

AMENDED IN ASSEMBLY APRIL 29, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 939**

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**Introduced by Assembly Member Melendez**

February 22, 2013

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An act to add Section 49416 to the Education Code, *and to amend Section 1797.196 of the Health and Safety Code*, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

AB 939, as amended, Melendez. Pupil and personnel health: automatic external defibrillators.

Existing law authorizes a school district or school to provide a comprehensive program in first aid or cardiopulmonary resuscitation training, or both, to pupils and employees, and requires the program to be developed using specified guidelines.

*Existing law requires the principal of a public or private K-12 school with an automatic external defibrillator (AED) to ensure that certain school employees annually receive approved brochures describing the proper use of an AED and that similar information be posted next to every AED, to notify, at least annually, every school employee of the location of all AED units on the campus, and to designate the trained employees who shall be available to respond to an emergency that may involve the use of an AED, as specified.*

This bill would state the intent of the Legislature ~~that to encourage~~ all public schools ~~to acquire and maintain at least one automatic external defibrillator (AED) AED.~~ The bill would authorize a public school to solicit and receive nonstate funds to acquire and maintain an AED. If a public school decides to acquire and maintain an AED, or continue to use and maintain an existing AED, the bill would authorize and

encourage the school to comply with specified requirements. The bill would provide that ~~an employee and the school district~~ *the school district* is not liable for civil damages resulting from ~~specified~~ *certain* uses or nonuses of an AED, except as provided. *The bill would recast the requirements on a public or private K-12 school principal relating to AEDs, as described above, in the Education Code.*

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 49416 is added to the Education Code,  
 2 to read:  
 3 49416. (a) It is the intent of the Legislature ~~that to encourage~~  
 4 all public schools *to* acquire and maintain at least one automatic  
 5 external defibrillator (AED).  
 6 (b) A public school may solicit and receive nonstate funds to  
 7 acquire and maintain an AED. These funds shall only be used to  
 8 acquire and maintain an AED and to provide training to school  
 9 employees regarding use of an AED. If a public school decides to  
 10 acquire and maintain an AED, or continue to use and maintain an  
 11 existing AED, the school may, and is encouraged to, do all of the  
 12 following:  
 13 (1) Place an AED in a centralized location on campus for the  
 14 purpose of preventing deaths resulting from sudden cardiac arrests  
 15 among pupils, faculty, and visitors.  
 16 (2) Have the AED available for use at ~~a~~ *all* school-sponsored  
 17 athletic ~~event~~. *events*. The AED placed in a centralized location  
 18 on campus may serve as the AED that is available for use at  
 19 school-sponsored athletic events that occur at the school campus.  
 20 (3) Maintain records of both of the following:  
 21 (A) That the AED is maintained and regularly tested according  
 22 to the operation and maintenance guidelines set forth by the  
 23 manufacturer.  
 24 (B) That the AED is checked for readiness after each use and  
 25 at least once every 30 days if the AED has not been used during  
 26 the preceding 30 days.  
 27 (4) Prepare a written medical emergency preparedness plan that  
 28 describes the procedures to be followed in the event of a medical  
 29 emergency that may involve the use of an AED. The written plan

1 may include, but is not limited to, immediate calling of the  
2 emergency 911 telephone number when an AED is used.

3 (5) Require all school employees expected to administer an  
4 AED in an emergency to complete a training course in  
5 cardiopulmonary resuscitation and AED use that complies with  
6 the regulations adopted by the Emergency Medical Services  
7 Authority and the standards of the American Heart Association or  
8 the American Red Cross. ~~A trained school employee may~~  
9 ~~administer an AED in accordance with the school's medical~~  
10 ~~emergency preparedness plan.~~

11 ~~(e) (1) An employee of a school district who renders emergency~~  
12 ~~care or treatment pursuant to this section is not liable for civil~~  
13 ~~damages resulting from the use, attempted use, or nonuse of an~~  
14 ~~AED, except as provided in paragraph (3).~~

