Benoit, Berg, Bermudez, Blakeslee, Bogh, Canciamilla, Chan, Chavez, Chu, Cogdill, Cohn, Coto, Daucher, De La Torre, DeVore, Dymally, Emmerson, Evans, Frommer, Garcia, Goldberg, Hancock, Harman, Jerome Horton, Shirley Horton, Houston, Huff, Jones, Karnette, Keene, Klehs, Koretz, La Malfa, La Suer, Laird, Leno, Leslie, Levine, Lieber, Lieu, Liu, Matthews, McCarthy, Montanez, Mountjoy, Mullin, Nakanishi, Nation, Nava, Negrete McLeod, Niello, Oropeza, Parra, Pavley, Plescia, Richman, Ridley-Thomas, Sharon Runner, Ruskin, Saldana, Spitzer, Strickland, Torrico, Tran, Umberg, Vargas, Villines, Walters, Wolk, Wyland, Yee, Nunez
NO VOTE RECORDED: Bass, Calderon, Haynes, Maze, Salinas

RJG:mel 6/15/06 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

CONCURRENCE IN SENATE AMENDMENTS
AB 2083 (Vargas)
As Amended May 30, 2006
Majority vote

ASSEMBLY:	75-0	(April 20, 2006)	SENATE:	36-0	(June 26, 2006)

Original Committee Reference: JUD.

SUMMARY : Extends the sunset date for another five years on the operative provisions of existing law which provide immunity from civil damages for persons or entities that acquire automatic external defibrillators (AEDs) and comply with maintenance, testing, and training requirements.

The Senate amendments make technical changes.

EXISTING LAW :

1)Provides immunity from civil liability to any person who, in good faith and without compensation or the expectation of compensation, renders emergency care at the scene of an emergency.

2)Provides immunity from civil liability to any person who completes a designated cardiopulmonary resuscitation (CPR) course and who, in good faith, renders emergency cardiopulmonary resuscitation at the scene of an emergency, without the expectation of receiving compensation for providing the emergency care.

3)Exempts from civil liability any local agency, entity of state or local government, or other public or private organization which sponsors, authorizes, supports, finances, or supervises the training of citizens in CPR.

4)Provides immunity from liability for certain trained persons who use in good faith and without compensation an AED in rendering emergency care or treatment at the scene of an emergency. This qualified immunity does not apply in the case of personal injury or wrongful death resulting from the AED operator's gross negligence or willful or wanton misconduct.

Nor does it apply to the manufacturer, designer, developer, distributor, installer, or supplier of an AED or defibrillator.

5)Substantially relaxed the requirement that building owners and others who acquire AEDs must ensure that expected AED users complete an accepted CPR and AED course as a condition of immunizing that building owner from any liability arising from the use of the acquired AED. Maintained the requirement that any immunities from civil liabilities in this context would not apply in cases of gross negligence or willful or wanton misconduct.

6)For a five-year period beginning July 7, 2007, requires a health studio, as defined, to acquire, maintain, and train personnel in the use of automatic external defibrillators, as specified.

AS PASSED BY THE ASSEMBLY , this bill was substantially similar to the Senate version.

FISCAL EFFECT : None

COMMENTS : This bill seeks to extend the sunset date on the operative provisions of current law for another five years. Current law authorizes the Emergency Medical Services Authority to establish minimum training and other standards for the use of AEDs, and requires persons or entities that acquire an AED to comply with maintenance, testing, and training requirements, which are scheduled to change on January 1, 2008, and provides immunity from civil damages for those persons or entities, and establishes requirements for building owners who purchase AEDs.

An AED is a medical device which is used to administer an electric shock through the chest wall to the heart after someone suffers cardiac arrest. Built-in computers assess the patient's heart rhythm, determine whether the person is in cardiac arrest, and signal whether to administer the shock. Audible cues guide the user through the process. Portable AEDs are available upon a prescription from a medical authority. Their general cost is about $3,000.

According to the American Heart Association (AHA), cardiac arrest is a life-or-death situation, and the patient has very

little chance of survival without defibrillation. However, the window of opportunity for saving lives through defibrillation is very small, being only 10-13 minutes even if CPR is administered correctly. According to AHA, in cases of sudden cardiac arrest, CPR is merely a maintenance tool, and defibrillation must take place to "shock" the patient's heart into a proper working rhythm. Thus, the public would be better served, and lives could be saved, if businesses and offices across California are better encouraged to have AEDs on site.

Committee staff research indicates that these devices are virtually "idiot-proof" and easy enough for a child to use (all though that is not recommended). No negative reaction has been found regarding the use of the AEDs, or any suit filed against someone using the AEDs. This is most likely due to the design programming that will not allow the user to administer an electric shock needlessly, therefore creating little chance of user-error in administering the AED. The only possible negative comment was that, hypothetically speaking, someone with a living will/Do Not Resuscitate (DNR) order may be in public and suffer a cardiac episode. A bystander, unable to know the person has a DNR, or what his/her specific medical wishes are, may administer the AED against his/her wishes. While possible, this concern is likely so remote that it is of little concern. For the most part, it should be safe to assume that someone suffering a cardiac episode and about to die, would like to be resuscitated and saved if possible. To that end, creating the broadest amount of access to AEDs should be the goal.

While the risk of lawsuit is minimal, California public entities and businesses remain reluctant to make AEDs available in their facilities until this issue, real or perceived, is more fully addressed. This bill, it is hoped, will address those liability concerns and encourage public and private facilities across the state to have AEDs on site to aid in emergency situations and save lives.

Analysis Prepared by : Drew Liebert / JUD. / (916) 319-2334

FN: 0015271

Assembly Bill No. 2083

CHAPTER 85

An act to amend Section 1797.196 of the Health and Safety Code, relating to emergency medical services.

[Approved by Governor July 20, 2006. Filed with Secretary of State July 20, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2083, Vargas. Emergency medical services: automatic external defibrillators.

Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, permits each county to establish an emergency medical services program under which the county is required to designate a local emergency medical services agency (EMS agency). The act authorizes the local EMS agency to implement a trauma care system if the system meets the minimum standards set forth in the regulations established by the Emergency Medical Services Authority and the authority has approved a plan.

Existing law authorizes the authority to establish minimum training and other standards for the use of automatic external defibrillators and requires persons or entities that acquire the defibrillators to comply with maintenance, testing, and training requirements, which are scheduled to change on January 1, 2008. Existing law, until January 1, 2008, provides immunity from civil damages for those persons or entities, and sets forth tenant notice and other requirements for building owners in which an AED is placed.

This bill would extend the January 1, 2008, termination date of these provisions to January 1, 2013.

The people of the State of California do enact as follows:

SECTION 1. Section 1797.196 of the Health and Safety Code, as amended by Section 1 of Chapter 111 of the Statutes of 2005, is amended to read:

1797.196. (a) For purposes of this section, "AED" or "defibrillator" means an automated or automatic external defibrillator.

(b) In order to ensure public safety, any person or entity that acquires an AED is not liable for any civil damages resulting from any acts or omissions in the rendering of the emergency care under subdivision (b) of Section 1714.21 of the Civil Code, if that person or entity does all of the following:

(1) Complies with all regulations governing the placement of an AED.
(2) Ensures all of the following:
(A) That the AED is maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer, the American Heart Association, and the American Red Cross, and according to any applicable rules and regulations set forth by the governmental authority under the federal Food and Drug Administration and any other applicable state and federal authority.
(B) That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these checks shall be maintained.
(C) That any person who renders emergency care or treatment on a person in cardiac arrest by using an AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS agency.
(D) For every AED unit acquired up to five units, no less than one employee per AED unit shall complete a training course in cardiopulmonary resuscitation and AED use that complies with the regulations adopted by the Emergency Medical Service Authority and the standards of the American Heart Association or the American Red Cross. After the first five AED units are acquired, for each additional five AED units acquired, one employee shall be trained beginning with the first AED unit acquired. Acquirers of AED units shall have trained employees who should be available to respond to an emergency that may involve the use of an AED unit during normal operating hours.
(E) That there is a written plan that describes the procedures to be followed in the event of an emergency that may involve the use of an AED, to ensure compliance with the requirements of this section. The written plan shall include, but not be limited to, immediate notification of 911 and trained office personnel at the start of AED procedures.
(3) When an AED is placed in a building, building owners shall ensure that tenants annually receive a brochure, approved as to content and style by the American Heart Association or American Red Cross, which describes the proper use of an AED, and also ensure that similar information is posted next to any installed AED.
(4) When an AED is placed in a building, no less than once a year, building owners shall notify their tenants as to the location of AED units in the building.
(5) When an AED is placed in a public or private K–12 school, the principal shall ensure that the school administrators and staff annually receive a brochure, approved as to contents and style by the American Heart Association or the American Red Cross, that describes the proper use of an AED. The principal shall also ensure that similar information is posted next to every AED. The principal shall, at least annually, notify school employees as to the location of all AED units on the campus. The principal shall designate the trained employees who shall be available to respond to an emergency that may involve the use of an AED during

normal operating hours. As used in this paragraph, "normal operating hours" means during the hours of classroom instruction and any school-sponsored activity occurring on school grounds.

(c) Any person or entity that supplies an AED shall do all of the following:

(1) Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.

(2) Provide to the acquirer of the AED all information governing the use, installation, operation, training, and maintenance of the AED.

(d) A violation of this provision is not subject to penalties pursuant to Section 1798.206.

(e) The protections specified in this section do not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who renders emergency care or treatment by the use of an AED.

(f) Nothing in this section or Section 1714.21 may be construed to require a building owner or a building manager to acquire and have installed an AED in any building.

(g) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 2. Section 1797.196 of the Health and Safety Code, as added by Section 4 of Chapter 718 of the Statutes of 2002, is amended to read:

1797.196. (a) For purposes of this section, "AED" or "defibrillator" means an automated or automatic external defibrillator.

(b) In order to ensure public safety, any person who acquires an AED shall do all of the following:

(1) Comply with all regulations governing the training, use, and placement of an AED.

(2) Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.

(3) Ensure all of the following:

(A) That expected AED users complete a training course in cardiopulmonary resuscitation and AED use that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards of the American Heart Association or the American Red Cross.

(B) That the defibrillator is maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer, the American Heart Association, and the American Red Cross, and according to any applicable rules and regulations set forth by the governmental authority under the federal Food and Drug Administration and any other applicable state and federal authority.

(C) That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these periodic checks shall be maintained.

(D) That any person who renders emergency care or treatment on a person in cardiac arrest by using an AED activates the emergency medical

services system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS agency.

(E) That there is involvement of a licensed physician in developing a program to ensure compliance with regulations and requirements for training, notification, and maintenance.

(c) A violation of this provision is not subject to penalties pursuant to Section 1798.206.

(d) This section shall become operative on January 1, 2013.

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BILL ANALYSIS

Date of Hearing: June 19, 2012

ASSEMBLY COMMITTEE ON JUDICIARY
Mike Feuer, Chair
SB 1436 (Lowenthal) - As Amended: May 8, 2012

PROPOSED CONSENT

SENATE VOTE : 37-0

SUBJECT : Automatic External Defibrillators (AED's): Sunset removal

KEY ISSUE : SHOULD THE EXISTING QUALIFIED IMMUNITY AND TRAINING AND OTHER REQUIREMENTS RELATED to the USE OF AEDs BE MADE PERMANENT?

SYNOPSIS

Under existing law, which sunsets January 1, 2013, a person or entity who acquires an automated external defibrillator (AED) is not liable for any civil damages resulting from any acts or omissions when the AED is used to render emergency care, so long as the person or entity has complied with specified maintenance, training, and notice requirements. This bill would delete the approaching sunset date, thus making permanent the existing qualified immunity, training and other requirements related to the use of these lifesaving tools.

Proponents of this bill, including the American Heart Association and the California Medical Association, note that placing AEDs in buildings can and does save lives, and that building owners should not be deterred from buying and installing AEDs out of any fear of potential liability if the AED is used or not used during a medical emergency. This bill will encourage the continuing purchase and placement of AEDs in public and private buildings by providing a permanent qualified immunity to the building owner for the provision and use of an AED. The bill is sponsored by the American Heart Association and supported by emergency personnel organizations and building and business property associations with no known opposition.

