

Introduced by Senator CalderonFebruary 19, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1297, as introduced, Calderon. Automatic external defibrillators: health studios.

Under existing law, commencing January 1, 2008, and continuing until July 1, 2012, a health studio, as defined, is required to acquire an automatic external defibrillator and to meet specified training and maintenance standards relating to that device.

This bill would make technical, nonsubstantive changes to these provisions.

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
- 6 defibrillator pursuant to this subdivision shall terminate on July
- 7 1, 2012.
- 8 (2) Commencing July 1, 2007, and until July 1, 2012, every
- 9 health studio, as defined in subdivision (g), shall maintain, and

1 train personnel in the use of, ~~any~~ *an* automatic external defibrillator
2 acquired pursuant to paragraph (1).

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

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

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

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

29 (e) Notwithstanding Section 1797.196, in order to ensure public
30 safety, a health studio shall do all of the following:

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

33 (2) Ensure all of the following:

34 (A) The automatic external defibrillator is maintained and
35 regularly tested according to the operation and maintenance
36 guidelines set forth by the manufacturer, the American Heart
37 Association, or the American Red Cross, and according to any
38 applicable rules and regulations set forth by the governmental
39 authority under the federal Food and Drug Administration and any
40 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 these checks shall be maintained~~ *The health studio shall maintain records of these checks.*

(C) ~~Any~~ A person who renders emergency care or treatment on to a person in cardiac arrest by using an automatic external defibrillator activates the emergency medical services system as soon as possible, and reports ~~any~~ the 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~~ *ensure* 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.

1 (g) For purposes of this section, “health studio” means ~~any~~ *a*
2 facility permitting the use of its facilities and equipment or access
3 to its facilities and equipment, to individuals or groups for physical
4 exercise, body building, reducing, figure development, fitness
5 training, or any other similar purpose, on a membership basis.
6 “Health studio” does not include ~~any~~ *a* hotel or similar business
7 that offers fitness facilities to its registered guests for a fee or as
8 part of the hotel charges.

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