

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 211 CS Automated External Defibrillators
SPONSOR(S): Henriquez and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 48

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care General Committee	11 Y, 0 N, w/CS	Schiefelbein	Brown-Barrios
2) Health & Families Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 211 amends section 401.1925, F.S., to clarify the legislative intent and define automated external defibrillator devices. The bill provides definitions for the following two terms: "Automated external defibrillator" is defined as a lifesaving defibrillation device that: 1) is commercially distributed as a defibrillation device in accordance with the Federal Food, Drug, and Cosmetic Act; 2) is capable of recognizing the presence or absence of ventricular fibrillation and is capable of determining, without intervention by the user of the device, if defibrillation should be performed, and 3) is capable of delivering an electrical shock to an individual, upon determining that defibrillation should be performed. "Defibrillation" is defined as the administration of a controlled electrical charge to the heart to restore a viable cardiac rhythm.

This bill provides that the certain use, misuse or otherwise tampering of an automated external defibrillator constitutes a first degree misdemeanor.

There is no fiscal impact associated with this bill.

This bill provides an effective date upon becoming law.

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:

This bill amends s. 401.2915, F.S., to clarify the Legislature's intent and to encourage training in lifesaving first aid, set standards for the use of automated external defibrillators, and encourage their use. The term automated external defibrillator is defined as a lifesaving device that:

- Is commercially distributed as a defibrillation device 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 use of the device, if defibrillation should be performed; and
- Is capable of delivering an electrical shock to an individual, upon determining that defibrillation should be performed.

This definition conforms to the definition established in subsection (2)(b) of s. 768.1325, F.S.

The bill also defines defibrillation as the administration of a controlled electrical charge to the heart to restore a viable cardiac rhythm.

The bill provides that the certain use, misuse or otherwise tampering of an automated external defibrillator constitutes a first degree misdemeanor.¹

Background

Cardiac Arrest:

The American Heart Association (AHA) a cardiac arrest is described as follows:

“Cardiac arrest is the sudden, abrupt loss of heart function. It is also called sudden cardiac arrest or unexpected cardiac arrest. Sudden death (also called sudden cardiac death) occurs within minutes after symptoms appear. The most common underlying reason for patients to die suddenly from cardiac arrest is coronary heart disease. Most cardiac arrests that lead to sudden death occur when the electrical impulses in the diseased heart become rapid (ventricular tachycardia) or chaotic (ventricular fibrillation) or both. This irregular heart rhythm (arrhythmia) causes the heart to suddenly stop beating.”

According to the AHA, brain death and permanent death start to occur within 4 to 6 minutes after someone experiences cardiac arrest. Cardiac arrest can be reversed if it is treated within a few minutes with an electric shock to the heart to restore a normal heartbeat—a process called defibrillation. The AHA states that a victim's chances of survival are reduced by 7 to 10 percent with every passing minute without defibrillation, and few attempts at resuscitation succeed after 10 minutes.

An automated external defibrillator (AED) is an electronic device that can shock a person's heart back into rhythm when he or she is having a cardiac arrest. The AHA estimates that more than 95 percent of cardiac arrest victims die before reaching the hospital. In cities where defibrillation is provided within 5 to 7 minutes, the survival rate from sudden cardiac arrest can be up to 49 percent.

¹ See Section 775.082, F. S. and Section 775.083, F. S., regarding penalties and fines, respectively.

Section 401.2915, F.S., provides 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 automated external defibrillator;
- 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 automated external defibrillator; and
- A person who uses an automated external defibrillator is required to activate the emergency medical services system as soon as possible upon use of the automated external defibrillator.

1990 Legislation

In 1990, based on the development of AED technology and in an effort to reduce the death rate associated with sudden cardiac arrest, the Legislature enacted s. 401.291, F. S. This law broadened the list of persons authorized to use an AED to include “first responders.” First responders included police officers, firefighters and citizens who are trained as part of locally coordinated emergency medical service response teams. At that time, to use an AED, a first responder had to meet specific training requirements, including;

- Certification in CPR.
Or—
- Successful completion of an eight hour basic first aid course that included CPR training.
- Demonstrated proficiency in the use of an automatic or semiautomatic defibrillator.
- Successful completion of at least six hours of training, in at least two sessions, in the use of an AED.

At the time, the creation of s. 401.291, F.S., was intended to increase the availability of automatic external defibrillators and thereby reduce the death rate from sudden cardiac arrest in Florida. It is undocumented as to whether the intended effect was ever achieved; however the law was repealed on October 1, 1992.

Deregulating AED

Chapter 97-34, Laws of Florida, repealed s. 401.291, F.S., deregulating the use of an AED and specifying legislative intent that an AED may be used by any person for the purpose of saving the life of another person in cardiac arrest.

The bill required users of an AED to successfully complete an appropriate training course in CPR, or a basic first aid course that includes CPR, and to demonstrate proficiency in the use of an AED. In addition, the bill specified that any person or entity in possession of an AED was encouraged to register the device with the local EMS medical director, and any person who used an AED was required to activate the EMS system as soon as possible.

Florida Law and Liability

Section 768.1325, F.S., the Cardiac Arrest Survival Act, provides immunity from liability for a person who uses or attempts to use an automated external defibrillator device in a perceived medical emergency. 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.

Section 775.08, F.S., defines the term “misdemeanor” to mean any criminal offense that is punishable under the laws of the state, or that would be punishable if committed in this state, by a term of imprisonment in a county correctional facility, except and extended term, not in excess of 1 year.

C. SECTION DIRECTORY:

Section 1. Amends s. 401.2915, F.S., by:

- Adding s. 401.2915(1)(a) F.S., providing the definition of “automated external defibrillator”;
- Adding s. 401.2915(1)(b) F.S., providing the definition of “defibrillation”;
- Renumbering existing sections to create s. 401.2915(2) F.S., paragraphs a, b, and c;
- Amending new section 401.2915(2)(c), F.S., to clarify activation of the emergency medical services system.
- Adding s. 409.1915(3), F.S., proving that the certain use, misuse or otherwise tampering of an automated external defibrillator constitutes a first degree misdemeanor, punishable in s. 775.082, F. S., or s. 775.083, F. S.

Section 2. Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill will have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

There appear to be no technical drafting issues in this bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 23, 2005, the House Health Care General Committee adopted an amendment to the bill. The amendment:

- Provides that the following shall constitute a first degree misdemeanor, punishable in s. 775.082 or s. 775.083, to intentionally or willfully:
 - Tamper with or otherwise render an automated external defibrillator inoperative except during such time as the automated external defibrillator is being serviced, tested, repaired, or recharged, except pursuant to court order.
 - Obliterate the serial number on an automated external defibrillator for purposes of falsifying service records.
 - Improperly service, recharge, repair, test, or inspect an automated external defibrillator, if so provided by city or county code.
 - Use the license, permit or inspection certificate of another person, if so provided by city or county code.
 - Hold a permit or inspection certificate and allow another person to use said permit or inspection certificate number, if so provided by city or county code.
 - Use, or permit the use of, any license, permit or inspection certificate by any individual or organization other than the one to whom the license, permit or inspection certificate is issued, if so provided by city or county code.

The analysis references the adopted amendment.