

AMENDED IN SENATE AUGUST 17, 2009

AMENDED IN SENATE JUNE 17, 2009

AMENDED IN ASSEMBLY MAY 12, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1312

Introduced by Assembly Member Swanson

February 27, 2009

An act to amend and repeal Section 104113 of the Health and Safety Code, relating to defibrillators.

LEGISLATIVE COUNSEL'S DIGEST

AB 1312, as amended, Swanson. Defibrillators.

Existing law, until July 1, 2012, requires every health studio, as defined, to acquire an automatic external defibrillator, provides immunity for use or nonuse of the devices, except as specified, and establishes standards for the devices, including, but not limited to, maintenance and staff training regarding proper use.

This bill would extend the ~~application of these provisions~~ *requirements to acquire an automatic external defibrillator* to July 1, 2014, *however, the immunity provisions and the standards governing the maintenance of the device and the training of personnel in the use of the device would remain in effect after that date if the entities that are subject to the bill elect to continue the installation of the device, as specified.* The bill would require that records of a readiness check on a defibrillator be maintained for 2 years after the check. The bill would also, beginning July 1, 2010, apply these requirements and this immunity to golf courses and amusement parks, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 104113 of the Health and Safety Code is
2 amended to read:

3 104113. (a) (1) Commencing July 1, 2007, every health studio,
4 as defined in subdivision (g), *commencing July 1, 2010, every*
5 *amusement park, as defined in subdivision (g), and commencing*
6 *July 1, 2010, every golf course*, shall acquire an automatic external
7 defibrillator. The requirement to acquire an automatic external
8 defibrillator pursuant to this subdivision shall terminate on July
9 1, ~~2012~~ 2014.

10 (2) Commencing July 1, 2007, ~~and until July 1, 2012,~~ every
11 health studio, as defined in subdivision (g), *commencing July 1,*
12 *2010, every amusement park, as defined in subdivision (g), and*
13 *commencing July 1, 2010, every golf course*, shall, *until July 1,*
14 *2014*, maintain, and train personnel in the use of, any automatic
15 external defibrillator acquired pursuant to paragraph (1).

16 (3) On or after July 1, ~~2012~~ 2014, *an amusement park, a golf*
17 *course, or a health studio* that elects to continue the installation of
18 an automatic external defibrillator that was acquired pursuant to
19 paragraph (1) shall maintain and train personnel in the use of an
20 automatic external defibrillator pursuant to this section, and shall
21 not be liable for civil damages resulting from the use, attempted
22 use, or nonuse of an automatic external defibrillator as provided
23 by this section.

24 (b) An employee of *an amusement park, a golf course, or a*
25 health studio who renders emergency care or treatment is not liable
26 for civil damages resulting from the use, attempted use, or nonuse
27 of an automatic external defibrillator, except as provided in
28 subdivision (f).

29 (c) When an employee uses, does not use, or attempts to use,
30 an automatic external defibrillator consistent with the requirements
31 of this section to render emergency care or treatment, the members
32 of the board of directors of the facility shall not be liable for civil
33 damages resulting from any act or omission in rendering the
34 emergency care or treatment, including the use or nonuse of an

1 automatic external defibrillator, except as provided in subdivision
2 (f).

3 (d) Except as provided in subdivision (f), when an employee of
4 *an amusement park, a golf course, or* a health studio renders
5 emergency care or treatment using an automatic external
6 defibrillator, the owners, managers, employees, or otherwise
7 responsible authorities of the facility shall not be liable for civil
8 damages resulting from any act or omission in the course of
9 rendering that emergency care or treatment, provided that the
10 facility fully complies with subdivision (e).

11 (e) Notwithstanding Section 1797.196, in order to ensure public
12 safety, *an amusement park, a golf course, or* a health studio shall
13 do all of the following:

14 (1) Comply with all regulations governing the placement of an
15 automatic external defibrillator.

16 (2) Ensure all of the following:

17 (A) The automatic external defibrillator is maintained and
18 regularly tested according to the operation and maintenance
19 guidelines set forth by the manufacturer, the American Heart
20 Association, or the American Red Cross, and according to any
21 applicable rules and regulations set forth by the governmental
22 authority under the federal Food and Drug Administration and any
23 other applicable state and federal authority.

