

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., an “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.

The bill specifies that employee training may be provided by the business using training materials provided by the AED manufacturer. Authorized training formats include printed materials, VHS, DVD, CD ROM, and on-line 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 \$2.2 M for FY 2005-06 and \$2.4 M 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 utilizing manufacturer produced materials; and, 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.

2. Expenditures:

None

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.”

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 both FY 2005-06 and for FY 2006-07.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

While the potential 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:

This bill does not require counties or cities to spend funds or take an action requiring the expenditure of funds. 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.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 14, 2005, the Committee on Business Regulation adopted one amendment to HB 1123 and voted the bill favorably with committee substitute. The amendment removed a provision in the bill requiring local emergency medical service providers to provide AED training and replaced with a provision that allows the training to be provided by the business using training materials provided by the AED manufacturer.