

Assembly Bill No. 1312

Passed the Assembly September 9, 2009

Chief Clerk of the Assembly

Passed the Senate September 2, 2009

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 2009, at ____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1312, 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 requirements to acquire an automatic external defibrillator to July 1, 2014, however, the immunity provisions and the standards governing the maintenance of the device and the training of personnel in the use of the device would remain in effect after that date if the entities that are subject to the bill elect to continue the installation of the device, as specified. 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.

The people of the State of California do enact as follows:

SECTION 1. Section 104113 of the Health and Safety Code is amended to read:

104113. (a) (1) Commencing July 1, 2007, every health studio, as defined in subdivision (g), commencing July 1, 2010, every amusement park, as defined in subdivision (g), and commencing July 1, 2010, every golf course, shall acquire an automatic external defibrillator. The requirement to acquire an automatic external defibrillator pursuant to this subdivision shall terminate on July 1, 2014.

(2) Commencing July 1, 2007, every health studio, as defined in subdivision (g), commencing July 1, 2010, every amusement park, as defined in subdivision (g), and commencing July 1, 2010, every golf course, shall, until July 1, 2014, maintain, and train

personnel in the use of, any automatic external defibrillator acquired pursuant to paragraph (1).

(3) On or after July 1, 2014, an amusement park, a golf course, or a health studio that elects to continue the installation of an automatic external defibrillator that was acquired pursuant to paragraph (1) shall maintain and train personnel in the use of an automatic external defibrillator pursuant to this section, and shall not be liable for civil damages resulting from the use, attempted use, or nonuse of an automatic external defibrillator as provided by this section.

(b) An employee of an amusement park, a golf course, or a 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, a golf course, or a 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, a golf course, or a 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:

(A) The automatic external defibrillator is maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer, the American Heart

Association, or the American Red Cross, and according to any applicable rules and regulations set forth by the governmental authority under the federal Food and Drug Administration and any other applicable state and federal authority.

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

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

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

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

(f) Subdivisions (b), (c), and (d) do not apply in the case of personal injury or wrongful death that results from gross negligence

or willful or wanton misconduct on the part of the person who uses, attempts to use, or maliciously fails to use an automatic external defibrillator to render emergency care or treatment.

(g) For purposes of this section:

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

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

Approved _____, 2009

Governor