24 (B) The automatic external defibrillator is checked for readiness
25 after each use and at least once every 30 days if the automatic
26 external defibrillator has not been used in the preceding 30 days.
27 ~~Records of these checks~~ *a check* shall be maintained *for two years*
28 *after the check.*

29 (C) Any person who renders emergency care or treatment on a
30 person in cardiac arrest by using an automatic external defibrillator
31 activates the emergency medical services system as soon as
32 possible, and reports any use of the automatic external defibrillator
33 to the licensed physician and to the local EMS agency.

34 (D) For every automatic external defibrillator unit acquired, up
35 to five units, no less than one employee per automatic external
36 defibrillator unit shall complete a training course in
37 cardiopulmonary resuscitation and automatic external defibrillator
38 use that complies with the regulations adopted by the Emergency
39 Medical Services Authority and the standards of the American
40 Heart Association or the American Red Cross. After the first five

1 automatic external defibrillator units are acquired, for each
2 additional five automatic external defibrillator units acquired, a
3 minimum of one employee shall be trained beginning with the first
4 additional automatic external defibrillator unit acquired. Acquirers
5 of automatic external defibrillator units shall have trained
6 employees who should be available to respond to an emergency
7 that may involve the use of an automatic external defibrillator unit
8 during normal operating hours. Acquirers of automatic external
9 defibrillator units may need to train additional employees to assure
10 that a trained employee is available at all times.

11 (E) There is a written plan that exists that describes the
12 procedures to be followed in the event of an emergency that may
13 involve the use of an automatic external defibrillator, to ensure
14 compliance with the requirements of this section. The written plan
15 shall include, but not be limited to, immediate notification of 911
16 and trained office personnel at the start of automatic external
17 defibrillator procedures.

18 (f) Subdivisions (b), (c), and (d) do not apply in the case of
19 personal injury or wrongful death that results from gross negligence
20 or willful or wanton misconduct on the part of the person who
21 uses, attempts to use, or maliciously fails to use an automatic
22 external defibrillator to render emergency care or treatment.

23 (g) For purposes of this section, ~~“health section:~~

24 (1) *“Amusement park” means any area where amusement park*
25 *rides are inspected pursuant to Part 8.1 (commencing with Section*
26 *7920) of Division 5 of the Labor Code.*

27 (2) *“Health studio” means any facility permitting the use of its*
28 *facilities and equipment or access to its facilities and equipment,*
29 *to individuals or groups for physical exercise, body building,*
30 *reducing, figure development, fitness training, or any other similar*
31 *purpose, on a membership basis. “Health studio” does not include*
32 *any hotel or similar business that offers fitness facilities to its*
33 *registered guests for a fee or as part of the hotel charges.*

34 ~~SECTION 1. Section 104113 of the Health and Safety Code~~
35 ~~is amended to read:~~

36 ~~104113. (a) (1) Commencing July 1, 2007, every health studio,~~
37 ~~as defined in subdivision (g) shall acquire an automatic external~~
38 ~~defibrillator.~~

39 ~~(2) Commencing July 1, 2007, every health studio, as defined~~
40 ~~in subdivision (g), shall maintain, and train personnel in the use~~

1 of, any automatic external defibrillator acquired pursuant to
2 paragraph (1):

3 ~~(3) Commencing July 1, 2010, every amusement park, as defined~~
4 ~~in subdivision (g), and every golf course shall acquire an automatic~~
5 ~~external defibrillator and shall maintain, and train personnel in the~~
6 ~~use of, the automatic external defibrillator acquired pursuant to~~
7 ~~this paragraph.~~

8 ~~(b) An employee of an amusement park, golf course, or health~~
9 ~~studio who renders emergency care or treatment is not liable for~~
10 ~~civil damages resulting from the use, attempted use, or nonuse of~~
11 ~~an automatic external defibrillator, except as provided in~~
12 ~~subdivision (f).~~

13 ~~(c) When an employee uses, does not use, or attempts to use,~~
14 ~~an automatic external defibrillator consistent with the requirements~~
15 ~~of this section to render emergency care or treatment, the members~~
16 ~~of the board of directors of the facility shall not be liable for civil~~
17 ~~damages resulting from any act or omission in rendering the~~
18 ~~emergency care or treatment, including the use or nonuse of an~~
19 ~~automatic external defibrillator, except as provided in subdivision~~
20 ~~(f).~~