SUMMARY : Incentivizes facilities to obtain and make available life-saving AEDs. Specifically, this bill makes permanent the existing protections, which would otherwise sunset on January 1,

2013, that provide general immunity from civil damages in connection with the use of AEDs as long as specified maintenance, training, and notice requirements are met.

EXISTING LAW :

1)Provides for immunity from liability for any person who, in good faith and not for compensation, renders emergency care using an AED at the scene of an emergency. (Civil Code Section 1714.21(b).)

2)Provides that a person or entity that acquires an AED for emergency use is not liable for any civil damages resulting from any acts or omissions when the AED is used to render emergency care provided that the person or entity has complied with the maintenance, training, and notice requirements described in more detail below. (Civil Code Section 1714.21(d).)

3)Provides that the qualified immunity described above does not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who uses the AED to render emergency care. (Civil Code Section 1714.21(f).)

4)Until January 1, 2013, provides that any person or entity that acquires an AED is not liable for any civil damages resulting from any acts or omissions in the rendering of the emergency care if that person or entity does all of the following:

a) Complies with all regulations governing the placement of an AED;
b) Ensures all of the following:
i) the AED is maintained and regularly tested as

specified;
ii) the AED is checked for readiness after each use and at least once every 30 days if it has not been used in the preceding 30 days. Records of these checks must be maintained;
iii) that any person who renders emergency care using the AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS agency;
iv) for every AED unit acquired up to five units, at least one employee per unit must complete a training

course in cardiopulmonary resuscitation and AED use. After the first five AED units are acquired, for each additional five units acquired, one employee shall be trained beginning with the first unit acquired. Acquirers of AEDs must have trained employees who should be available to respond to an emergency that may involve the use of an AED during normal operating hours;
v) there is a written plan describing the procedures to be followed in the event of an emergency that may involve using an AED as specified.

c) Building owners must annually provide tenants with a brochure describing the proper use of an AED as specified, and also ensure that similar information is posted next to any installed AED;
d) Building owners must notify tenants as to the location of AED units in the building at least once a year; and
e) If an AED is placed in a public or private K-12 school, the principal must annually provide school administrators and staff with a brochure describing the proper use of an AED, post similar information next to the AED, and designate trained employees to be available to respond to an emergency that may involve the use of an AED during normal operating hours. (Health & Safety Code Section 1797.196(b).)

5)Until January 1, 2013, requires any person or entity that supplies an AED shall: (1) notify an agent of the local EMS agency of the existence, location, and type of AED acquired; and (2) provide the AED acquirer with information regarding the AED's use, installation, operation, training, and maintenance. (Health & Safety Code Section 1797.196(c).)

6)Until January 1, 2013, provides that the qualified immunity described above does not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who uses the AED to render emergency care. (Health & Safety Code Section 1797.196(e).)

7)Until January 1, 2013, specifies that nothing in Health and Safety Code Section 1797.196 or Civil Code Section 1714.21 may be construed to require a building owner or a building manager to acquire and install an AED in any building. (Health & Safety Code Section 1797.196(f).)

8)Provides that the above-described provisions sunset on January 1, 2013 and, after that date, are replaced by other provisions that do not provide for immunity, but require maintenance of the unit and training for expected AED users. (Health & Safety Code Section 1797.196(g).)

FISCAL EFFECT : As currently in print this bill is keyed non-fiscal.

COMMENTS : In 1999, the Legislature passed and the Governor signed SB 911 (Figueroa, Ch. 163, Stats. 1999) which created a qualified immunity from civil liability for trained persons who use AEDs in good faith and without compensation when rendering emergency care or treatment at the scene of an emergency. The bill also provided qualified immunity from liability for building owners who installed AEDs as long as they ensured that expected AED users completed a training course. AB 2041 (Vargas, Ch. 718, Stats. 2002) expanded this immunity by repealing the training requirements for good faith users and

also relaxed the requirement that building owners must ensure that expected users complete training as a condition of immunity. AB 2041 was enacted with a five-year sunset which was extended another five years to January 1, 2013 by AB 2083 (Vargas, Ch. 85, Stats. 2006). This bill finally deletes the sunset, thus making these provisions permanent.

In support, the author states:

> Each year 295,000 sudden cardiac arrests occur in the United States that are treated outside of hospitals with emergency services. Approximately 20% of these events occur in the presence of a witness. The key to surviving a sudden cardiac arrest is to administer CPR and the use of an AED by a bystander. The AED returns a person's heart to a normal rhythm.
>
> Studies show that when CPR and AEDs are used within three to five minutes from the onset of collapse, the survival rate of a sudden cardiac arrest victim is as high as 50 to 70 percent. For every minute without a shock to the heart, the chance of survival decreases by 7 to 10 percent?
>
> Under current law, in order to be granted immunity from liability, voluntary acquirers of AEDs, which include building owners, schools, churches, senior centers and

> others, must adhere to requirements governing the placement of AEDs. The requirements address, among other subjects, training, maintenance, and written plans.
>
> On January 1, 2013, current law - which has been in effect for more than ten years - sunsets and different requirements will take effect that are less clear and are problematic in other respects.

An AED is a medical device which is used to administer an electric shock through the chest wall to the heart after someone suffers cardiac arrest. Built-in computers assess the patient's heart rhythm, determine whether the person is in cardiac arrest, and signal whether to administer the shock. Audible cues guide the user through the process.

The American Heart Association, sponsor of the measure, writes that "removing the sunset entirely creates more certainty related to requirements that building owners and other voluntary acquirers of AEDs must meet in order to be immune from civil liability, likely resulting in more AED installations and greater Good Samaritan access."

Good Samaritan protection already provided to laypersons; this bill applies to those who acquire an AED, such as building owners . To be clear, existing law already provides immunity protection to laypersons who use an AED to render emergency care, provided that they do not act with gross negligence or willful or wanton misconduct. When this provision was first enacted, it contained a training requirement for these laypersons. However, in 2002, the Legislature passed and the governor signed AB 2041 (Vargas), which removed this training requirement and substantially relaxed the training requirement for building owners. It was thought to be appropriate to treat these two parties differently with respect to training since it would be difficult to train every potential rescuer, but much less difficult to train every anticipated rescuer (i.e., specified employees).

According to the California Medical Association, without extending existing provisions as this bill does, "Ýt]hese changes could lead to confusion and lack of compliance on the part of facilities that currently maintain the devices, possibly leading them to get rid of their AED altogether for fear of violating the new requirements."

REGISTERED SUPPORT / OPPOSITION :

Support

American Heart Association (sponsor)
Building Owners and Managers Association of California
California Ambulance Association
California Apartment Association
California Business Properties Association
California Chapter of the American College Cardiology
California Chapters of the American Red Cross
California Medical Association
California Professional Firefighters
California State PTA
California State Sheriffs' Association
CDF Firefighters Local 2881
City of Ventura
Civil Justice Association of California
League of California Cities

Opposition

None on file

Analysis Prepared by : Drew Liebert / JUD. / (916) 319-2334

BILL ANALYSIS

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|SENATE RULES COMMITTEE            |                  SB 1436|
|Office of Senate Floor Analyses   |                         |
|1020 N Street, Suite 524          |                         |
|(916) 651-1520         Fax: (916) |                         |
|327-4478                          |                         |
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THIRD READING

Bill No: SB 1436
Author: Lowenthal (D), et al.
Amended: 5/8/12
Vote: 21

SENATE HEALTH COMMITTEE : 9-0, 4/11/12
AYES: Hernandez, Harman, Alquist, Anderson, Blakeslee, De León, DeSaulnier, Rubio, Wolk

SENATE JUDICIARY COMMITTEE : 5-0, 5/1/12
AYES: Evans, Harman, Blakeslee, Corbett, Leno

SUBJECT : Automated external defibrillators

SOURCE : American Heart Association

DIGEST : This bill makes permanent the existing protections that provide general immunity from civil damages in connection with the use of automated external defibrillators.

ANALYSIS :

Existing law:

1. Authorizes the Emergency Medical Services Authority to establish minimum training and other standards for the use of automated external defibrillators (AEDs).

2. Provides general immunity from civil damages in

CONTINUED

connection with the use of AEDs.

3. Requires persons or entities that acquire AEDs to comply with specific maintenance, testing, and training requirements until January 1, 2013, when they are set to sunset.

4. Establishes, until January 1, 2013, tenant notice and other requirements for owners of buildings in which an AED is placed.

This bill makes permanent the existing protections, which would otherwise sunset on January 1, 2013, that provide general immunity from civil damages in connection with the use of AEDs.

Background

According to the American Heart Association, an AED is a lightweight, portable device that delivers an electric shock through the chest to the heart. The shock can stop an irregular rhythm and allow a normal rhythm to resume in a heart in sudden cardiac arrest. Sudden cardiac arrest is an abrupt loss of heart function. If it is not treated within minutes, it quickly leads to death. The AED has a built-in computer which assesses the patient's heart rhythm, determines whether the person is in cardiac arrest, and signals whether to administer the shock. Audible cues guide the user through the process. The American Heart Association estimates that at least 20,000 lives could be saved annually by prompt use of AEDs.

Under current law, in order to be granted immunity from liability, voluntary acquirers of AEDs, which include

building owners, schools, churches, senior centers and others, must adhere to requirements governing the placement of AEDs. The requirements address, among other subjects, training, maintenance, and written plans. These provisions are scheduled to sunset on January 1, 2013. This bill eliminates the sunset and makes these provisions permanent.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No
Local: No

CONTINUED

SUPPORT : (Verified 5/8/12)

American Heart Association (source)
Building Owners and Managers Association of California
California Ambulance Association
California Apartment Association
California Business Property Association
California Chapter American College of Cardiology
California Chapters of the American Red Cross
California Medical Association
California Professional Firefighters
California State Sheriffs' Association
CDF Firefighters Local 2881
City of Ventura
Civil Justice Association of California
League of California Cities

ARGUMENTS IN SUPPORT : The American Heart Association writes that this bill will increase access to lifesaving AEDs. Every year, 295,000 sudden cardiac arrests occur in the United States that are treated outside of hospitals with emergency services. Approximately 20 percent of these events occur in the presence of a witness. The American Heart Association writes that removing the sunset entirely creates more certainty related to requirements that building owners and other voluntary acquirers of AEDs must meet in order to be immune from civil liability. The League of California Cities writes in support that this bill ensures continued access and "Good Samaritan" protections for voluntary providers who make this lifesaving tool available in public. The Civil Justice Association of California writes in support that California has a strong policy of encouraging emergency assistance and argues it is good public policy to make this important law permanent so owners and operators of AEDs continue to make available these lifesaving devices.

CTW:mw 5/8/12 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

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CONTINUED

BILL ANALYSIS

SENATE JUDICIARY COMMITTEE
Senator Noreen Evans, Chair
2011-2012 Regular Session

SB 1436 (Lowenthal)
As Introduced
Hearing Date: May 1, 2012
Fiscal: No
Urgency: No
SK

SUBJECT

Automatic External Defibrillators (AEDs): Immunity

DESCRIPTION

This bill would make permanent existing provisions of law which specify that a person or entity who acquires an AED is not liable for any civil damages resulting from any acts or omissions when the AED is used to render emergency care as long as the person or entity has complied with specified maintenance, training, and notice requirements. This qualified immunity would otherwise sunset on January 1, 2013.

BACKGROUND

An AED is a medical device which is used to administer an electric shock through the chest wall to the heart after someone suffers cardiac arrest. Built-in computers assess the patient's heart rhythm, determine whether the person is in cardiac arrest, and signal whether to administer the shock. Audible cues guide the user through the process.

In 1999, the Legislature passed and the Governor signed SB 911 (Figueroa, Ch. 163, Stats. 1999) which created a qualified immunity from civil liability for trained persons who use AEDs in good faith and without compensation when rendering emergency care or treatment at the scene of an emergency. The bill also provided qualified immunity from liability for building owners who installed AEDs as long as they ensured that expected AED users completed a training course. AB 2041 (Vargas, Ch. 718, Stats. 2002) expanded this immunity by repealing the training requirements for good faith users and also relaxing the

(more)

requirement that building owners must ensure that expected users complete training as a condition of immunity. AB 2041 was enacted with a five-year sunset which was extended another five years to January 1, 2013 by AB 2083 (Vargas, Ch. 85, Stats. 2006). This bill would delete this sunset, thus extending the operation of these provisions indefinitely.

