

By the Committee on Health Regulation; and Senators Constantine and King

588-04007A-08

2008564c1

1 A bill to be entitled

2 An act relating to automated external defibrillators;
3 amending s. 401.2915, F.S.; revising provisions relating
4 to the maintenance of and training requirements for the
5 use of automated external defibrillators; revising
6 provisions encouraging notice to the local emergency
7 medical services medical director; amending s. 768.1325,
8 F.S.; revising requirements for civil immunity for the use
9 or attempted use of a defibrillator on a victim of a
10 perceived medical emergency; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Subsection (2) of section 401.2915, Florida
15 Statutes, is amended to read:

16 401.2915 Automated external defibrillators.--It is the
17 intent of the Legislature that an automated external
18 defibrillator may be used by any person for the purpose of saving
19 the life of another person in cardiac arrest. In order to achieve
20 that goal, the Legislature intends to encourage training in
21 lifesaving first aid and set standards for and encourage the use
22 of automated external defibrillators.

23 (2) In order to promote ~~ensure~~ public health and safety:

24 (a) All persons who use an automated external defibrillator
25 are encouraged to ~~must~~ obtain appropriate training, to include
26 completion of a course in cardiopulmonary resuscitation or
27 successful completion of a basic first aid course that includes
28 cardiopulmonary resuscitation training, and demonstrated
29 proficiency in the use of an automated external defibrillator.

588-04007A-08

2008564c1

30 (b) Any person or entity in possession of an automated
31 external defibrillator is encouraged to notify ~~register with~~ the
32 local emergency medical services medical director of the
33 ~~existence and~~ location of the automated external defibrillator.

34 (c) Any person who uses an automated external defibrillator
35 shall activate the emergency medical services system as soon as
36 possible upon use of the automated external defibrillator.

37 Section 2. Subsections (3) and (4) of section 768.1325,
38 Florida Statutes, are amended to read:

39 768.1325 Cardiac Arrest Survival Act; immunity from civil
40 liability.--

41 (3) Notwithstanding any other provision of law to the
42 contrary, and except as provided in subsection (4), any person
43 who uses or attempts to use an automated external defibrillator
44 device on a victim of a perceived medical emergency, without
45 objection of the victim of the perceived medical emergency, is
46 immune from civil liability for any harm resulting from the use
47 or attempted use of such device. In addition, notwithstanding any
48 other provision of law to the contrary, and except as provided in
49 subsection (4), any person who makes the device available
50 ~~acquired the device,~~ including, but not limited to, a community
51 association organized under chapter 617, chapter 718, chapter
52 719, chapter 720, chapter 721, or chapter 723, is immune from
53 such liability, if the harm was not due to the failure of such
54 person acquirer of the device to:

55 ~~(a) Notify the local emergency medical services medical~~
56 ~~director of the most recent placement of the device within a~~
57 ~~reasonable period of time after the device was placed;~~

58 (a)(b) Properly maintain and test the device; or

588-04007A-08

2008564c1

59 ~~(b)(e)~~ Provide appropriate training in the use of the
60 device to an employee or agent of the person who makes the device
61 available acquirer when the employee or agent was the person who
62 used the device on the victim, except that such requirement of
63 training does not apply if:

64 1. The device is equipped with audible, visual, or written
65 instructions on its use, including the posting of visual or
66 written instructions on or adjacent to the device;

67 ~~2.1-~~ The employee or agent was not an employee or agent who
68 would have been reasonably expected to use the device; or

69 ~~3.2-~~ The period of time elapsing between the engagement of
70 the person as an employee or agent and the occurrence of the
71 harm, or between the acquisition of the device and the occurrence
72 of the harm in any case in which the device was acquired after
73 engagement of the employee or agent, was not a reasonably
74 sufficient period in which to provide the training.

75 (4) Immunity under subsection (3) does not apply to a
76 person if:

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

81 (b) The person is a licensed or certified health
82 professional who used the automated external defibrillator device
83 while acting within the scope of the license or certification of
84 the professional and within the scope of the employment or agency
85 of the professional;

86 (c) The person is a hospital, clinic, or other entity whose
87 primary purpose is providing health care directly to patients,

588-04007A-08

2008564c1

88 | and the harm was caused by an employee or agent of the entity who
89 | used the device while acting within the scope of the employment
90 | or agency of the employee or agent;

91 | (d) The person who makes ~~is an acquirer of~~ the device
92 | available ~~who~~ leased the device to a health care entity, or who
93 | otherwise provided the device to such entity for compensation
94 | without selling the device to the entity, and the harm was caused
95 | by an employee or agent of the entity who used the device while
96 | acting within the scope of the employment or agency of the
97 | employee or agent; or

98 | (e) The person is the manufacturer of the device.

99 | Section 3. This act shall take effect July 1, 2008.