15 ~~(2)~~

16 ~~(c) (1) If an employee of a school district uses, attempts to use,~~  
17 ~~or does not use an AED consistent with the requirements of this~~  
18 ~~section, to render emergency care or treatment, the employee,~~  
19 ~~school district, or both are school district is not liable for civil~~  
20 ~~damages resulting from any act or omission in rendering the~~  
21 ~~emergency care or treatment, including the use or nonuse of an~~  
22 ~~AED, except as provided in paragraph (3): (2).~~

23 ~~(3) Paragraphs (1) and (2) shall~~

24 ~~(2) Paragraph (1) shall not apply in the case of personal injury~~  
25 ~~or wrongful death that results from gross negligence or willful or~~  
26 ~~wanton misconduct on the part of the person who uses, attempts~~  
27 ~~to use, or maliciously fails to use an AED to render emergency~~  
28 ~~care or treatment.~~

29 (d) For purposes of this section, a “school-sponsored athletic  
30 event” means a school-sponsored extracurricular athletic activity,  
31 which includes practice for and competition in an interscholastic  
32 athletic sporting event held at any location, including a nonpublic  
33 school facility.

34 (e) *When an AED is placed in a public or private K-12 school,*  
35 *the principal shall do all of the following:*

36 *(1) Ensure that all school administrators and staff annually*  
37 *receive a brochure, approved as to content and style by the*  
38 *American Heart Association or the American Red Cross, that*  
39 *describes the proper use of an AED. The principal shall also ensure*  
40 *that similar information is posted next to every AED.*

1 (2) *Notify, at least annually, all school employees of the location*  
2 *of all AED units on the campus.*

3 (3) *Designate the trained employees who shall be available to*  
4 *respond to an emergency that may involve the use of an AED*  
5 *during normal operating hours. As used in this paragraph, “normal*  
6 *operating hours” means during the hours of classroom instruction*  
7 *and any school-sponsored activity occurring on school grounds.*

8 *SEC. 2. Section 1797.196 of the Health and Safety Code is*  
9 *amended to read:*

10 1797.196. (a) For purposes of this section, “AED” or  
11 “defibrillator” means an automated or automatic external  
12 defibrillator.

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

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

20 (2) Ensures all of the following:

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

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

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

36 (D) For every AED unit acquired up to five units, no less than  
37 one employee per AED unit shall complete a training course in  
38 cardiopulmonary resuscitation and AED use that complies with  
39 the regulations adopted by the Emergency Medical Service  
40 Authority and the standards of the American Heart Association or

1 the American Red Cross. After the first five AED units are  
2 acquired, for each additional five AED units acquired, one  
3 employee shall be trained beginning with the first AED unit  
4 acquired. Acquirers of AED units shall have trained employees  
5 who should be available to respond to an emergency that may  
6 involve the use of an AED unit during normal operating hours.

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

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

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

21 ~~(5) When an AED is placed in a public or private K-12 school,~~  
22 ~~the principal shall ensure that the school administrators and staff~~  
23 ~~annually receive a brochure, approved as to content and style by~~  
24 ~~the American Heart Association or the American Red Cross, that~~  
25 ~~describes the proper use of an AED. The principal shall also ensure~~  
26 ~~that similar information is posted next to every AED. The principal~~  
27 ~~shall, at least annually, notify school employees as to the location~~  
28 ~~of all AED units on the campus. The principal shall designate the~~  
29 ~~trained employees who shall be available to respond to an~~  
30 ~~emergency that may involve the use of an AED during normal~~  
31 ~~operating hours. As used in this paragraph, “normal operating~~  
32 ~~hours” means during the hours of classroom instruction and any~~  
33 ~~school-sponsored activity occurring on school grounds.~~

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

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

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

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

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

7 (f) Nothing in this section or Section 1714.21 of the Civil Code  
8 ~~may~~ shall be construed to require a building owner or a building  
9 manager to acquire and have installed an AED in any building.