CHANGES TO EXISTING LAW

Existing law provides for immunity from liability for any person who, in good faith and not for compensation, renders emergency care using an AED at the scene of an emergency. (Civ. Code Sec. 1714.21(b).)

Existing law provides that a person or entity that acquires an AED for emergency use is not liable for any civil damages resulting from any acts or omissions when the AED is used to render emergency care provided that the person or entity has complied with the maintenance, training, and notice requirements described in more detail below. (Civ. Code Sec. 1714.21(d).)

Existing law provides that a physician who is involved with the placement of an AED and any person or entity responsible for the site where the AED is located, is not liable for any civil damages resulting from any acts or omissions by the person who uses the AED to render emergency care provided that the physician, person, or entity has complied with all of the requirements of Health and Safety Code Section 1797.196 that apply to him or her. (Civ. Code Sec. 1714.21(e).)

Existing law provides that the qualified immunity described above does not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who uses the AED to render emergency care. (Civ. Code Sec. 1714.21(f).)

Existing law , until January 1, 2013, provides that any person or entity that acquires an AED is not liable for any civil damages resulting from any acts or omissions in the rendering of the emergency care if that person or entity does all of the following:

a. Complies with all regulations governing the placement of an AED;
b. Ensures all of the following:
   i. the AED is maintained and regularly tested;

   ii. the AED is checked for readiness after each use and at least once every 30 days if it has not been used in the preceding 30 days. Records of these checks must be maintained;
   iii. that any person who renders emergency care using the AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the local EMS agency;
   iv. for every AED unit acquired up to five units, at least one employee per unit must complete a training course in cardiopulmonary resuscitation and AED use. After the first five AED units are acquired, for each additional five units acquired, one employee shall be trained beginning with the first unit acquired. Acquirers of AEDs must have trained employees who should be available to respond to an emergency that may involve the use of an AED during normal operating hours;
   v. there is a written plan describing the procedures to be followed in the event of an emergency that may involve using an AED;
   vi. building owners must annually provide tenants with a brochure describing the proper use of an AED, and also ensure that similar information is posted next to any installed AED;
   vii. building owners must notify tenants as to the location of AED units in the building at least once a year; and
   viii. if an AED is placed in a public or private K-12 school, the principal must annually provide school administrators and staff with a brochure describing the proper use of an AED, post similar information next to the AED, and designate trained employees to be available to respond to an emergency that may involve the use of an AED during normal operating hours; and
c. Any person or entity that supplies an AED shall: (1) notify an agent of the local EMS agency of the existence, location, and type of AED acquired; and (2) provide the AED acquirer with information regarding the AED's use, installation, operation, training, and maintenance. (Health & Saf. Code Sec. 1797.196(b).)

Existing law , until January 1, 2013, provides that the qualified immunity described above does not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who uses the AED to render emergency care. (Health & Saf. Code Sec.

1797.196(e).)

Existing law , until January 1, 2013, requires a person or entity that supplies an AED to: (1) notify the local EMS agency of the existence, location, and type of AED acquired; and (2) provide to the acquirer of the AED all information governing the use, installation, operation, training, and maintenance of the AED. (Health & Saf. Code Sec. 1797.196(c).)

Existing law , until January 1, 2013, specifies that nothing in Health and Safety Code Section 1797.196 or Civil Code Section 1714.21 may be construed to require a building owner or a building manager to acquire and install an AED in any building. (Health & Saf. Code Sec. 1797.196(f).)

Existing law provides that the above-described provisions sunset on January 1, 2013 and, after that date, are replaced by other provisions that do not provide for immunity, but require maintenance of the unit and training for expected AED users. (Health & Saf. Code Sec. 1797.196(g).)

This bill would delete this sunset, thus extending the operation

of these provisions indefinitely.

COMMENT

1. Stated need for the bill

The author writes that the bill will:

> . . . retain important provisions of current law regarding voluntary placement of AEDs by removing a sunset date. Current law has been operative for more than ten years. Removing the sunset creates more certainty related to requirements that building owners and other voluntary acquirers of AEDs must meet in order to be immune from civil liability, likely resulting in more AED installations and greater Good Samaritan access.
>
> Each year 295,000 sudden cardiac arrests occur in the United States that are treated outside of hospitals with emergency services. Approximately 20% of these events occur in the presence of a witness. The key to surviving a sudden cardiac arrest is to administer CPR and the use of an AED by a bystander. The AED returns a person's heart to a normal rhythm. Studies show that when CPR and AEDs are used within

> three to five minutes from the onset of collapse, the survival rate of a sudden cardiac arrest victim is as high as 50 to 70 percent. For every minute without a shock to the heart, the chance of survival decreases by 7 to 10 percent. . . .
>
> Under current law, in order to be granted immunity from liability, voluntary acquirers of AEDs, which include, among others, building owners, schools, churches, and senior centers, must adhere to specific requirements governing the placement of AEDs (training, maintenance, written plans, etc.). On January 1, 2013, current law sunsets and different requirements will take effect that are less clear especially those related to training, which will likely result in less AEDs being installed.

The American Heart Association, sponsor of the measure, writes that "removing the sunset entirely creates more certainty related to requirements that building owners and other voluntary acquirers of AEDs must meet in order to be immune from civil liability, likely resulting in more AED installations and greater Good Samaritan access."

2. Bill would extend immunity provisions indefinitely

Under existing law, which sunsets January 1, 2013, a person or entity who acquires an AED is not liable for any civil damages resulting from any acts or omissions when the AED is used to render emergency care as long as the person or entity has complied with specified maintenance, training, and notice requirements. This bill would delete the sunset date, thus extending the operation of these provisions indefinitely and making the immunity permanent, provided that the person or entity has complied with the requirements described above.

Proponents of this bill assert that placing AEDs in buildings can save lives, and that building owners should not be deterred from buying and installing AEDs out of the fear of potential liability if the AED is used or not used during a medical emergency. This bill seeks to encourage the purchase and placement of AEDs in public and private buildings by providing a qualified immunity to the building owner for the use or non-use of an AED.
Staff notes that existing law's qualified immunity does not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who uses the AED to render emergency

care. In other words, a business owner could be sued-and would not be immune from liability-if the person using the AED did so with gross negligence or willful or wanton misconduct. As a result, it is in the interest of the person or entity who acquired the AED to make sure that employees are trained in the use of the AED to ensure that they do not act in a manner (i.e., with gross negligence or willful or wanton misconduct) that would result in the acquirer losing the immunity from liability.

3. Good Samaritan protection already provided to laypersons; this bill applies to those who acquire an AED, such as building owners

To be clear, existing law already provides immunity protection to laypersons who use an AED to render emergency care, provided that they do not act with gross negligence or willful or wanton misconduct. When this provision was first enacted, it contained a training requirement for these laypersons. However, in 2002, the Legislature passed and the governor signed AB 2041 (Vargas), which removed this training requirement and substantially relaxed the training requirement for building owners. It was thought to be appropriate to treat these two parties differently with respect to training since it would be difficult to train every potential rescuer, but much less difficult to train every anticipated rescuer (i.e., specified employees).

As noted above, this bill would delete the sunset on Health and Safety Code Section 1797.196, which provides a qualified immunity for acquirers of AEDs provided that they meet certain requirements. Should these provisions of existing law sunset, the statute that would take its place would require any person who acquires an AED to ensure that "expected" AED users complete training in CPR and AED use.

With respect to this provision, the author indicates that the bill is necessary because "Ýt]he term 'expected AED user' can be misleading and confusing. It is not clear who may or may not be an expected AED user." Indeed, this bill would make permanent the current, and arguably more clear, requirement that for every AED unit acquired up to five units, at least one employee per unit must complete a training course in cardiopulmonary resuscitation and AED use. After the first five AED units are acquired, for each additional five units acquired, one employee must be trained beginning with the first unit acquired. Acquirers of AEDs also must have trained employees who should be

available to respond to an emergency that may involve the use of an AED during normal operating hours.

4. Safeguards made permanent

As noted earlier (see Background), the existing qualified immunity for persons or entities that acquire an AED included safeguards to ensure that the AED was successfully placed and thus effective in saving lives. Those safeguards of training, maintenance, and notification help to incentivize responsible businesses that install AEDs to provide AED training to their employees, maintain AEDs on their premises, and notify the local EMS authority and building tenants of the location of any AED unit in the building. This bill would make these provisions permanent. In the past, this Committee has expressed strong support for these safeguards. (See Comment 5.)

By deleting the sunset on existing law's provisions granting a qualified immunity to building owners who install AEDs, this bill would make permanent provisions of existing law which grant the immunity to building owners provided that they:
comply with all regulations governing the placement of an AED;

ensure all of the following:
- o the AED is maintained and regularly tested;
- o the AED is checked for readiness after each use and at least once every 30 days if it has not been used in the preceding 30 days. Records of these checks must be maintained;
- o that any person who renders emergency care using the AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the local EMS agency;
- o for every AED unit acquired up to five units, at least one employee per unit must complete a training course in cardiopulmonary resuscitation and AED use. After the first five AED units are acquired, for each additional five units acquired, one employee shall be trained beginning with the first unit acquired. Acquirers of AEDs must have trained employees who should be available to respond to an emergency that may involve the use of an AED during normal operating hours; and
- o there is a written plan describing the procedures to be followed in the event of an emergency that may involve using an AED.

In order to obtain the immunity, building owners must also:
annually provide tenants with a brochure describing the proper use of an AED, and also ensure that similar information is posted next to any installed AED;
notify tenants as to the location of AED units in the building at least once a year;
if an AED is placed in a public or private K-12 school, the principal must annually provide school administrators and staff with a brochure describing the proper use of an AED, post similar information next to the AED, and designate trained employees to be available to respond to an emergency that may involve the use of an AED during normal operating hours; and
any person or entity that supplies an AED must notify an agent of the local EMS agency of the existence, location, and type of AED acquired and provide the AED acquirer with information regarding the AED's use, installation, operation, training, and maintenance.

These provisions would also be made permanent under the bill.

5. Bill limited to removal of sunset date only

In the past, this Committee has expressed significant concerns regarding efforts to change or revise the maintenance, training, and notice requirements contained in existing law in a manner that would arguably weaken those important protections. (See, e.g., SB 1281 (Padilla, 2010).) It is the understanding of stakeholders that it is the intent of the author and his sponsor that this bill will not be used to make such changes. Instead, the bill would simply delete the sunset date on current law. Consumer Attorneys of California has indicated that it is neutral on this measure with the understanding that it simply removes the sunset date on current law, as described above.

6. Technical amendment needed

The following technical correction is needed:

On page 3, line 11, delete "contents" and insert "content"

Support : Building Owners and Managers Association; California Apartment Association; California Business Properties Association; California Chapter of the American College of

Cardiology; California Chapters of the American Red Cross; California Medical Association; California Professional Firefighters; California State Sheriffs' Association; CDF Firefighters Local 2881; City of Ventura; Civil Justice Association of California; League of California Cities

Opposition : None Known

HISTORY

Source : American Heart Association

Related Pending Legislation : AB 1666 (Olsen) would extend the sunset date to January 1, 2018 on Health and Safety Code Section 1797.196. This bill would also revise existing law's requirement that an AED be checked for readiness at least once every 30 days, if it has not been used in the preceding 30 days to instead require that the device be checked at least once every 90 days if it has not been used in the preceding 90 days. This bill is scheduled to be heard in the Assembly Judiciary Committee on May 1, 2012.

Prior Legislation : See Background.

Prior Vote : Senate Health Committee (Ayes 9, Noes 0)

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BILL ANALYSIS

SENATE COMMITTEE ON HEALTH
Senator Ed Hernandez, O.D., Chair

BILL NO: SB 1436
AUTHOR: Lowenthal
INTRODUCED: February 24, 2012
HEARING DATE: April 11, 2012
CONSULTANT: Trueworthy

SUBJECT : Automated external defibrillators.

