

AMENDED IN SENATE JUNE 17, 2009

AMENDED IN ASSEMBLY MAY 12, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1312

Introduced by Assembly Member Swanson

February 27, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1312, as amended, 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 extend the application of these provisions to July 1, 2014. *The bill would require that records of a readiness check on a defibrillator be maintained for 2 years after the check.* 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:

104113. (a) (1) Commencing July 1, 2007, every health studio, as defined in subdivision (g) shall acquire an automatic external defibrillator.

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

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

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

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

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

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

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

(2) Ensure all of the following:

1 (A) The automatic external defibrillator is maintained and
2 regularly tested according to the operation and maintenance
3 guidelines set forth by the manufacturer, the American Heart
4 Association, or the American Red Cross, and according to any
5 applicable rules and regulations set forth by the governmental
6 authority under the federal Food and Drug Administration and any
7 other applicable state and federal authority.

8 (B) The automatic external defibrillator is checked for readiness
9 after each use and at least once every 30 days if the automatic
10 external defibrillator has not been used in the preceding 30 days.
11 Records of ~~these checks~~ *a check* shall be maintained *for two years*
12 *after the check*.

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

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

35 (E) There is a written plan that exists that describes the
36 procedures to be followed in the event of an emergency that may
37 involve the use of an automatic external defibrillator, to ensure
38 compliance with the requirements of this section. The written plan
39 shall include, but not be limited to, immediate notification of 911

1 and trained office personnel at the start of automatic external
2 defibrillator procedures.

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

8 (g) For purposes of this section:

9 (1) "Amusement park" means any area where amusement park
10 rides are inspected pursuant to Part 8.1 (commencing with Section
11 7920) of Division 5 of the Labor Code.

12 (2) "Health studio" means any facility permitting the use of its
13 facilities and equipment or access to its facilities and equipment,
14 to individuals or groups for physical exercise, body building,
15 reducing, figure development, fitness training, or any other similar
16 purpose, on a membership basis. "Health studio" does not include
17 any hotel or similar business that offers fitness facilities to its
18 registered guests for a fee or as part of the hotel charges.

19 (h) This section shall remain in effect only until July 1, 2014,
20 and as of that date is repealed, unless a later enacted statute, that
21 is enacted before July 1, 2014, deletes or extends that date.