

AMENDED IN SENATE JULY 8, 2013
AMENDED IN SENATE JUNE 18, 2013
AMENDED IN ASSEMBLY MAY 24, 2013
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 school 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 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 delete the requirement on a public or private K-12 school principal 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. The bill would recast the remaining requirements, identified above, on a public or private K-12 school principal relating to AEDs in the Education Code but~~ instead require that a principal 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 *during normal operating hours. The bill would state the intent of the Legislature that school employees not be required to pay the cost of any training that may be required on the proper 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 both of
- 12 the following:

1 (1) Place an AED in a centralized location on campus for the
2 purpose of preventing deaths resulting from sudden cardiac arrests
3 among pupils, faculty, *employees*, and visitors.

4 (2) Have the AED available for use at all school-sponsored
5 athletic events. The AED placed in a centralized location on
6 campus may serve as the AED that is available for use at
7 school-sponsored athletic events that occur at the school campus.

8 (c) (1) If an employee of a school district uses, attempts to use,
9 or does not use an AED consistent with the requirements of this
10 section, to render emergency care or treatment, the school district
11 is not liable for civil damages resulting from any act or omission
12 in rendering the emergency care or treatment, including the use or
13 nonuse of an AED, except as provided in paragraph (2). However,
14 an employee of a school district who complies with Section
15 1714.21 of the Civil Code in rendering emergency care or treatment
16 through the use, attempted use, or nonuse of an AED at the scene
17 of an emergency shall not be liable for any civil damages resulting
18 from any act or omission in rendering the emergency care or
19 treatment.

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

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

30 ~~(e) When an AED is placed in a public or private K-12 school,~~
31 ~~the principal shall do both of the following:~~

32 ~~(1) Notify, at least annually, all school employees of the location~~
33 ~~of all AED units on the campus.~~

34 ~~(2) Designate only school employees who volunteer to be~~
35 ~~designated as AED volunteers to respond to an emergency that~~
36 ~~may involve the use of an AED.~~

37 ~~(f)~~

38 (e) This section does not alter the requirements of Section
39 1797.196 of the Health and Safety Code.

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

3 1797.196. (a) For purposes of this section, “AED” or
4 “defibrillator” means an automated or automatic external
5 defibrillator.

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

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

13 (2) Ensures all of the following:

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

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

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

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

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

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

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

15 (5) (A) *When an AED is placed in a public or private K-12*
16 *school, the principal shall do all of the following:*

17 (i) *Ensure that the school administrators and staff annually*
18 *receive a brochure, approved as to content and style by the*
19 *American Heart Association or the American Red Cross, that*
20 *describes the proper use of an AED, and that similar information*
21 *is posted next to every AED.*

22 (ii) *Notify school employees at least annually as to the location*
23 *of all AED units on the campus.*

24 (iii) *Designate only employees who volunteer to be designated*
25 *as AED volunteers to respond to an emergency that may involve*
26 *the use of an AED during normal operating hours.*

27 (B) *As used in this paragraph, “normal operating hours” means*
28 *during the hours of classroom instruction and any*
29 *school-sponsored activity occurring on school grounds.*

30 (C) *It is the intent of the Legislature that school employees shall*
31 *not be required to pay for the cost of any training that may be*
32 *required on the proper use of an AED.*

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

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

37 (2) Provide to the acquirer of the AED all information governing
38 the use, installation, operation, training, and maintenance of the
39 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 shall be construed to require a building owner or a building
9 manager to acquire and have installed an AED in any building.