SUMMARY : Makes permanent the existing protections that provide general immunity from civil damages in connection with the use of automated external defibrillator (AEDs).

Existing law:

1. Authorizes the Emergency Medical Services Authority to establish minimum training and other standards for the use of AEDs.

2. Provides general immunity from civil damages in connection with the use of AEDs.

3. Requires persons or entities that acquire AEDs to comply with specific maintenance, testing, and training requirements until January 1, 2013, when they are set to sunset.

4. Establishes, until January 1, 2013, tenant notice and other requirements for owners of buildings in which an AED is placed.

This bill: Makes permanent the existing protections, which would otherwise sunset on January 1, 2013, that provide general immunity from civil damages in connection with the use of AEDs.

FISCAL EFFECT : This bill is keyed non-fiscal.

COMMENTS :

1. Author's statement. According to the author, each year 295,000 sudden cardiac arrests occur in the United States that are treated outside of hospitals with emergency services. Approximately 20 percent of these events occur in the presence of a witness. The key to surviving a sudden cardiac arrest is to administer CPR and the use of an AED by a bystander. The AED returns a person's heart to a normal rhythm. Studies show that when CPR and AEDs are used within three to five minutes

Continued---

from the onset of collapse, the survival rate of a sudden cardiac arrest victim is as high as 50 to 70 percent. For every minute without a shock to the heart, the chance of survival decreases by 7 to 10 percent.

The author states that on January 1, 2013, current law-which has been in effect for more than ten years-sunsets and different requirements will take effect that are less clear. SB 1436 removes the sunset date.

According to the author, removing the sunset entirely creates more certainty related to requirements that building owners and other voluntary acquirers of AEDs must meet in order to be immune from civil liability, likely resulting in more AED installations and greater "Good Samaritan" access.

1. Background. According to the American Heart Association, an AED is a lightweight, portable device that delivers an electric shock through the chest to the heart. The shock can stop an irregular rhythm and allow a normal rhythm to resume in a heart in sudden cardiac arrest. Sudden cardiac arrest is an abrupt loss of heart function. If it's not treated within minutes, it quickly leads to death. The AED has a built-in computer which assesses the patient's heart rhythm, determines whether the person is in cardiac arrest, and signals whether to administer the shock. Audible cues guide the user through the process. The American Heart Association estimates that at least 20,000 lives could be saved annually by prompt use of AEDs.

Under current law, in order to be granted immunity from liability, voluntary acquirers of AEDs, which include building owners, schools, churches, senior centers and others, must adhere to requirements governing the placement of AEDs. The requirements address, among other subjects, training,

maintenance, and written plans. These provisions are scheduled to sunset on January 1, 2013. SB 1436 will eliminate the sunset and make these provisions permanent.

2. Double referral. This bill is double referred. Should it pass out of this committee, it will be referred to the Senate Committee on Judiciary.

3. Related legislation. AB 1666 (Olson) would extend the sunset on the existing provisions of law related to AEDs to January 1, 2018, and would require an AED to be checked for readiness

at least once every 90 days if the AED has not been used in the preceding 90 days, rather than 30 days as required by current law. AB 1666 is currently pending before the Assembly Judiciary Committee.

4. Prior legislation. SB 63 (Price) of 2011 would have stated the intent of the Legislature that all public high schools acquire and maintain at least one AED and would require schools that decide to acquire and maintain an AED, or to continue to use and maintain an existing AED, to comply with specified requirements. SB 63 was held in the Senate Appropriations Committee.

   SB 1281 (Padilla) of 2010 would have repealed the requirement that a person or entity must comply with specified maintenance, training, and notice requirements to not be liable for any civil damages resulting from any acts or omissions when the AED is used to render emergency care. SB 1281 failed passage in the Senate Judiciary Committee.

   SB 127 (Calderon), Chapter 500, Statutes of 2010, removed the July 1, 2012 sunset date for existing requirements that every health studio acquires and maintains an AED and trains personnel in its use thereby extending these requirements indefinitely.

   AB 1312 (Swanson) of 2009 would have made the current requirements for health studios to purchase, maintain, and train staff in the use of AEDs applicable to amusement parks and golf courses. This bill also proposed to extend the sunset date on this requirement from July 1, 2012 to July 1, 2014. AB 1312 was vetoed by the Governor.

   AB 2083 (Vargas), Chapter 85, Statutes of 2006, extends the sunset date from 2008 to 2013 on the operative provisions of existing law which provide immunity from civil damages for persons or entities that acquire AEDs and comply with maintenance, testing, and training requirements.

   AB 1507 (Pavley), Chapter 431, Statutes of 2005, required all health studios in the state to have automatic external defibrillators (AEDs) available with properly trained personnel until July 1, 2012.

   AB 254 (Nakanishi), Chapter 111, Statutes of 2005, requires the principal of a public or private K-12 school to meet

   certain requirements in order to be exempt from liability for civil damages associated with the use of an AED.

   AB 2041 (Vargas), Chapter 718, Statutes of 2002, expands the immunity protections for the use or purchase of an AED to sunset in 2008.

   SB 911 (Figueroa), Chapter 163, Statutes of 1999, creates qualified immunity from civil liability for trained persons who use in good faith and without compensation an AED in rendering emergency care or treatment at the scene of an emergency.

5. Support. The American Heart Association writes that SB 1436 will increase access to lifesaving AEDs. Every year, 295,000 sudden cardiac arrests occur in the United States that are treated outside of hospitals with emergency services. Approximately 20 percent of these events occur in the presence of a witness. The American Heart Association writes that removing the sunset entirely creates more certainty related to requirements that building owners and other voluntary acquirers of AEDs must meet in order to be immune from civil

liability. The League of California Cities writes in support that SB 1436 ensures continued access and "Good Samaritan" protections for voluntary providers who make this lifesaving tool available in public. Civil Justice Association of California writes in support that California has a strong policy of encouraging emergency assistance and argues it is good public policy to make this important law permanent so owners and operators of AEDs continue to make available these lifesaving devices.

SUPPORT AND OPPOSITION :

Support: American Heart Association (sponsor)
California Business Properties Association
California Professional Firefighters
California State Sheriffs' Association
CDF Firefighters Local 2881
City of Ventura
Civil Justice Association of California
League of California Cities

Oppose: None received.

-- END --

Senate Bill No. 1436

CHAPTER 71

An act to amend and repeal Section 1797.196 of the Health and Safety Code, relating to automated external defibrillators.

[Approved by Governor July 10, 2012. Filed with Secretary of State July 10, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1436, Lowenthal. Automated external defibrillators.

Existing law authorizes the Emergency Medical Services Authority to establish minimum training and other standards for the use of automated external defibrillators (AEDs) and generally provides immunity from civil damages in connection with AEDs. Existing law requires persons or entities that acquire AEDs to comply with maintenance, testing, and training requirements, which are scheduled to change on January 1, 2013. Existing law, until January 1, 2013, sets forth tenant notice and other requirements for owners of buildings in which an AED is placed.

This bill would extend the operation of these provisions indefinitely.

The people of the State of California do enact as follows:

SECTION 1. Section 1797.196 of the Health and Safety Code, as amended by Section 1 of Chapter 85 of the Statutes of 2006, is amended to read:

1797.196. (a) For purposes of this section, "AED" or "defibrillator" means an automated or automatic external defibrillator.

(b) In order to ensure public safety, any person or entity that acquires an AED is not liable for any civil damages resulting from any acts or omissions in the rendering of the emergency care under subdivision (b) of Section 1714.21 of the Civil Code, if that person or entity does all of the following:

(1) Complies with all regulations governing the placement of an AED.

(2) Ensures all of the following:

(A) That the AED is maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer, the American Heart Association, and the American Red Cross, and according to any applicable rules and regulations set forth by the governmental authority under the federal Food and Drug Administration and any other applicable state and federal authority.

(B) That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these checks shall be maintained.

(C) That any person who renders emergency care or treatment on a person in cardiac arrest by using an AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS agency.

(D) For every AED unit acquired up to five units, no less than one employee per AED unit shall complete a training course in cardiopulmonary resuscitation and AED use that complies with the regulations adopted by the Emergency Medical Service Authority and the standards of the American Heart Association or the American Red Cross. After the first five AED units are acquired, for each additional five AED units acquired, one employee shall be trained beginning with the first AED unit acquired. Acquirers of AED units shall have trained employees who should be available to respond to an emergency that may involve the use of an AED unit during normal operating hours.

(E) That there is a written plan that describes the procedures to be followed in the event of an emergency that may involve the use of an AED, to ensure compliance with the requirements of this section. The written plan shall include, but not be limited to, immediate notification of 911 and trained office personnel at the start of AED procedures.

(3) When an AED is placed in a building, building owners shall ensure that tenants annually receive a brochure, approved as to content and style by the American Heart Association or American Red Cross, which describes the proper use of an AED, and also ensure that similar information is posted next to any installed AED.

(4) When an AED is placed in a building, no less than once a year, building owners shall notify their tenants as to the location of AED units in the building.

(5) When an AED is placed in a public or private K–12 school, the principal shall ensure that the school administrators and staff annually receive a brochure, approved as to content and style by the American Heart Association or the American Red Cross, that describes the proper use of an AED. The principal shall also ensure that similar information is posted next to every AED. The principal shall, at least annually, notify school employees as to the location of all AED units on the campus. The principal shall designate the trained employees who shall be available to respond to an emergency that may involve the use of an AED during normal operating hours. As used in this paragraph, "normal operating hours" means during the hours of classroom instruction and any school-sponsored activity occurring on school grounds.

(c) Any person or entity that supplies an AED shall do all of the following:

(1) Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.

(2) Provide to the acquirer of the AED all information governing the use, installation, operation, training, and maintenance of the AED.

(d) A violation of this provision is not subject to penalties pursuant to Section 1798.206.

(e) The protections specified in this section do not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who renders emergency care or treatment by the use of an AED.

(f) Nothing in this section or Section 1714.21 of the Civil Code may be construed to require a building owner or a building manager to acquire and have installed an AED in any building.

SEC. 2. Section 1797.196 of the Health and Safety Code, as amended by Section 2 of Chapter 85 of the Statutes of 2006, is repealed.

O

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Administration

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Best Practices Guide:

Fundamentals of a Workplace First-Aid Program

OSHA 3317-05N 2006

This best practices guide is not a standard or regulation, and it creates no new legal obligations, nor does it change any existing OSHA standard or regulation. The guide is advisory in nature, informational in content, and is intended to assist employers in providing a safe and healthful workplace.

The Occupational Safety and Health Act of 1970 (OSH Act) requires employers to comply with hazard-specific safety and health standards and regulations as issued and enforced by either the Federal Occupational Safety and Health Administration (OSHA), or an OSHA-approved State Plan. In addition, employers must provide their employees with a workplace free from recognized hazards likely to cause death or serious physical harm under Section 5(a)(1), the General Duty Clause of the Act. Employers can be cited for violating the General Duty Clause if there is a recognized hazard and they do not take steps to prevent or abate the hazard. However, failure to implement this guide is not, in itself, a violation of the General Duty Clause. Citations can only be based on standards, regulations, and the General Duty Clause.

Best Practices Guide:

Fundamentals of a Workplace First-Aid Program

U.S. Department of Labor

Occupational Safety and Health Administration

OSHA 3317-05N
2006

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Introduction and Purpose

First aid is emergency care provided for injury or sudden illness before emergency medical treatment is available. The first-aid provider in the workplace is someone who is trained in the delivery of initial medical emergency procedures, using a limited amount of equipment to perform a primary assessment and intervention while awaiting arrival of emergency medical service (EMS) personnel.

A workplace first-aid program is part of a comprehensive safety and health management system that includes the following four essential elements[1]:

- Management Leadership and Employee Involvement
- Worksite Analysis
- Hazard Prevention and Control
- Safety and Health Training

The purpose of this guide is to present a summary of the basic elements for a first-aid program at the workplace. Those elements include:

- Identifying and assessing the workplace risks that have potential to cause worker injury or illness.
- Designing and implementing a workplace first-aid program that:
  - Aims to minimize the outcome of accidents or exposures
  - Complies with OSHA requirements relating to first aid
  - Includes sufficient quantities of appropriate and readily accessible first-aid supplies and first-aid equipment, such as bandages and automated external defibrillators.
  - Assigns and trains first-aid providers who:
    - receive first-aid training suitable to the specific workplace
    - receive periodic refresher courses on first-aid skills and knowledge.

