

AMENDED IN ASSEMBLY MAY 9, 2013

AMENDED IN ASSEMBLY APRIL 29, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 939

Introduced by Assembly Member Melendez
(Coauthor: Assembly Member Buchanan)

February 22, 2013

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 to encourage all public schools to acquire and maintain at least one 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 the school district ~~is and employees of the school district are~~ not liable for civil damages resulting from certain uses, *attempted 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,~~ *AEDs in the Education Code but instead require that a principle designate only school employees who volunteer to be designated as AED volunteers to respond to an emergency that may involve the use of an AED.*

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 to encourage all
- 4 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 all school-sponsored
- 17 athletic events. The AED placed in a centralized location on
- 18 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.

1 (B) That the AED is checked for readiness after each use and
2 at least once every 30 days if the AED has not been used during
3 the preceding 30 days.

4 (4) Prepare a written medical emergency preparedness plan that
5 describes the procedures to be followed in the event of a medical
6 emergency that may involve the use of an AED. The written plan
7 may include, but is not limited to, immediate calling of the
8 emergency 911 telephone number when an AED is used.

9 (5) Require all school employees expected to administer an
10 AED in an emergency to complete a training course in
11 cardiopulmonary resuscitation and AED use that complies with
12 the regulations adopted by the Emergency Medical Services
13 Authority and the standards of the American Heart Association or
14 the American Red Cross. *However, school employees shall not be*
15 *requested or required to pay for any of the training pursuant to*
16 *this section.*

17 (c) (1) If an employee of a school district uses, attempts to use,
18 or does not use an AED consistent with the requirements of this
19 section, to render emergency care or treatment, the school district
20 is not liable for civil damages resulting from any act or omission
21 in rendering the emergency care or treatment, including the use or
22 nonuse of an AED, except as provided in paragraph (2). *However,*
23 *an employee of a school district who complies with Section 1714.21*
24 *of the Civil Code in rendering emergency care or treatment through*
25 *the use, attempted use, or nonuse of an AED at the scene of an*
26 *emergency shall not be liable for any civil damages resulting from*
27 *any act or omission in rendering the emergency care or treatment.*

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

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

38 (e) When an AED is placed in a public or private K–12 school,
39 the principal shall do all of the following:

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

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

8 ~~(3) Designate the trained employees who shall be available to~~
9 ~~respond to an emergency that may involve the use of an AED~~
10 ~~during normal operating hours. As used in this paragraph, “normal~~
11 ~~operating hours” means during the hours of classroom instruction~~
12 ~~and any school-sponsored activity occurring on school grounds.~~
13 *only school employees who volunteer to be designated as AED*
14 *volunteers to respond to an emergency that may involve the use*
15 *of an AED.*

16 SEC. 2. Section 1797.196 of the Health and Safety Code is
17 amended to read:

18 1797.196. (a) For purposes of this section, “AED” or
19 “defibrillator” means an automated or automatic external
20 defibrillator.

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

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

28 (2) Ensures all of the following:

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

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

39 (C) That any person who renders emergency care or treatment
40 on a person in cardiac arrest by using an AED activates the

1 emergency medical services system as soon as possible, and reports
2 any use of the AED to the licensed physician and to the local EMS
3 agency.

4 (D) For every AED unit acquired up to five units, no less than
5 one employee per AED unit shall complete a training course in
6 cardiopulmonary resuscitation and AED use that complies with
7 the regulations adopted by the Emergency Medical Service
8 Authority and the standards of the American Heart Association or
9 the American Red Cross. After the first five AED units are
10 acquired, for each additional five AED units acquired, one
11 employee shall be trained beginning with the first AED unit
12 acquired. Acquirers of AED units shall have trained employees
13 who should be available to respond to an emergency that may
14 involve the use of an AED unit during normal operating hours.
15 *However school employees shall not be requested or required to*
16 *pay for any of the training pursuant to this section.*

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

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

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

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

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

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

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

- 1 (e) The protections specified in this section do not apply in the
- 2 case of personal injury or wrongful death that results from the
- 3 gross negligence or willful or wanton misconduct of the person
- 4 who renders emergency care or treatment by the use of an AED.
- 5 (f) Nothing in this section or Section 1714.21 of the Civil Code
- 6 shall be construed to require a building owner or a building
- 7 manager to acquire and have installed an AED in any building.