

SB 911 - EMERGENCY CARE: AUTOMATIC EXTERNAL DEFIBRILLATOR: ACQUISITION & LIABILITY

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.

Legislative Counsel's Digest

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.

Section 2.

Section 1714.21 is added to the Civil Code, to read:

(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.

Section 3.

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

- (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.

Approved - July 22, 1999

Effective - January 1, 2000