[1] CSP 03-01-002 - TED 8.4 - Voluntary Protection Programs (VPP): Policies and Procedures Manual Notice. 54 Federal Register 3904-3916. Available at www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=2976

- Instructing all workers about the first-aid program, including what workers should do if a coworker is injured or ill. Putting the policies and program in writing is recommended to implement this and other program elements.
- Providing for scheduled evaluation and changing of the first-aid program to keep the program current and applicable to emerging risks in the workplace, including regular assessment of the adequacy of the first-aid training course.

This guide also includes an outline of the essential elements of safe and effective first-aid training for the workplace as guidance to institutions teaching first-aid courses and to the consumers of these courses.

The Risks: Injuries, Illnesses and Fatalities

There were 5,703 work-related fatalities in private industry in 2004. In that same year there were 4.3 million total workplace injuries and illnesses, of which 1.3 million resulted in days away from work.

Occupational illnesses, injuries and fatalities in 2004 cost the United States' economy $142.2 billion, according to National Safety Council estimates. The average cost per occupational fatality in 2004 exceeded one million dollars. To cover the costs to employers from workplace injuries, it has been calculated that each and every employee in this country would have had to generate $1,010 in revenue in 2004.[2]

Sudden cardiac arrest (SCA) may occur at work. According to recent statistics from the American Heart Association, there are 250,000 out-of-hospital SCAs annually. The actual number of SCAs that happen at work are unknown. If an employee collapses without warning and is not attended to promptly and effectively, the employee may die. Sudden cardiac arrest is caused by abnormal, uncoordinated beating of the heart or loss of the heartbeat altogether, usually as a result of a heart attack.

[2] National Safety Council. (2006). *Injury Facts*, 2004 - 2006 Edition. Itasca, IL, p. 51.

Workplace events such as electrocution or exposure to low oxygen environments can lead to SCA. Overexertion at work can also trigger SCA in those with underlying heart disease.

The outcome of occupational illnesses and injuries depends on the severity of the injury, available first-aid care and medical treatment. Prompt, properly administered first aid may mean the difference between rapid or prolonged recovery, temporary or permanent disability, and even life or death.

Assess the Risks and Design a First-Aid Program Specific for the Worksite

Obtaining and evaluating information about the injuries, illnesses and fatalities at a worksite are essential first steps in planning a first-aid program. Employers can use the OSHA 300 log, OSHA 301 forms, their Workers' Compensation insurance carrier reports or other records to help identify the first-aid needs for their businesses. For risk assessment purposes, national data for injuries, illnesses and fatalities may be obtained from the Bureau of Labor Statistics (BLS) website at www.bls.gov/iif. The annual data, beginning in 2003, are grouped by the North American Industrial Classification System (NAICS) that assigns a numeric code for each type of work establishment. Prior to 2003, the Standard Industrial Classification (SIC) system was used to categorize the data instead of NAICS.

The graphs that follow provide examples of fatality, injury and illness analyses that can be developed using BLS data.

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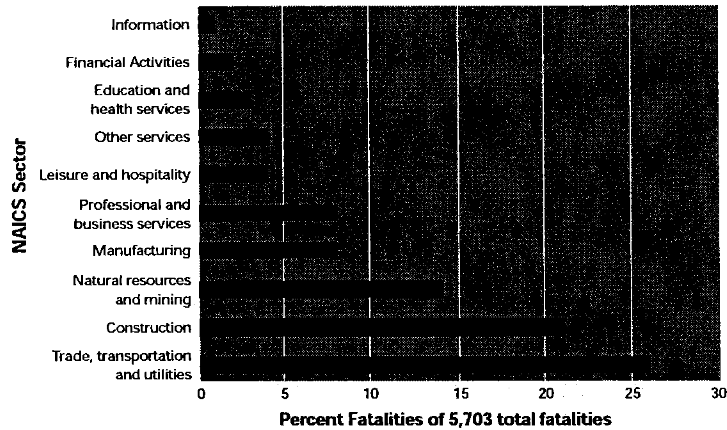
Figure 1 shows the distribution by NAICS sector of workplace fatalities that occurred in private industry in 2004, the most recent year for which data was available.

Figure 1. Percent Fatalities in Private Industry by NAICS Sector, 2004



Note: The total includes fatalities that occurred in the public sector; therefore, the percentages above do not add up to 100.

The categories of events or exposures responsible for workplace fatalities in 2004 are shown in Figure 2. More detailed data are available from the BLS website.

Figure 2. Occupational Fatalities by Event or Exposure, 2004

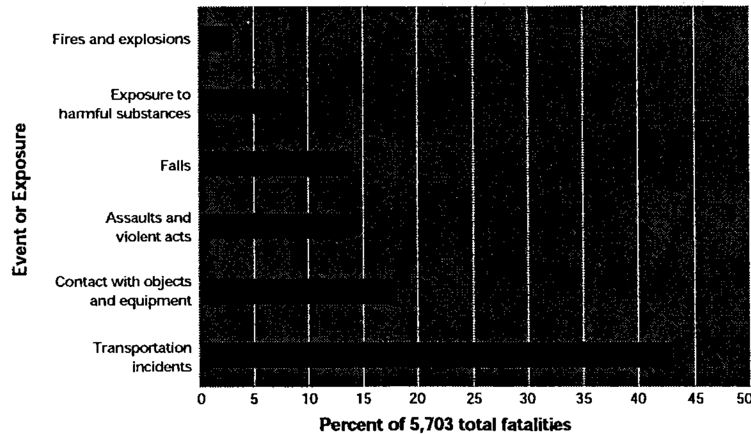


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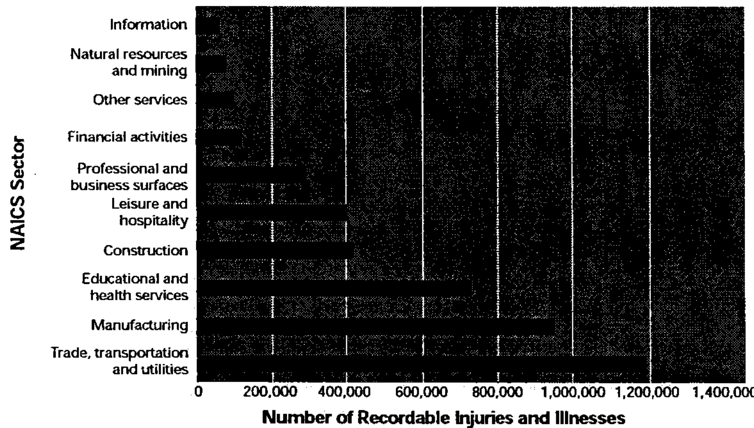
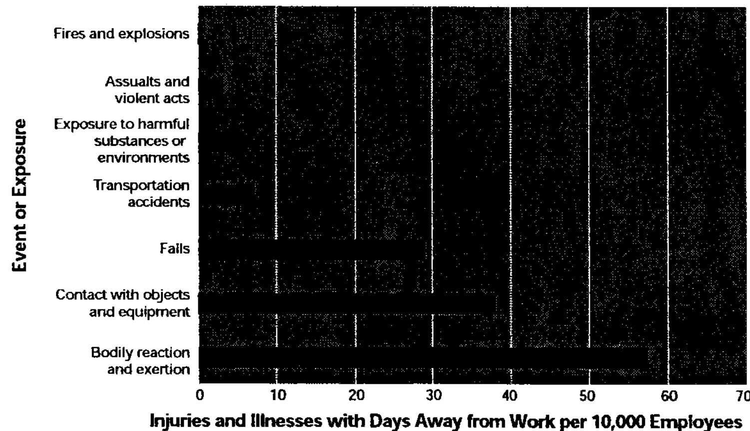
Figure 3 reflects total injuries and illnesses by NAICS sector based on 2004 BLS data. Data that are more specific to businesses within these sectors may be obtained from the BLS website.

Figure 3. Number of Recordable Injuries and Illnesses by NAICS Sector, 2004



The graph in Figure 4 shows the number of injuries and illnesses in private industry by the type of event or exposure responsible for them that resulted in days away from work in 2004. More detailed data may be found on the BLS website.

Figure 4. Private Industry Injuries and Illnesses Involving Days Away from Work per 10,000 Employees by Event or Exposure, 2004



Employers should make an effort to obtain estimates of EMS response times for all permanent and temporary locations and for all times of the day and night at which they have workers on duty, and they should use that information when planning their first-aid program. When developing a workplace first-aid program, consultation with the local fire and rescue service or emergency medical professionals may be helpful for response time information and other program issues. Because it can be a workplace event, SCA should be considered by employers when planning a first-aid program.

It is advisable to put the First-Aid Program policies and procedures in writing. Policies and procedures should be communicated to all employees, including those workers who may not read or speak English. Language barriers should be addressed both in instructing employees on first-aid policies and procedures and when designat-ing individuals who will receive first-aid training and become the on-site first-aid providers.

OSHA Requirements

Sudden injuries or illnesses, some of which may be life-threatening, occur at work. The OSHA First Aid standard (29 CFR 1910.151) requires trained first-aid providers at all workplaces of any size if there is no "infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees."

In addition to first-aid requirements of 29 CFR 1910.151, several OSHA standards also require training in cardiopulmonary resuscitation (CPR) because sudden cardiac arrest from asphyxiation, electrocution, or exertion may occur. CPR may keep the victim alive until EMS arrives to provide the next level of medical care. However, survival from this kind of care is low, only 5-7%, according to the American Heart Association. The OSHA standards requiring CPR training are:

1910.146	Permit-required Confined Spaces
1910.266	Appendix B: Logging Operations – First-Aid and CPR Training
1910.269	Electric Power Generation, Transmission, and Distribution

1910.410	Qualifications of Dive Team
1926.950	Construction Subpart V, Power Transmission and Distribution

If an employee is expected to render first aid as part of his or her job duties, the employee is covered by the requirements of the Occupational Exposure to Bloodborne Pathogens standard (29 CFR 1910.1030). This standard includes specific training requirements.

A few of the medical emergency procedures mentioned in this guide as first aid may be considered *medical treatment* for OSHA recordkeeping purposes. The OSHA Recording and Reporting Occupational Injuries and Illnesses regulation (29 CFR 1904) provides specific definitions of *first aid and medical treatment.* If a medical emergency procedure which is considered by 29 CFR 1904 to be medical treatment is performed on an employee with an occupational injury or illness, then the injury or illness will be regarded as recordable on the OSHA 300 Log.

First-Aid Supplies

It is advisable for the employer to give a specific person the responsibility for choosing the types and amounts of first-aid supplies and for maintaining these supplies. The supplies should be adequate, should reflect the kinds of injuries that occur, and should be stored in an area where they are readily available for emergency access. An automated external defibrillator (AED) should be considered when selecting first-aid supplies and equipment.

A specific example of the minimal contents of a workplace first-aid kit is described in American National Standards Institute ANSI Z308.1 - 2003, *Minimum Requirements for Workplace First Aid Kits.* The kits described are suitable for small businesses. For large operations, employers should determine how many first-aid kits are needed, and if it is appropriate to augment the kits with additional first-aid equipment and supplies.

Employers who have unique or changing first-aid needs should consider upgrading their first-aid kits. The employer can use the OSHA 300 log, OSHA 301 reports or other records to identify the first-aid supply needs of their worksite. Consultation with the local

fire and rescue service or emergency medical professionals may be beneficial. By assessing the specific needs of their workplaces, employers can ensure the availability of adequate first-aid supplies. Employers should periodically reassess the demand for these supplies and adjust their inventories.

Automated External Defibrillators

With recent advances in technology, automated external defibrillators (AEDs) are now widely available, safe, effective, portable, and easy to use. They provide the critical and necessary treatment for sudden cardiac arrest (SCA) caused by ventricular fibrillation, the uncoordinated beating of the heart leading to collapse and death. Using AEDs as soon as possible after sudden cardiac arrest, within 3-4 minutes, can lead to a 60% survival rate.[3] CPR is of value because it supports the circulation and ventilation of the victim until an electric shock delivered by an AED can restore the fibrillating heart to normal.

