

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1123

Automated External Defibrillators

SPONSOR(S): Sands

TIED BILLS:

IDEN./SIM. BILLS: SB 1760

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care General Committee	8 Y, 0 N	Schiefelbein	Brown-Barrios
2) Business Regulation Committee		Morris	Liepshutz
3) Finance & Tax Committee			
4) Health & Families Council			
5) _____			

SUMMARY ANALYSIS

An Automated External Defibrillator (AED) is a small, lightweight device used to assess a person's heart rhythm, and, if necessary, administer an electric shock to restore a normal rhythm in victims of sudden cardiac arrest. AEDs are designed to be used by people without medical backgrounds, such as police, firefighters, flight attendants, security guards, and lay rescuers.

This bill provides that any business entity as defined in s. 606.03, F.S., may have an AED on the premises and shall ensure that their employees are properly trained in the operation and maintenance of the device. The bill further requires that training on the use of AEDs shall be provided by the local emergency medical services provider at no cost to the business.

The bill creates a sales tax exemption on AED purchases. The Revenue Estimating Conference estimates that for FY 2005-06 the sales tax exemption would result in decreased statewide revenue collections of \$2.2M and \$2.4 for FY 2006-07.

The bill provides an effective date of July 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background

Each year, more than 350,000 Americans die from sudden cardiac arrest.¹ When a person suffers a sudden cardiac arrest, chances of survival decrease by 7 to 10 percent for each minute that passes without defibrillation. A victim's best chance for survival is when there is revival within 4 minutes.

An Automated External Defibrillator (AED) is a small, lightweight device used to assess a person's heart rhythm. If necessary, it administers an electric shock to restore a normal rhythm in victims of sudden cardiac arrest. Built-in computers assess the patient's heart rhythm, judge whether defibrillation is needed, and then administer an appropriate level of shock. Audible or visual prompts guide the user through the process. Most AEDs are designed to be used by people without medical backgrounds, such as police, firefighters, flight attendants, security guards, and lay rescuers.² Section 401.2915, F.S., specifies that it is the intent of the Legislature that an AED may be used by any person for the purpose of saving the life of a person in cardiac arrest.

Training

Subsections (1) - (3) of s. 401.2915, F.S., provide the minimum training requirements for an individual who intends to use an AED in cases of cardiac arrest, as follows:

- A person must obtain appropriate training, to include completion of a course in cardiopulmonary resuscitation or successful completion of a basic first aid course that includes cardiopulmonary resuscitation training, and demonstrated proficiency in the use of an AED.
- A person or entity in possession of an automated external defibrillator is encouraged to register with the local emergency medical services medical director the existence and location of the AED; and
- A person who uses an AED is required to activate the emergency medical services system as soon as possible upon use of the defibrillator.

Florida Law and Liability

Section 768.13, F.S., the Good Samaritan Act, provides immunity from civil liability to any persons, including those licensed to practice medicine, who gratuitously and in good faith render emergency care or treatment either in direct response to emergency situations related to and arising out of a state of emergency which has been declared pursuant to section 252.36, F.S., or at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment. Specifically as it relates to the use of an AED, section 768.1325, F.S., the Cardiac Arrest Survival Act, provides immunity from liability for a person who uses or attempts to use an AED in a perceived medical emergency.

¹ http://www.skyaid.org/Skyaid%20Org/Medical/sca_survivalink.htm

² From the American College of Emergency Physicians, at <http://www.acep.org>

Under s. 768.1325(2)(b), F.S., “automated external defibrillation” device is defined as a defibrillator device that:

- Is commercially distributed in accordance with the Federal Food, Drug, and Cosmetic Act;
- Is capable of recognizing the presence or absence of ventricular fibrillation, and is capable of determining without intervention by the user of the device whether defibrillation should be performed, and;
- Upon determining that defibrillation should be performed, is able to deliver an electrical shock to an individual.

Effect of Proposed Change:

The bill creates a new subsection (4) in s. 401.2915, F.S., to encourage the use of automatic external defibrillators [AED] by businesses as defined in s. 606.03, F.S.,³ and encourage training in the use of such devices. Employees using an AED are provided immunity from liability when the person uses or attempts to use the device in a perceived medical emergency.

This bill requires that the local emergency medical services providers provide AED training at no cost to the business. Local emergency medical services providers would be required to absorb all costs associated with this training.

This bill also provides an exemption from the sales tax imposed on the purchase of an automatic external defibrillator by a business entity. This sales tax exemption is estimated to reduce sales tax revenue collections statewide by \$2.2M for FY 2005-06 and \$2.4M for FY 2006-07.

The bill provides an effective date of July 1, 2005.

C. SECTION DIRECTORY:

Section 1. Amends s. 401.2915, F.S, to create a new subsection (4) and provides that any business entity may have an automated external defibrillator on the premises; provides for employee training by local emergency medical service providers; provides conforming language regarding immunity from liability.

Section 2. Amends s. 212.08 (7), F.S., to create a new paragraph (ccc), and provides a tax exemption for a business entity purchasing an automated external defibrillator.

Section 3. Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill provides a sales tax exemption on the purchase of AEDs by qualifying businesses. The reduction in state sales tax revenue incurred as a result of this exemption is estimated to be \$1.7M for FY 2005-06 and \$1.9M for FY 2006-07.

³ Section 606.03(1) defines a “business entity” as “...any form of corporation, partnership, association, cooperative, joint venture, business trust, or sole proprietorship that conducts business in this state.”

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill provides a sales tax exemption on the purchase of AEDs by qualifying businesses. The reduction in local sales tax revenue collections as a result of this exemption is estimated to be \$0.5M for FY 2005-06 and for FY 2006-07.

2. Expenditures:

According to the Florida League of Cities and the Florida Association of Counties, local governments may experience administrative and personnel costs associated with identifying the location of automatic external defibrillators in certain businesses and the training of personnel.

A preliminary estimate by the West Palm Beach Fire Rescue EMS Office for managing an AED program for businesses within the City of West Palm Beach estimates an annual cost to that city of \$25,968.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

While the sale of automatic external defibrillators in business is undetermined, increased AED purchases should increase private sector revenue.

D. FISCAL COMMENTS:

The bill provides a sales tax exemption on the purchase of AEDs by qualifying businesses. According to the Revenue Estimating Conference, the statewide reduction in sales tax revenue incurred as a result of this exemption is estimated to be \$2.2M for FY 2005-06 and \$2.4M for FY 2006-07.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate and does not reduce the percentage of state tax shared with counties or municipalities. The bill does require that local emergency medical service providers provide training to business that elect to purchase an automated external defibrillator. However, since businesses are not required to purchase an AED the bill may not be considered to be a mandate on local governments.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES