

1
2 An act relating to automated 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 automated
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; directing the Department
16 of Health, with assistance from the Department
17 of Management Services, to adopt rules to
18 establish guidelines on the appropriate
19 placement and deployment of automated external
20 defibrillator devices in certain buildings
21 owned or leased by the state; specifying
22 factors to be considered in device placement
23 and deployment; providing an effective date.

24
25 WHEREAS, over 700 lives are lost every day to sudden
26 cardiac arrest in the United States alone, and

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

29 WHEREAS, more than 95 percent of these cardiac arrest
30 victims will die, many because of lack of readily available
31 lifesaving medical equipment, and

1 WHEREAS, with current medical technology, up to 30
2 percent of cardiac arrest victims could be saved if victims
3 had access to immediate medical response, including
4 defibrillation and cardiopulmonary resuscitation, and

5 WHEREAS, once a victim has suffered a cardiac arrest,
6 every minute that passes before returning the heart to a
7 normal rhythm decreases the chances of survival by 10 percent,
8 and

9 WHEREAS, most cardiac arrests are caused by an abnormal
10 heart rhythm called ventricular fibrillation, which occurs
11 when the heart's electrical system malfunctions, causing a
12 chaotic rhythm that prevents the heart from pumping oxygen to
13 the victim's brain and body, and

14 WHEREAS, communities that have implemented programs
15 ensuring widespread access to defibrillators, combined with
16 appropriate training, maintenance, and coordination with local
17 emergency medical systems have dramatically improved the
18 survival rates from cardiac arrest, and

19 WHEREAS, automated external defibrillator devices have
20 been demonstrated to be safe and effective, even when used by
21 laypersons, since the devices are designed not to allow a user
22 to administer a shock until after the device has analyzed a
23 victim's heart rhythm and determined that an electric shock is
24 required, and

25 WHEREAS, increased public awareness regarding automated
26 external defibrillator devices will greatly facilitate their
27 adoption, and

28 WHEREAS, limiting the liability of users and acquirers
29 of automated external defibrillator devices in emergency
30 situations may encourage the use of the devices, and result in
31 saved lives, NOW, THEREFORE,

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

2

3 Section 1. Section 768.1325, Florida Statutes, is
4 created to read:

5 768.1325 Cardiac Arrest Survival Act; immunity from
6 civil liability.--

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

9 (2) As used in this section:

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

16 (b) "Automated external defibrillator device" means a
17 defibrillator device that:

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

20 2. Is capable of recognizing the presence or absence
21 of ventricular fibrillation, and is capable of determining
22 without intervention by the user of the device whether
23 defibrillation should be performed.

24 3. Upon determining that defibrillation should be
25 performed, is able to deliver an electrical shock to an
26 individual.

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

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1 (3) Notwithstanding any other provision of law to the
2 contrary, and except as provided in subsection (4), any person
3 who uses or attempts to use an automated external
4 defibrillator device on a victim of a perceived medical
5 emergency, without objection of the victim of the perceived
6 medical emergency, is immune from civil liability for any harm
7 resulting from the use or attempted use of such device. In
8 addition, any person who acquired the device is immune from
9 such liability, if the harm was not due to the failure of such
10 acquirer of the device to:

11 (a) Notify the local emergency medical services
12 medical director of the most recent placement of the device
13 within a reasonable period of time after the device was
14 placed;

15 (b) Properly maintain and test the device; or

16 (c) Provide appropriate training in the use of the
17 device to an employee or agent of the acquirer when the
18 employee or agent was the person who used the device on the
19 victim, except that such requirement of training does not
20 apply if:

21 1. The employee or agent was not an employee or agent
22 who would have been reasonably expected to use the device; or

23 2. The period of time elapsing between the engagement
24 of the person as an employee or agent and the occurrence of
25 the harm, or between the acquisition of the device and the
26 occurrence of the harm in any case in which the device was
27 acquired after engagement of the employee or agent, was not a
28 reasonably sufficient period in which to provide the training.

29 (4) Immunity under subsection (3) does not apply to a
30 person if:

31

1 (a) The harm involved was caused by that person's
2 willful or criminal misconduct, gross negligence, reckless
3 disregard or misconduct, or a conscious, flagrant indifference
4 to the rights or safety of the victim who was harmed;

5 (b) The person is a licensed or certified health
6 professional who used the automated external defibrillator
7 device while acting within the scope of the license or
8 certification of the professional and within the scope of the
9 employment or agency of the professional;

10 (c) The person is a hospital, clinic, or other entity
11 whose primary purpose is providing health care directly to
12 patients, and the harm was caused by an employee or agent of
13 the entity who used the device while acting within the scope
14 of the employment or agency of the employee or agent;

15 (d) The person is an acquirer of the device who leased
16 the device to a health care entity, or who otherwise provided
17 the device to such entity for compensation without selling the
18 device to the entity, and the harm was caused by an employee
19 or agent of the entity who used the device while acting within
20 the scope of the employment or agency of the employee or
21 agent; or

22 (e) The person is the manufacturer of the device.

23 (5) This section does not establish any cause of
24 action. This section does not require that an automated
25 external defibrillator device be placed at any building or
26 other location or require an acquirer to make available on its
27 premises one or more employees or agents trained in the use of
28 the device.

29 Section 2. Subsection (4) of section 768.13, Florida
30 Statutes, is repealed.

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1 Section 3. Section 401.2915, Florida Statutes, is
2 amended to read:

3 401.2915 Automated ~~Automatic~~ external
4 defibrillators.--It is the intent of the Legislature that an
5 automated ~~automatic~~ external defibrillator may be used by any
6 person for the purpose of saving the life of another person in
7 cardiac arrest. In order to ensure public health and safety:

8 (1) All persons who ~~have access to or~~ use an automated
9 ~~automatic~~ external defibrillator must obtain appropriate
10 training, to include completion of a course in cardiopulmonary
11 resuscitation or successful completion of a basic first aid
12 course that includes cardiopulmonary resuscitation training,
13 and demonstrated proficiency in the use of an automated
14 ~~automatic~~ external defibrillator;

15 (2) Any person or entity in possession of an automated
16 ~~automatic~~ external defibrillator is encouraged to register
17 with the local emergency medical services medical director the
18 existence and location of the automated ~~automatic~~ external
19 defibrillator; and

20 (3) Any person who uses an automated ~~automatic~~
21 external defibrillator is required to activate the emergency
22 medical services system as soon as possible upon use of the
23 automated ~~automatic~~ external defibrillator.

24 Section 4. No later than January 1, 2003, the
25 Secretary of the Department of Health shall adopt rules to
26 establish guidelines on the appropriate placement of automated
27 external defibrillator devices in buildings or portions of
28 buildings owned or leased by the state, and shall establish,
29 by rule, recommendations on procedures for the deployment of
30 automated external defibrillator devices in such buildings in
31 accordance with the guidelines. The Secretary of the

1 Department of Management Services shall assist the Secretary
2 of the Department of Health in the development of the
3 guidelines. The guidelines for the placement of the automated
4 external defibrillators shall take into account the typical
5 number of employees and visitors in the buildings, the extent
6 of the need for security measures regarding the buildings,
7 special circumstances in buildings or portions of buildings
8 such as high electrical voltages or extreme heat or cold, and
9 such other factors as the Secretaries determine to be
10 appropriate. The Secretary of the Department of Health's
11 recommendations for deployment of automated external
12 defibrillators in buildings or portions of buildings owned or
13 leased by the state shall include:

14 (a) A reference list of appropriate training courses
15 in the use of such devices, including the role of
16 cardiopulmonary resuscitation;

17 (b) The extent to which such devices may be used by
18 laypersons;

19 (c) Manufacturer recommended maintenance and testing
20 of the devices; and

21 (d) Coordination with local emergency medical services
22 systems regarding the incidents of use of the devices.

23
24 In formulating these guidelines and recommendations, the
25 Secretary may consult with all appropriate public and private
26 entities, including national and local public health
27 organizations that seek to improve the survival rates of
28 individuals who experience cardiac arrest.

29 Section 5. This act shall take effect October 1, 2001.
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