All worksites are potential candidates for AED programs because of the possibility of SCA and the need for timely defibrillation. Each workplace should assess its own requirements for an AED program as part of its first-aid response.

A number of issues should be considered in setting up a worksite AED program: physician oversight; compliance with local, state and federal regulations; coordination with local EMS; a quality assurance program; and a periodic review, among others. The OSHA website at www.osha.gov or the websites of the American College of Occupational and Environmental Medicine at www.acoem.org, the American Heart Association at www.americanheart.org, the American Red Cross at www.redcross.org, Federal Occupational Health at www.foh.dhhs.gov, and the National Center for Early Defibrillation at www.early-defib.org can provide additional information about AED program development.

[3] American Heart Association in collaboration with International Liaison Committee on Resuscitation. *Guidelines 2000 for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care: International Consensus on Science, Part 4: The Automated External Defibrillator.* Circulation. 2000; Vol. 102, Supplement: I 61. Figure 1.

First-Aid Courses

Training for first aid is offered by the American Heart Association, the American Red Cross, the National Safety Council, and other nationally recognized and private educational organizations. OSHA does not teach first-aid courses or certify first-aid training courses for instructors or trainees.

First-aid courses should be individualized to the needs of the workplace. Some of the noted program elements may be optional for a particular plant or facility. On the other hand, unique conditions at a specific worksite may necessitate the addition of customized elements to a first-aid training program.

Elements of a First-Aid Training Program

There are a number of elements to include when planning a first-aid training program for a particular workplace. These recommendations are based on the best practices and evidence available at the time this guide was written. Statistical information is available from BLS to help assess the risks for specific types of work. Program elements to be considered are:

1. Teaching Methods

Training programs should incorporate the following principles:

- Basing the curriculum on a consensus of scientific evidence where available;
- Having trainees develop "hands-on" skills through the use of mannequins and partner practice;
- Having appropriate first-aid supplies and equipment available;
- Exposing trainees to acute injury and illness settings as well as to the appropriate response through the use of visual aids;
- Including a course information resource for reference both during and after training;
- Allowing enough time for emphasis on commonly occurring situations;
- Emphasizing skills training and confidence-building over classroom lectures;
- Emphasizing quick response to first-aid situations.

2. Preparing to Respond to a Health Emergency

The training program should include instruction or discussion in the following:

- Prevention as a strategy in reducing fatalities, illnesses and injuries;
- Interacting with the local EMS system;
- Maintaining a current list of emergency telephone numbers (police, fire, ambulance, poison control) accessible by all employees;
- Understanding the legal aspects of providing first-aid care, including Good Samaritan legislation, consent, abandonment, negligence, assault and battery, State laws and regulations;
- Understanding the effects of stress, fear of infection, panic; how they interfere with performance; and what to do to overcome these barriers to action;
- Learning the importance of universal precautions and body substance isolation to provide protection from bloodborne pathogens and other potentially infectious materials. Learning about personal protective equipment -- gloves, eye protection, masks, and respiratory barrier devices. Appropriate management and disposal of blood-contaminated sharps and surfaces; and awareness of OSHA's Bloodborne Pathogens standard.

3. Assessing the Scene and the Victim(s)

The training program should include instruction in the following:

- Assessing the scene for safety, number of injured, and nature of the event;
- Assessing the toxic potential of the environment and the need for respiratory protection;
- Establishing the presence of a confined space and the need for respiratory protection and specialized training to perform a rescue;
- Prioritizing care when there are several injured;
- Assessing each victim for responsiveness, airway patency (blockage), breathing, circulation, and medical alert tags;
- Taking a victim's history at the scene, including determining the mechanism of injury;
- Performing a logical head-to-toe check for injuries;

- Stressing the need to continuously monitor the victim;
- Emphasizing early activation of EMS;
- Indications for and methods of safely moving and rescuing victims;
- Repositioning ill/injured victims to prevent further injury.

4. Responding to Life-Threatening Emergencies

The training program should be designed or adapted for the specific worksite and may include first-aid instruction in the following:

- Establishing responsiveness;
- Establishing and maintaining an open and clear airway;
- Performing rescue breathing;
- Treating airway obstruction in a conscious victim;
- Performing CPR;
- Using an AED;
- Recognizing the signs and symptoms of shock and providing first aid for shock due to illness or injury;
- Assessing and treating a victim who has an unexplained change in level of consciousness or sudden illness;
- Controlling bleeding with direct pressure;
- Poisoning
  - Ingested poisons: alkali, acid, and systemic poisons. Role of the Poison Control Center (1-800-222-1222);
  - Inhaled poisons: carbon monoxide; hydrogen sulfide; smoke; and other chemical fumes, vapors, and gases. Assessing the toxic potential of the environment and the need for respirators;
  - Knowledge of the chemicals at the worksite and of first aid and treatment for inhalation or ingestion;
  - Effects of alcohol and illicit drugs so that the first-aid provider can recognize the physiologic and behavioral effects of these substances.
- Recognizing asphyxiation and the danger of entering a confined space without appropriate respiratory protection. Additional training is required if first-aid personnel will assist in the rescue from the confined space.
- Responding to Medical Emergencies
  - Chest pain;

- Stroke;
- Breathing problems;
- Anaphylactic reaction;
- Hypoglycemia in diabetics taking insulin;
- Seizures;
- Pregnancy complications;
- Abdominal injury;
- Reduced level of consciousness;
- Impaled object.

5. Responding to Non-Life-Threatening Emergencies

The training program should be designed for the specific worksite and include first-aid instruction for the management of the following:

- Wounds
  - Assessment and first aid for wounds including abrasions, cuts, lacerations, punctures, avulsions, amputations and crush injuries;
  - Principles of wound care, including infection precautions;
  - Principles of body substance isolation, universal precautions and use of personal protective equipment.
- Burns
  - Assessing the severity of a burn;
  - Recognizing whether a burn is thermal, electrical, or chemical and the appropriate first aid;
  - Reviewing corrosive chemicals at a specific worksite, along with appropriate first aid.
- Temperature Extremes
  - Exposure to cold, including frostbite and hypothermia;
  - Exposure to heat, including heat cramps, heat exhaustion and heat stroke.
- Musculoskeletal Injuries
  - Fractures;
  - Sprains, strains, contusions and cramps;
  - Head, neck, back and spinal injuries;
  - Appropriate handling of amputated body parts.
- Eye injuries
  - First aid for eye injuries;

  - First aid for chemical burns.
- Mouth and Teeth Injuries
  - Oral injuries; lip and tongue injuries; broken and missing teeth;
  - The importance of preventing aspiration of blood and/or teeth.
- Bites and Stings
  - Human and animal bites;
  - Bites and stings from insects; instruction in first-aid treatment of anaphylactic shock.

Trainee Assessment

Assessment of successful completion of the first-aid training program should include instructor observation of acquired skills and written performance assessments.

Skills Update

First-aid responders may have long intervals between learning and using CPR and AED skills. Numerous studies have shown a retention rate of 6-12 months of these critical skills. The American Heart Association's Emergency Cardiovascular Care Committee encourages skills review and practice sessions at least every 6 months for CPR and AED skills. Instructor-led retraining for life-threatening emergencies should occur at least annually. Retraining for non-life-threatening response should occur periodically.

Program Update

The first-aid program should be reviewed periodically to determine if it continues to address the needs of the specific workplace. Training, supplies, equipment and first-aid policies should be added or modified to account for changes in workplace safety and health hazards, worksite locations and worker schedules since the last program review. The first-aid training program should be kept up-to-date with current first-aid techniques and knowledge. Outdated training and reference materials should be replaced or removed.

Summary

Employers are required by OSHA standard 29 CFR 1910.151 to have a person or persons adequately trained to render first aid for worksites that are not in near proximity to an infirmary, clinic, or hospital.

It is advised that the first-aid program for a particular workplace be designed to reflect the known and anticipated risks of the specific work environment. Consultation with local emergency medical experts and providers of first-aid training is encouraged when developing a first-aid program.

The program must comply with all applicable OSHA standards and regulations. (See section on OSHA Requirements.) OSHA requires certain employers to have CPR-trained rescuers on site.

Sudden cardiac arrest is a potential risk at all worksites, regardless of the type of work. Serious consideration should be given to establishing a workplace AED program.

First-aid supplies should be available in adequate quantities and be readily accessible.

First-aid training courses should include instruction in general and workplace hazard-specific knowledge and skills. CPR training should incorporate AED training if an AED is available at the worksite. First-aid training should be repeated periodically to maintain and update knowledge and skills.

Management commitment and worker involvement is vital in developing, implementing and assessing a workplace first-aid program.

Additional Resources on First Aid, CPR and AEDs

American Association of Occupational Health Nursing at www.aaohn.org

American Safety and Health Institute at www.ashinstitute.org

National Safety Council at www.nsc.org

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ASTM F2171-02. *Standard Guide for Defining the Performance of First Aid Providers in Occupational Settings.* West Conshohocken, PA. ASTM International. 2002.

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National Safety Council. *Injury Facts, 2005 - 2006 Edition.* Itasca, IL (2006).

National Safety Council, *Standard First Aid, CPR and AED,* McGraw-Hill. New York NY. (2005).

U.S. Department of Labor. Bureau of Labor Statistics, Injuries, Illnesses, and Fatalities at www.bls.gov/iif

U.S. Department of Labor. Occupational Safety and Health Administration. Directive CPL 02-02-053. *Guidelines for First Aid Training Programs.* 1991.

OSHA Assistance

OSHA can provide extensive help through a variety of programs, including technical assistance about effective safety and health programs, state plans, workplace consultations, voluntary protection programs, strategic partnerships, training and education, and more. An overall commitment to workplace safety and health can add value to your business, to your workplace and to your life.

Safety and Health Program Management Guidelines

Effective management of worker safety and health protection is a decisive factor in reducing the extent and severity of work-related injuries and illnesses and their related costs. To assist employers and employees in developing effective safety and health programs, OSHA published recommended Safety and Health Program Management Guidelines (54 Federal Register 3904-3916, January 26, 1989). These voluntary guidelines apply to all places of employment covered by OSHA.

The guidelines identify four general elements that are critical to the development of a successful safety and health management program:

Management leadership and employee involvement;

Work analysis;

Hazard prevention and control; and

Safety and health training.

The guidelines recommend specific actions under each of these general elements to achieve an effective safety and health program. The guidelines can be viewed on OSHA's website at www.osha.gov/safetyhealth/standards.html under the heading Federal Registers.

State Programs

The *Occupational Safety and Health Act of 1970* (OSH Act) encourages states to develop and operate their own job safety and health plans. States with plans approved by OSHA under section 18(b) of the OSH Act must adopt standards and enforce require-

ments that are at least as effective as federal requirements. There are currently 26 state plan states: 22 of these administer plans covering both private and public (state and local government) employees; the other plans, Connecticut, New Jersey, New York and the Virgin Islands, cover public sector employees only.

Consultation Services

Consultation assistance is available on request to employers who want help in establishing and maintaining a safe and healthful workplace. Largely funded by OSHA, the service is provided at no cost to the employer. Primarily developed for smaller employers with more hazardous operations, the consultation service is delivered by state governments employing professional safety and health consultants. Comprehensive assistance includes an appraisal of all mechanical systems, work practices and occupational safety and health hazards of the workplace and all aspects of the employer's present job safety and health program.

The program is separate from OSHA's inspection efforts. No penalties are proposed or citations issued for hazards identified by the consultant. The service is confidential. For more information concerning consultation assistance, see the OSHA website at www.osha.gov/dcsp/smallbusiness/consult.html.

Voluntary Protection Programs

Voluntary Protection Programs (VPPs) and onsite consultation services, when coupled with an effective enforcement program, expand worker protection to help meet the goals of the OSH Act. The three levels of VPP—Star, Merit, and Star Demonstration—are designed to recognize outstanding achievement by companies that have successfully incorporated comprehensive safety and health programs into their total management system. The VPPs motivate others to achieve excellent safety and health results in the same outstanding way as they establish a cooperative relationship among employers, employees and OSHA.