21 ~~(d) Except as provided in subdivision (f), when an employee of~~
22 ~~an amusement park, golf course, or health studio renders emergency~~
23 ~~care or treatment using an automatic external defibrillator, the~~
24 ~~owners, managers, employees, or otherwise responsible authorities~~
25 ~~of the facility shall not be liable for civil damages resulting from~~
26 ~~any act or omission in the course of rendering that emergency care~~
27 ~~or treatment, provided that the facility fully complies with~~
28 ~~subdivision (e).~~

29 ~~(e) Notwithstanding Section 1797.196, in order to ensure public~~
30 ~~safety, an amusement park, golf course, or health studio shall do~~
31 ~~all of the following:~~

32 ~~(1) Comply with all regulations governing the placement of an~~
33 ~~automatic external defibrillator.~~

34 ~~(2) Ensure all of the following:~~

35 ~~(A) The automatic external defibrillator is maintained and~~
36 ~~regularly tested according to the operation and maintenance~~
37 ~~guidelines set forth by the manufacturer, the American Heart~~
38 ~~Association, or the American Red Cross, and according to any~~
39 ~~applicable rules and regulations set forth by the governmental~~

1 authority under the federal Food and Drug Administration and any
2 other applicable state and federal authority.

3 ~~(B) The automatic external defibrillator is checked for readiness~~
4 ~~after each use and at least once every 30 days if the automatic~~
5 ~~external defibrillator has not been used in the preceding 30 days.~~
6 ~~Records of a check shall be maintained for two years after the~~
7 ~~check.~~

8 ~~(C) Any person who renders emergency care or treatment on a~~
9 ~~person in cardiac arrest by using an automatic external defibrillator~~
10 ~~activates the emergency medical services system as soon as~~
11 ~~possible, and reports any use of the automatic external defibrillator~~
12 ~~to the licensed physician and to the local EMS agency.~~

13 ~~(D) For every automatic external defibrillator unit acquired, up~~
14 ~~to five units, no less than one employee per automatic external~~
15 ~~defibrillator unit shall complete a training course in~~
16 ~~cardiopulmonary resuscitation and automatic external defibrillator~~
17 ~~use that complies with the regulations adopted by the Emergency~~
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20 ~~automatic external defibrillator units are acquired, for each~~
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22 ~~minimum of one employee shall be trained beginning with the first~~
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25 ~~employees who should be available to respond to an emergency~~
26 ~~that may involve the use of an automatic external defibrillator unit~~
27 ~~during normal operating hours. Acquirers of automatic external~~
28 ~~defibrillator units may need to train additional employees to assure~~
29 ~~that a trained employee is available at all times.~~

30 ~~(E) There is a written plan that exists that describes the~~
31 ~~procedures to be followed in the event of an emergency that may~~
32 ~~involve the use of an automatic external defibrillator, to ensure~~
33 ~~compliance with the requirements of this section. The written plan~~
34 ~~shall include, but not be limited to, immediate notification of 911~~
35 ~~and trained office personnel at the start of automatic external~~
36 ~~defibrillator procedures.~~

37 ~~(f) Subdivisions (b), (c), and (d) do not apply in the case of~~
38 ~~personal injury or wrongful death that results from gross negligence~~
39 ~~or willful or wanton misconduct on the part of the person who~~

1 ~~uses, attempts to use, or maliciously fails to use an automatic~~
2 ~~external defibrillator to render emergency care or treatment.~~

3 ~~(g) For purposes of this section:~~

4 ~~(1) “Amusement park” means any area where amusement park~~
5 ~~rides are inspected pursuant to Part 8.1 (commencing with Section~~
6 ~~7920) of Division 5 of the Labor Code.~~

7 ~~(2) “Health studio” means any facility permitting the use of its~~
8 ~~facilities and equipment or access to its facilities and equipment,~~
9 ~~to individuals or groups for physical exercise, body building,~~
10 ~~reducing, figure development, fitness training, or any other similar~~
11 ~~purpose, on a membership basis. “Health studio” does not include~~
12 ~~any hotel or similar business that offers fitness facilities to its~~
13 ~~registered guests for a fee or as part of the hotel charges.~~

14 ~~(h) This section shall remain in effect only until July 1, 2014,~~
15 ~~and as of that date is repealed, unless a later enacted statute, that~~
16 ~~is enacted before July 1, 2014, deletes or extends that date.~~