

ASSEMBLY BILL

No. 1312

Introduced by Assembly Member Swanson

February 27, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1312, as introduced, 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 delete that date thereby extending these requirements to health studios indefinitely. 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
2 is amended to read:
3 104113. (a) (1) Commencing July 1, 2007, every health studio,
4 as defined in subdivision (g) shall acquire an automatic external
5 defibrillator. ~~The requirement to acquire an automatic external~~

1 defibrillator pursuant to this subdivision shall terminate on July
2 1, 2012.

3 (2) Commencing July 1, 2007, ~~and until July 1, 2012,~~ every
4 health studio, as defined in subdivision (g), shall maintain, and
5 train personnel in the use of, any automatic external defibrillator
6 acquired pursuant to paragraph (1).

7 ~~(3) On or after July 1, 2012, a health studio that elects to~~
8 ~~continue the installation of an automatic external defibrillator that~~
9 ~~was acquired pursuant to paragraph (1) shall maintain and train~~
10 ~~personnel in the use of an automatic external defibrillator pursuant~~
11 ~~to this section, and shall not be liable for civil damages resulting~~
12 ~~from the use, attempted use, or nonuse of an automatic external~~
13 ~~defibrillator as provided by this section.~~

14 (3) Commencing July 1, 2010, every amusement park, as defined
15 in subdivision (g), and every golf course shall acquire an automatic
16 external defibrillator and shall maintain, and train personnel in
17 the use of, the automatic external defibrillator acquired pursuant
18 to this paragraph.

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

24 (c) When an employee uses, does not use, or attempts to use,
25 an automatic external defibrillator consistent with the requirements
26 of this section to render emergency care or treatment, the members
27 of the board of directors of the facility shall not be liable for civil
28 damages resulting from any act or omission in rendering the
29 emergency care or treatment, including the use or nonuse of an
30 automatic external defibrillator, except as provided in subdivision
31 (f).

32 (d) Except as provided in subdivision (f), when an employee of
33 ~~a~~ *an amusement park, golf course, or* health studio renders
34 emergency care or treatment using an automatic external
35 defibrillator, the owners, managers, employees, or otherwise
36 responsible authorities of the facility shall not be liable for civil
37 damages resulting from any act or omission in the course of
38 rendering that emergency care or treatment, provided that the
39 facility fully complies with subdivision (e).

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

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

6 (2) Ensure all of the following:

7 (A) The automatic external defibrillator is maintained and
8 regularly tested according to the operation and maintenance
9 guidelines set forth by the manufacturer, the American Heart
10 Association, or the American Red Cross, and according to any
11 applicable rules and regulations set forth by the governmental
12 authority under the federal Food and Drug Administration and any
13 other applicable state and federal authority.

14 (B) The automatic external defibrillator is checked for readiness
15 after each use and at least once every 30 days if the automatic
16 external defibrillator has not been used in the preceding 30 days.
17 Records of these checks shall be maintained.

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

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

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

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

13 (g) For purposes of this ~~section~~, *health section*:

14 (1) *“Amusement park” means any area where amusement park*
15 *rides are inspected pursuant to Part 8.1 (commencing with Section*
16 *7920) of Division 5 of the Labor Code.*

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