For additional information on VPPs and how to apply, visit OSHA's website at: www.osha.gov/dcsp/vpp/index.html or contact your nearest OSHA Area or Regional Office listed at the end of this publication.

Strategic Partnership Program

OSHA's Strategic Partnership Program, the newest of OSHA's cooperative programs, helps encourage, assist and recognize the efforts of partners to eliminate serious workplace hazards and achieve a high level of worker safety and health. Whereas OSHA's Consultation Program and VPP entail one-on-one relationships between OSHA and individual worksites, most strategic partnerships seek to have a broader impact by building cooperative relationships with groups of employers and employees. These partnerships are voluntary, cooperative relationships between OSHA, employers, employee representatives and others (e.g., labor unions, trade and professional associations, universities and other government agencies). For more information on this and other cooperative programs, contact your nearest OSHA office, or visit OSHA's website at www.osha.gov

Alliance Programs

The Alliances Program enables organizations committed to workplace safety and health to collaborate with OSHA to prevent injuries and illnesses in the workplace. OSHA and the Alliance participants work together to reach out to, educate and lead the nation's employers and their employees in improving and advancing workplace safety and health.

Groups that can form an Alliance with OSHA include employers, labor unions, trade or professional groups, educational institutions and government agencies. In some cases, organizations may be building on existing relationships with OSHA through other cooperative programs.

There are few formal program requirements for Alliances and the agreements do not include an enforcement component. However, OSHA and the participating organizations must define, implement and meet a set of short- and long-term goals that fall into three categories: training and education; outreach and communication; and promoting the national dialogue on workplace safety and health.

Training and Education

OSHA's area offices offer a variety of information services, such as compliance assistance, publications, audiovisual aids, technical advice, and speakers for special engagements.

OSHA's Training Institute in Arlington Heights, IL, provides basic and advanced courses in safety and health for federal and state compliance officers, state consultants, federal agency personnel and private sector employers, employees and their representatives.

The OSHA Training Institute also has established OSHA Training Institute Education Centers to address the increased demand for its courses from the private sector and from other federal agencies (see OSHA's website at: www.osha.gov/fso/ote/training/edcenters/index.html). These centers are nonprofit colleges, universities and other organizations that have been selected after a competition for participation in the program.

OSHA also provides funds to nonprofit organizations, through grants, to conduct workplace training and education in subjects where OSHA believes there is a lack of workplace training.

Grants are awarded annually. Grant recipients are expected to contribute 20 percent of the total grant cost.

For more information on grants, training and education, contact the OSHA Training Institute, Office of Training and Education, on OSHA's website at: www.osha.gov/dcsp/ote/index.html, or at 2020 South Arlington Heights Road, Arlington Heights, IL 60005-4102, (847) 297-4810, Fax (847) 297-4874. For further information on any OSHA program, contact your nearest OSHA area or regional office listed at the end of this publication.

Information Available Electronically

OSHA has a variety of materials and tools available on its website at www.osha.gov. These include e-Tools such as Expert Advisors, Electronic Compliance Assistance Tools (e-cats), Technical Links; regulations, directives and publications; videos and other information for employers and employees. OSHA's software programs and compliance assistance tools walk you

through challenging safety and health issues and common problems to find the best solutions for your workplace.

A wide variety of OSHA materials, including standards, interpretations, directives, and more, can be purchased on CD-ROM from the U.S. Government Printing Office, Superintendent of Documents, phone toll-free (866) 512-1800.

OSHA Publications

OSHA has an extensive publications program. For a listing of free or sales items, visit OSHA's website at www.osha.gov or contact the OSHA Publications Office, U.S. Department of Labor, 200 Constitution Avenue, NW, N-3101, Washington, DC 20210. Telephone (202) 693-1888 or fax to (202) 693-2498.

Contacting OSHA

To report an emergency, file a complaint or seek OSHA advice, assistance or products, call (800) 321-OSHA or contact your nearest OSHA regional or area office listed below. The teletypewriter (TTY) number is (877) 889-5627.

You can also file a complaint online and obtain more information on OSHA federal and state programs by visiting OSHA's website at www.osha.gov.

For further information on any OSHA program, contact your nearest OSHA area or regional office listed at the end of this publication.

OSHA
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OSHA Regional Offices

Region I
(CT,* ME, MA, NH, RI, VT*)
JFK Federal Building, Room E340
Boston, MA 02203
(617) 565-9860

Region II
(NJ,* NY,* PR,* VI*)
201 Varick Street, Room 670
New York, NY 10014
(212) 337-2378

Region III
(DE, DC, MD,* PA, VA,* WV)
The Curtis Center
170 S. Independence Mall West
Suite 740 West
Philadelphia, PA 19106-3309
(215) 861-4900

Region IV
(AL, FL, GA, KY,* MS, NC,* SC,* TN*)
61 Forsyth Street, SW
Atlanta, GA 30303
(404) 562-2300

Region V
(IL, IN,* MI,* MN,* OH, WI)
230 South Dearborn Street
Room 3244
Chicago, IL 60604
(312) 353-2220

Region VI
(AR, LA, NM,* OK, TX)
525 Griffin Street, Room 602
Dallas, TX 75202
(214) 767-4731 or 4736 x224

Region VII
(IA,* KS, MO, NE)
City Center Square
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Kansas City, MO 64105
(816) 426-5861

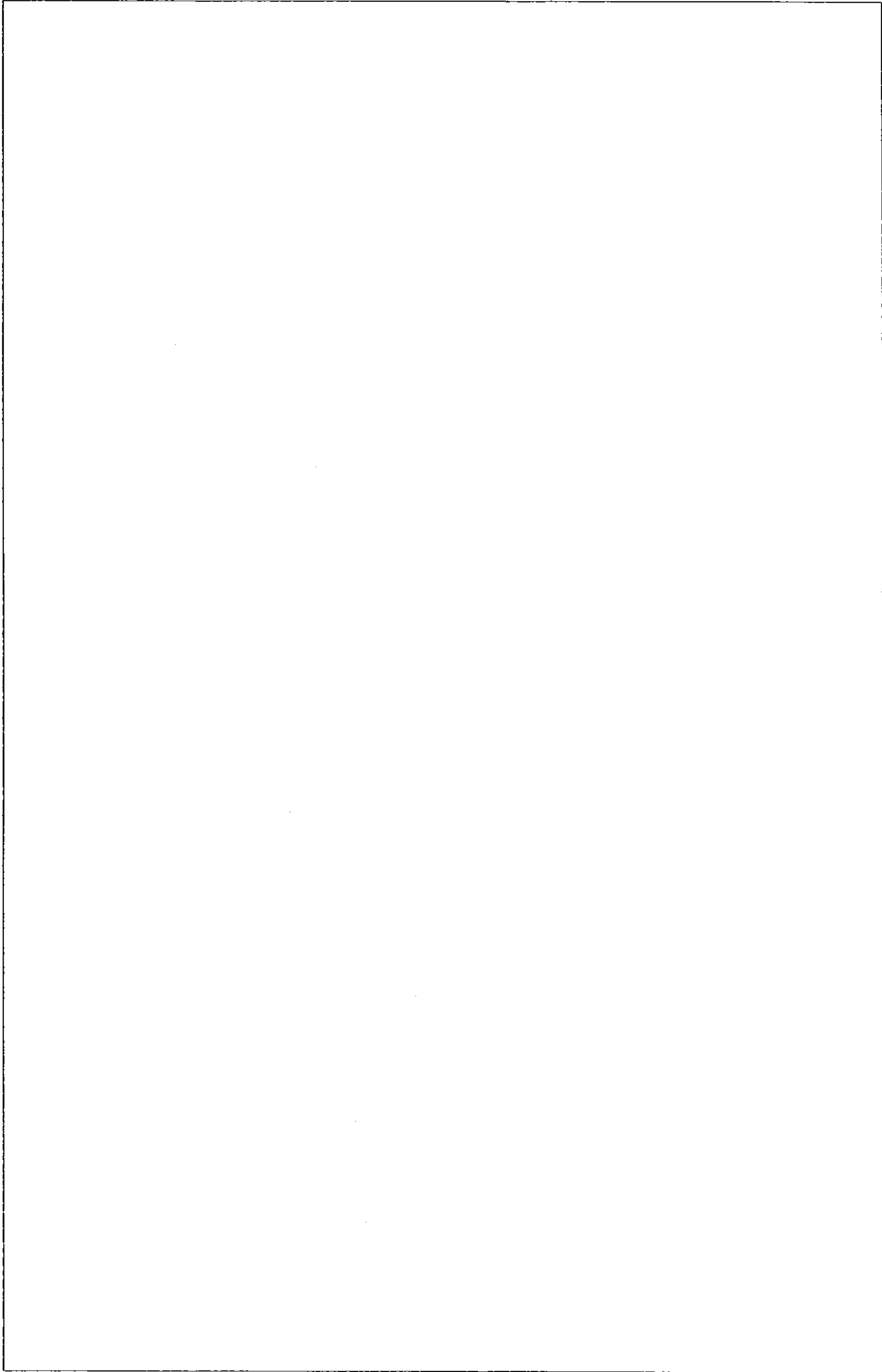
Region VIII
(CO, MT, ND, SD, UT,* WY*)
1999 Broadway, Suite 1690
PO Box 46550
Denver, CO 80202-5716
(720) 264-6550

Region IX
(American Samoa, AZ,* CA,* HI,* NV,*
Northern Mariana Islands)
71 Stevenson Street, Room 420
San Francisco, CA 94105
(415) 975-4310

Region X
(AK,* ID, OR,* WA*)
1111 Third Avenue, Suite 715
Seattle, WA 98101-3212
(206) 553-5930

* These 26 states and territories operate their own OSHA-approved job safety and health programs (Connecticut, New Jersey, New York and the Virgin Islands plans cover public employees only). States with approved programs must have standards that are identical to, or at least as effective as, the Federal OSHA standards.

Note: To get contact information for OSHA Area Offices, OSHA-approved State Plans and OSHA Consultation Projects, please visit us online at www.osha.gov or call us at 1-800-321-OSHA.



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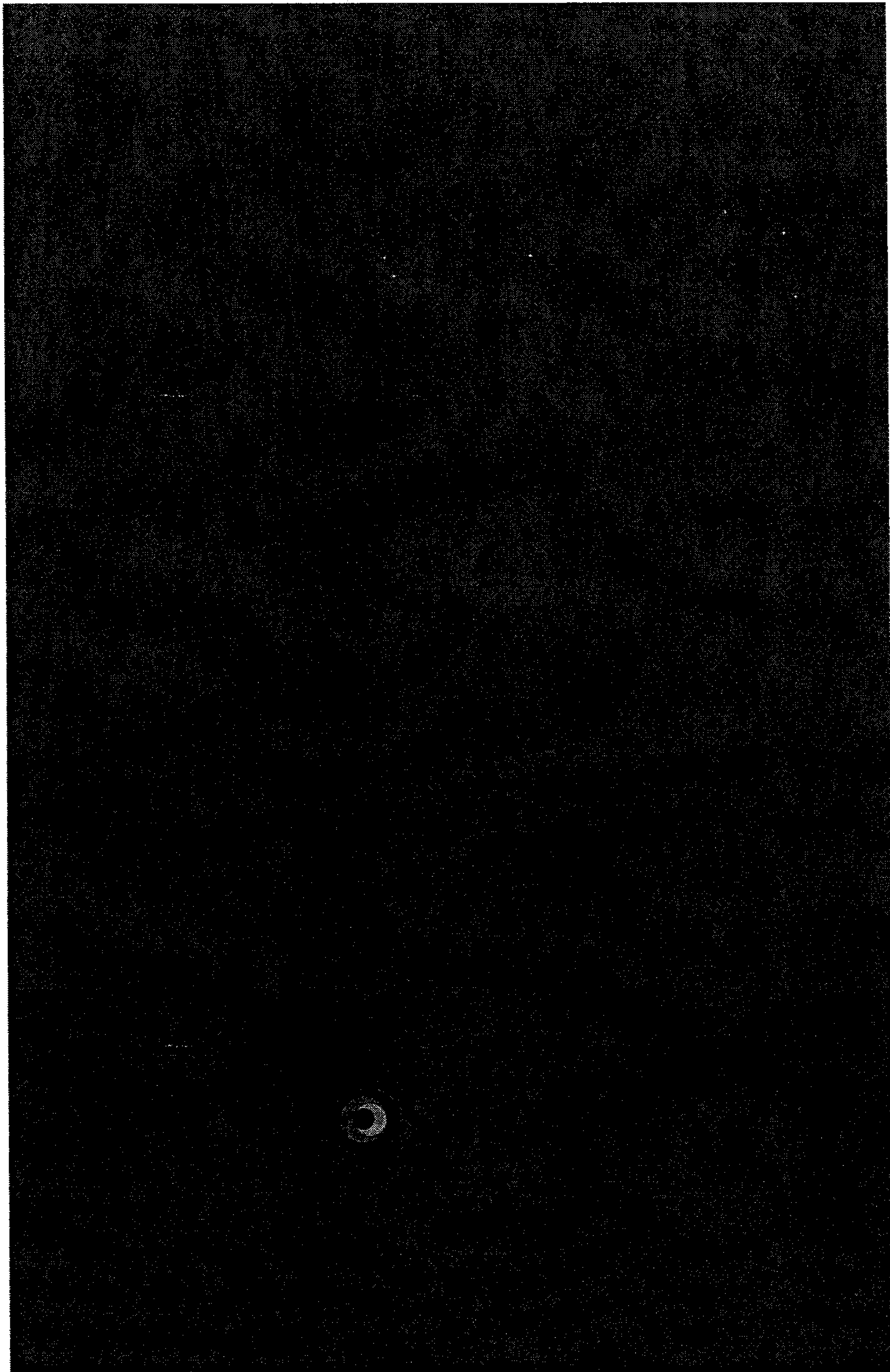

