

By Representative Byrd

1 A bill to be entitled
2 An act relating to automatic external
3 defibrillators; creating s. 768.1325, F.S.;
4 creating the Cardiac Arrest Survival Act;
5 providing definitions; providing immunity from
6 liability for certain persons who use automatic
7 external defibrillators under certain
8 circumstances; providing exceptions; repealing
9 s. 768.13(4), F.S., relating to the Good
10 Samaritan Act, to delete reference to the use
11 of an automatic external defibrillator in
12 certain emergency situations; amending s.
13 401.2915, F.S.; revising a provision of law
14 relating to automatic external defibrillators
15 to conform to the act; providing an effective
16 date.

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18 WHEREAS, over 700 lives are lost every day to sudden
19 cardiac arrest in the United States alone, and

20 WHEREAS, two out of every three sudden cardiac deaths
21 occur before a victim can reach a hospital, and

22 WHEREAS, more than 95 percent of these cardiac arrest
23 victims will die, many because of lack of readily available
24 lifesaving medical equipment, and

25 WHEREAS, with current medical technology, up to 30
26 percent of cardiac arrest victims could be saved if victims
27 had access to immediate medical response, including
28 defibrillation and cardiopulmonary resuscitation, and

29 WHEREAS, once a victim has suffered a cardiac arrest,
30 every minute that passes before returning the heart to a
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1 normal rhythm decreases the chances of survival by 10 percent,
2 and

3 WHEREAS, most cardiac arrests are caused by an abnormal
4 heart rhythm called ventricular fibrillation, which occurs
5 when the heart's electrical system malfunctions, causing a
6 chaotic rhythm that prevents the heart from pumping oxygen to
7 the victim's brain and body, and

8 WHEREAS, communities that have implemented programs
9 ensuring widespread access to defibrillators, combined with
10 appropriate training, maintenance, and coordination with local
11 emergency medical systems have dramatically improved the
12 survival rates from cardiac arrest, and

13 WHEREAS, automatic external defibrillator devices have
14 been demonstrated to be safe and effective, even when used by
15 laypersons, since the devices are designed not to allow a user
16 to administer a shock until after the device has analyzed a
17 victim's heart rhythm and determined that an electric shock is
18 required, and

19 WHEREAS, increased public awareness regarding automatic
20 external defibrillator devices will greatly facilitate their
21 adoption, and

22 WHEREAS, limiting the liability of users and acquirers
23 of automatic external defibrillator devices in emergency
24 situations may encourage the use of the devices, and result in
25 saved lives, NOW, THEREFORE,

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27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Section 768.1325, Florida Statutes, is
30 created to read:

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1 768.1325 Cardiac Arrest Survival Act; immunity from
2 civil liability.--

3 (1) This section may be cited as the "Cardiac Arrest
4 Survival Act."

5 (2) As used in this section:

6 (a) "Perceived medical emergency" means circumstances
7 in which the behavior of an individual leads a reasonable
8 person to believe that the individual is experiencing a
9 life-threatening medical condition that requires an immediate
10 medical response regarding the heart or other cardiopulmonary
11 functioning of the individual.

12 (b) "Automatic external defibrillator device" means a
13 defibrillator device that:

14 1. Is commercially distributed in accordance with the
15 Federal Food, Drug, and Cosmetic Act.

16 2. Is capable of recognizing the presence or absence
17 of ventricular fibrillation, and is capable of determining
18 without intervention by the user of the device whether
19 defibrillation should be performed.

20 3. Upon determining that defibrillation should be
21 performed, is able to deliver an electrical shock to an
22 individual.

23 4. In the case of a defibrillator device that may be
24 operated in either an automatic or a manual mode, is set to
25 operate in the automatic mode.

26 (c) "Harm" means damage or loss of any and all types,
27 including, but not limited to, physical, nonphysical,
28 economic, noneconomic, actual, compensatory, consequential,
29 incidental, and punitive damages or losses.

30 (3) Notwithstanding any other provision of law to the
31 contrary, and except as provided in subsection (4), any person

1 who uses or attempts to use an automatic external
2 defibrillator device on a victim of a perceived medical
3 emergency is immune from civil liability for any harm
4 resulting from the use or attempted use of such device, or any
5 act or failure to act in providing or arranging further
6 medical treatment. In addition, any person who acquired the
7 device is immune from such liability, if the harm was not due
8 to the failure of such acquirer of the device to:
9 (a) Notify local emergency response personnel or other
10 appropriate entities of the most recent placement of the
11 device within a reasonable period of time after the device was
12 placed;
13 (b) Properly maintain and test the device; or
14 (c) Provide appropriate training in the use of the
15 device to an employee or agent of the acquirer when the
16 employee or agent was the person who used the device on the
17 victim, except that such requirement of training does not
18 apply if:
19 1. The employee or agent was not an employee or agent
20 who would have been reasonably expected to use the device; or
21 2. The period of time elapsing between the engagement
22 of the person as an employee or agent and the occurrence of
23 the harm, or between the acquisition of the device and the
24 occurrence of the harm in any case in which the device was
25 acquired after engagement of the employee or agent, was not a
26 reasonably sufficient period in which to provide the training.
27 (4) Immunity under subsection (3) does not apply to a
28 person if:
29 (a) The harm involved was caused by that person's
30 willful or criminal misconduct, gross negligence, reckless
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1 misconduct, or a conscious, flagrant indifference to the
2 rights or safety of the victim who was harmed;
3 (b) The person is a hospital, clinic, or other entity
4 whose primary purpose is providing health care directly to
5 patients, and the harm was caused by an employee or agent of
6 the entity who used the device while acting within the scope
7 of the employment or agency of the employee or agent;
8 (c) The person is an acquirer of the device who leased
9 the device to a health care entity, or who otherwise provided
10 the device to such entity for compensation without selling the
11 device to the entity, and the harm was caused by an employee
12 or agent of the entity who used the device while acting within
13 the scope of the employment or agency of the employee or
14 agent; or
15 (d) The person is the manufacturer of the device.
16 (5) This section does not establish any cause of
17 action. This section does not require that an automatic
18 external defibrillator device be placed at any building or
19 other location or require an acquirer to make available on its
20 premises one or more employees or agents trained in the use of
21 the device.
22 Section 2. Subsection (4) of section 768.13, Florida
23 Statutes, is repealed.
24 Section 3. Subsection (1) of section 401.2915, Florida
25 Statutes, is amended to read:
26 401.2915 Automatic external defibrillators.--It is the
27 intent of the Legislature that an automatic external
28 defibrillator may be used by any person for the purpose of
29 saving the life of another person in cardiac arrest. In order
30 to ensure public health and safety:
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