

Introduced by Senator HillFebruary 27, 2015

An act to amend Section 1714.21 of the Civil Code, and to amend Section 1797.196 of the Health and Safety Code, relating to automated external defibrillators.

LEGISLATIVE COUNSEL'S DIGEST

SB 658, as introduced, Hill. Automated external defibrillators.

Existing law exempts from civil liability any person who, in good faith and not for compensation, renders emergency care or treatment by the use of an automatic external defibrillator (AED) at the scene of an emergency, except 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. Existing law also exempts from civil liability a person or entity that acquires an AED for emergency use, a physician who is involved with the placement of the AED, and any person or entity responsible for the site where the AED is located if specified conditions are met, including maintenance and regular testing of the AED and having a written plan that describes the procedures to be followed in case of an emergency that may involve the use of the AED.

This bill would remove the conditions required for the exemption from civil liability of a person or entity that acquires an AED for emergency use and any person or entity responsible for the site where the AED is located. The bill would require a person or entity that acquires an AED to, among other things, comply with specified regulations for the placement of the device and ensure that the AED is maintained and annually tested. The bill would make related changes.

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 1714.21 of the Civil Code is amended
2 to read:
3 1714.21. (a) For purposes of this section, the following
4 definitions shall apply:
5 (1) "AED" or "defibrillator" means an automated or automatic
6 external defibrillator.
7 (2) "CPR" means cardiopulmonary resuscitation.
8 (b) Any person who, in good faith and not for compensation,
9 renders emergency care or treatment by the use of an AED at the
10 scene of an emergency is not liable for any civil damages resulting
11 from any acts or omissions in rendering the emergency care.
12 (c) A person or entity who provides CPR and AED training to
13 a person who renders emergency care pursuant to subdivision (b)
14 is not liable for any civil damages resulting from any acts or
15 omissions of the person rendering the emergency care.
16 (d) A person or entity that acquires an AED for emergency use
17 pursuant to this section is not liable for any civil damages resulting
18 from any acts or omissions in the rendering of the emergency care
19 by use of an AED, ~~if that person or entity has complied with~~
20 ~~subdivision (b) of Section 1797.196 of the Health and Safety Code.~~
21 ~~AED.~~
22 ~~(e) A physician who is involved with the placement of an AED~~
23 ~~and any person or entity responsible for the site where an AED is~~
24 ~~located is not liable for any civil damages resulting from any acts~~
25 ~~or omissions of a person who renders emergency care pursuant to~~
26 ~~subdivision (b), if that physician, person, or entity has complied~~
27 ~~with all of the requirements of Section 1797.196 of the Health and~~
28 ~~Safety Code that apply to that physician, person, or entity.~~
29 (f)
30 (e) The protections specified in this section do not apply in the
31 case of personal injury or wrongful death that results from the
32 gross negligence or willful or wanton misconduct of the person
33 who renders emergency care or treatment by the use of an AED.
34 (g) ~~Nothing in this section shall~~

1 (f) *This section does not* relieve a manufacturer, designer,
2 developer, distributor, installer, or supplier of an AED or
3 defibrillator of any liability under any applicable statute or rule of
4 law.

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

7 1797.196. (a) For purposes of this section, “AED” or
8 “defibrillator” means an automated or automatic external
9 defibrillator.

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

15 (1) ~~Complies—Comply~~ with all regulations governing the
16 placement of an AED.

17 (2) ~~Ensures all of the following:~~

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

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

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

33 (D) ~~For every AED unit acquired up to five units, no less than~~
34 ~~one employee per AED unit shall complete a training course in~~
35 ~~cardiopulmonary resuscitation and AED use that complies with~~
36 ~~the regulations adopted by the Emergency Medical Service~~
37 ~~Authority and the standards of the American Heart Association or~~
38 ~~the American Red Cross. After the first five AED units are~~
39 ~~acquired, for each additional five AED units acquired, one~~
40 ~~employee shall be trained beginning with the first AED unit~~

1 acquired. Acquirers of AED units shall have trained employees
2 who should be available to respond to an emergency that may
3 involve the use of an AED unit during normal operating hours.

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

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

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

18 ~~(2) Notify an agent of the local EMS agency of the existence,~~
19 ~~location, and type of AED acquired.~~

20 ~~(3) Ensure that the AED is maintained and annually tested~~
21 ~~according to the operation and maintenance guidelines set forth~~
22 ~~by the manufacturer.~~

23 ~~(5)~~

24 ~~(c) (1) When an AED is placed in a public or private K-12~~
25 ~~school, the principal shall ensure that the school administrators~~
26 ~~and staff annually receive a brochure, approved as to content and~~
27 ~~style by the American Heart Association or the American Red~~
28 ~~Cross, that describes the proper use of an AED. The principal shall~~
29 ~~also ensure that similar information is posted next to every AED.~~
30 ~~The principal shall, at least annually, notify school employees as~~
31 ~~to the location of all AED units on the campus. The principal shall~~
32 ~~designate the trained employees who shall be available to respond~~
33 ~~to an emergency that may involve the use of an AED during normal~~
34 ~~operating hours. As used in this paragraph, subdivision, “normal~~
35 ~~operating hours” means during the hours of classroom instruction~~
36 ~~and any school-sponsored activity occurring on school grounds.~~

37 ~~(e) Any person or entity that supplies~~

38 ~~(2) This section does not prohibit a school employee or other~~
39 ~~person from rendering aid with an AED.~~

1 ~~(d) A manufacturer or retailer supplying an AED shall do all~~
2 ~~of the following: provide to the acquirer of the AED all information~~
3 ~~governing the use, installation, operation, training, and~~
4 ~~maintenance of the AED.~~

5 ~~(1) Notify an agent of the local EMS agency of the existence,~~
6 ~~location, and type of AED acquired.~~

7 ~~(2) Provide to the acquirer of the AED all information governing~~
8 ~~the use, installation, operation, training, and maintenance of the~~
9 ~~AED.~~

10 ~~(d)~~

11 ~~(e) A violation of this provision section is not subject to penalties~~
12 ~~pursuant to Section 1798.206.~~

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

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

20 ~~(g) For purposes of this section, “local EMS agency” means~~
21 ~~an agency established pursuant to Section 1797.200.~~