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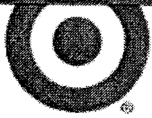


HeartStart Home Defibrillator - M5068AC01

1 reviews

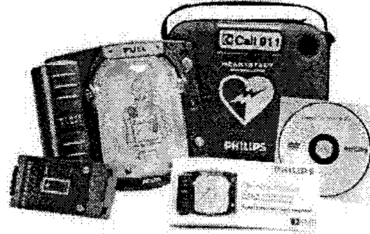
$1,199.99

quantity:

1

Online

not sold in stores In Store



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- View our return policy.
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Sudden cardiac arrest (SCA) strikes nearly 1,000 victims every day. Almost 80% of the time, the events occur in the home, where there's usually someone else who could potentially help. Defibrillation treats the most common form of SCA by shocking the heart back into a normal rhythm, and it greatly increases the chance of survival if used within the first 5 mins. of an arrest. Available for use in that crucial window until professional emergency medical help arrives, the Philips HeartStart Home Defibrillator arms you with potentially life-saving technology that's designed to be used by virtually anyone. HeartStart guides the user with calm interactive voice instructions—which sense and adapt to her/his actions—and determines if the heart rhythm is shockable, then advises a shock and only allows delivery if it detects a shockable heart rhythm. (You might also need to perform CPR, but HeartStart coaches you through that, too.) The 4-yr. lithium battery runs daily self-tests and alerts you with loud chirping if there's a problem, so HeartStart is ready

other Info.

Online Item #: 10299794

Store Item Number (DPCI): 242-02-3043

Made in the USA or Imported

Warranty details

for an emergency—as are you, thanks to the included training DVD, quick-reference guide and coupons for discounted CPR training. Also includes carrying case and adult SMART Pads cartridge (which lasts 2 yrs.). Please note: pads cartridge for children under 8 yrs./55 lbs. is sold separately and only with a prescription; you can't use HeartStart on yourself; you may have to kneel when using it; all instructions (verbal/written) are in English; and owning a defibrillator doesn't take the place of seeking medical care.

- The first over-the-counter home defibrillator, HeartStart makes potentially life-saving technology available within the first crucial minutes after sudden cardiac arrest
- Gives voice instructions and determines if the heart rhythm is shockable, advises it and only allows it if rhythm is shockable; also coaches through CPR
- 4-yr. lithium battery runs daily self-tests and alerts you of any problem with loud chirping
- Helps prepare you for HeartStart use with a training DVD and quick-reference guide; also includes a slim red carrying case, adult SMART Pads cartridge (which lasts 2 yrs.) and coupons for discounts on CPR training
- This item may be eligible for reimbursement from your health plan or taxes
- **Package Quantity:** 1
- **Number of Pieces:** 1
- **Health Concern:** Heart Health
- **Material:** Plastic
- **Manufacturer's Suggested Age:** 18 Years and Up
- **Battery:** Required, included: 1 lithium ion

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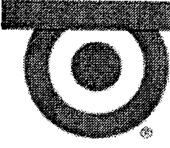


HeartStart Home Defibrillator - M5068ACO1

1 reviews

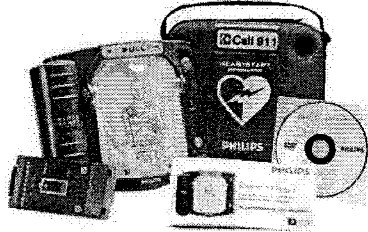
$1,199.99

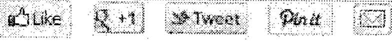
quantity:

1

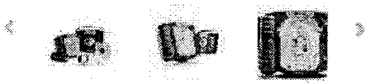
Online

not sold in stores In Store





more views 1-3 of 4



demo

- View our return policy.
- Prices, promotions, styles and availability may vary by store and online.

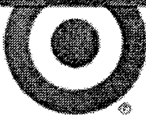
item details. | item specifications. | guest reviews | shipping & returns

product specification

Package Quantity :	1
Product Width :	8.300
Defibrillator Pad Life :	2 Years
Care and Cleaning :	Wipe Clean
Manufacturer Suggested Age :	18 years and Up
Warranty Description :	5 Year Warranty
Product Length :	7.400
Number of Pieces in Set :	1

Battery Charge Life :	4 Years
Legally Required Information :	Healthcare Disclaimer
Product Height :	2.800
General Material :	Plastic
Product Weight :	3.300
Health/Beauty Concern :	Heart Health
Power Source :	Battery-powered

ADVERTISEMENT



HeartStart Home Defibrillator - M5068AC01

1 reviews

$1,199.99

quantity:

1

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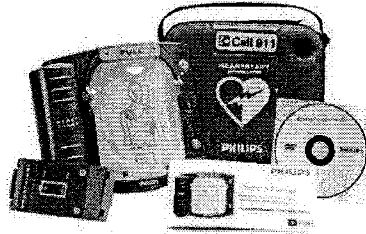

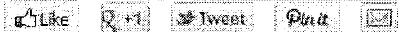

more views 1-3 of 4

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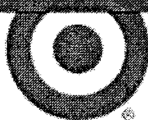
item details. | item specifications. | guest reviews | shipping & returns

what guests are saying

1 reviews write a review

overall. Easy to Use Effective Value

ADVERTISEMENT



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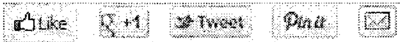

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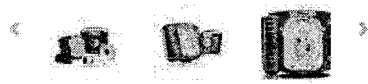

demo

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item details. | item specifications. | guest reviews | shipping & returns

Return Method:
This item must be returned to Target.com; please reference our return policy for more information.

We regret that this item cannot be shipped to PO Boxes.
Ship to location exclusions apply see exclusions.

Estimated Ship Dimensions:
11.0 inches length x 9.0 inches width x 7.0 inches height

Estimated Ship Weight:
5.56 pounds

Signature Required
This item will require a signature at the time of delivery.

Shipping and Delivery estimates
During Checkout and in your Order Acknowledgement Email

return policy

you will see an estimated delivery date range. Estimated delivery date range is calculated by:

- Product Availability: This date range is listed on the left side of the main image on the item's detail page. If an item is listed as "In Stock," it will usually be ready to ship within 1-2 business days. Some "In Stock" items may have a longer lead time to prepare for shipment.
- Guest Location: Where your package is being delivered.
- Shipping Speed: The shipping method you selected during Checkout. You may choose Standard Shipping (3-5 business days), Premium Shipping (2 business days) or Express Shipping (1 business day).
- Some items can't be expedited due to size, weight or vendor constraints and will only have Standard Shipping available.

For certain items we offer special delivery services. If your item qualifies for special delivery services it will be noted on the item's product information page. Special Delivery Services can include: To-the-Door, Inside-the-Door, Room of Choice, White Glove and White Glove Assembly.

signature required

On most items, Target.com provides the option to select a signature upon delivery during the checkout process. By not choosing the signature option you are allowing the carrier to drop off an item without someone present. For certain items Target may require a signature. Someone 18 years of age or older must be present to sign for the package.

international shipping

- Target.com does not ship internationally, nor do we ship to U.S. Protectorates, Guam or the Virgin Islands.
- Target.com does not ship to freight forwarders. Orders placed to freight forwarders will be cancelled.

shipping to multiple addresses

It's easy to ship your order to more than one address. We'll create a separate order for each shipping address.

entering APO & FPO addresses

Shipping to friends and family serving overseas can seem foreign. On our site, it's easy. Enter the recipient's full name and address as usual. In the State drop-down menu, choose either: Armed Forces-Americas, Armed Forces-Europe or Armed Forces-Pacific. Note: If sending to Africa, choose Armed Forces-Europe.
Target.com uses several methods and carriers to ship your packages. Once your order has entered the shipping process, you can track your order through the My Account link on Target.com or through the "track your package" link within your ship confirmation email.

our promise to you

We promise to attempt a return on every item purchased in our stores or on Target.com by scanning your receipt or packing slip, offering receipt look-up* or a non-receipted return or exchange with a valid form of identification. Most items can be returned in your Target store as noted on the packing slip in the Return Method column. Just bring in the packing slip and the item. If you prefer or need to mail in your return, go to www.target.com/returns to follow the easy online return process.

refund/exchange policy

Most unopened items in new condition returned within 90 days will receive a refund or exchange. Some items have a modified return policy that is less than 90 days. Those items will show a "return by" date under the item on your receipt or packing slip and in the "Item details, shipping" tab if purchased on Target.com. Items that are opened or damaged or do not have a packing slip or receipt may be denied a refund or exchange. All bundled items must be returned with all components for a refund. For further details on Target's return policy visit www.target.com/returns.

PayPal Purchases

A refund will be issued in the form of cash if returned to a store. If returned to Target.com, a refund will be issued in the form of an electronic Target GiftCard OR a physical Target GiftCard.

PROOF OF SERVICE

I declare that I am a citizen of the United States, that I have attained the age of majority, and that I am not a party to this action. My business address is 2711 Alcatraz Avenue, Suite 3, Berkeley, CA 94705-2726. I am familiar with this firm's practice of collection and processing of correspondence to be deposited for delivery via the U.S. Postal Service as well as other methods used for delivery of correspondence. On the below stated date, in the manner indicated, I caused the within document(s) entitled:

- APPELLANTS' REQUEST FOR JUDICIAL NOTICE

To be served on the party(ies) or their (its) attorney(s) of record in this action:

[x] Via Mail: I cause each envelope (with postage affixed thereto) to be placed in the U.S. mail at Berkeley, California.

[ ] Via Personal Service: I instructed each envelope to be hand-delivered via professional messenger service to the address listed below.

[ ] Via Overnight Courier: I caused each envelope to be delivered via professional overnight delivery service.

[ ] Via Facsimile: I instructed such to be transmitted via facsimile to the office(s) of the addressee(s).

addressed as follows

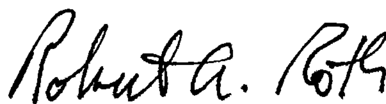
Donald Falk [counsel for Target Corporation]
Two Palo Alto Square, Suite 300
3000 El Camino Real
Palo Alto, CA 94306-2112

Benjamin R. Trachtman [counsel for Target Corporation]
Ryan Moore Craig
Trachtman and Trachtman
27401 Los Altos, Suite 300
Mission Viejo, CA

David Griffith Eisenstein [counsel for Rosemary & Michael Verdugo]
Law Offices of David G. Eisenstein
4027 Aidan Circle
Carlsbad, CA 92008

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Date: April 17, 2013



Robert A. Roth