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LAW/RWH

P.L.2012, CHAPTER 6, *approved May 2, 2012*

Senate, No. 852

1 AN ACT concerning the acquisition and use of automated external
2 defibrillators, and amending P.L.1999, c.34, P.L.2005, c.346,
3 and P.L.2004, c.93.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. Section 1 of P.L.1999, c.34 (C.2A:62A-23) is amended to
9 read as follows:

10 1. The Legislature finds that **[more]**:

11 a. More than 350,000 Americans die annually from out-of-
12 hospital sudden cardiac arrest. Many die needlessly because life
13 saving defibrillators are not immediately available. The American
14 Heart Association estimates that almost 100,000 deaths could be
15 prevented each year if defibrillators were more widely available **[to**
16 designated responders.

17 Many communities in this State have invested in 911 emergency
18 telephone equipment, ambulances and the training of emergency
19 personnel. Not all emergency personnel, however, have been
20 trained in or have immediate access to defibrillators. **]**:

21 b. Due to technological advances, automated external
22 defibrillators may be used by lay persons without any training to
23 provide defibrillation within the first minutes of cardiac arrest to
24 victims, thereby increasing the victims' chances of survival; and

25 c. It is the intent of the Legislature to encourage greater
26 acquisition, deployment, and use of automated external
27 defibrillators **[by trained personnel]** throughout this State by
28 expanding immunity from civil liability of persons who acquire
29 automated external defibrillators and by granting immunity from
30 civil liability to lay persons who use them in good faith in
31 emergency situations.

32 (cf: P.L.1999, c.34, s.1)

33

34 2. Section 3 of P.L.1999, c.34 (C.2A:62A-25) is amended to
35 read as follows:

36 3. A person or entity that acquires an automated external
37 defibrillator shall:

38 a. Ensure that any person, who is anticipated by the person or
39 entity that acquires the defibrillator to be in a position to render
40 emergency care or treatment by the use of a defibrillator in the
41 performance of that person's duties of employment or volunteer
42 service, shall, prior to using that defibrillator, **[has]** have

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 successfully completed and **【holds】** hold a current certification
2 from the American Red Cross, American Heart Association, or
3 other training program recognized by the Department of Health and
4 Senior Services in cardio-pulmonary resuscitation and use of a
5 defibrillator; however, a person or entity that acquires a defibrillator
6 shall not be liable for any act or omission of any lay person who
7 uses the defibrillator in the rendering of emergency care;

8 b. Ensure that the defibrillator is maintained and tested
9 according to the manufacturer's operational guidelines;

10 c. Notify the appropriate first aid, ambulance, or rescue squad,
11 or other appropriate emergency medical services provider that the
12 person or entity has acquired the defibrillator, the type acquired,
13 and its location; and

14 d. Prior to purchasing the automated external defibrillator,
15 provide the prescribing licensed physician with documentation that
16 the person or entity purchasing the defibrillator has a protocol in
17 place to comply with the requirements of subsections a., b., and c.
18 of this section.

19 (cf: P.L.1999, c.34, s.3)

20
21 3. Section 4 of P.L.1999, c.34 (C.2A:62A-26) is amended to
22 read as follows:

23 4. a. **【A person shall not use a defibrillator unless he has**
24 **successfully completed and holds a current certification from the**
25 **American Red Cross, American Heart Association or other training**
26 **program recognized by the Department of Health and Senior**
27 **Services in cardio-pulmonary resuscitation and use of a**
28 **defibrillator; provided however, this section shall not be applicable**
29 **to a person who is licensed as a paramedic, emergency medical**
30 **technician-D, or a first responder-D by the Department of Health**
31 **and Senior Services.】** (Deleted by amendment, P.L. _____, c. _____)
32 (pending before the Legislature as this bill)

33 b. Any person who uses a defibrillator shall request emergency
34 medical assistance from the appropriate first aid, ambulance, or
35 rescue squad as soon as practicable; however, a lay person who, in
36 good faith, fails to request emergency medical assistance pursuant
37 to this subsection shall be immune from civil liability for any
38 personal injury that results from that failure.

39 (cf: P.L.1999, c.34, s.4)

40
41 4. Section 5 of P.L.1999, c.34 (C.2A:62A-27) is amended to
42 read as follows:

43 5. a. (1) Any person or entity who, in good faith, acquires or
44 provides a defibrillator, renders emergency care or treatment by the
45 use of a defibrillator **【or】**, assists in or supervises **【such】** the
46 emergency care or treatment by the use of a defibrillator, or
47 attempts to use a defibrillator for the purpose of rendering

1 emergency care or treatment, and[,] who has complied with the
2 requirements of this act, shall be immune from civil liability for any
3 personal injury as a result of [such] that care or treatment, or as a
4 result of any acts or omissions by the person or entity in providing,
5 rendering, assisting in, or supervising the emergency care or
6 treatment.

7 (2) A person or entity providing or maintaining an automated
8 external defibrillator shall not be liable for any act or omission
9 involving the use of a defibrillator in the rendering of emergency
10 care by a lay person.

11 b. The immunity provided in subsection a. of this section shall
12 include the prescribing licensed physician and the person or entity
13 who provided [the] training in cardio-pulmonary resuscitation and
14 use of the defibrillator.

15 c. This subsection shall not immunize a person for any act of
16 gross negligence or willful or wanton misconduct. It shall not be
17 considered gross negligence or willful or wanton misconduct to fail
18 to use a defibrillator in the absence of an otherwise preexisting duty
19 to do so.

20 (cf: P.L.1999, c.34, s.5)

21

22 5. Section 2 of P.L.2005, c.346 (C.2A:62A-31) is amended to
23 read as follows:

24 2. No later than one year after the effective date of this act:

25 a. The owner or operator of a health club registered with the
26 Director of the Division of Consumer Affairs in the Department of
27 Law and Public Safety pursuant to P.L.1987, c.238 (C.56:8-39 et
28 seq.) shall:

29 (1) acquire at least one automated external defibrillator as
30 defined in section 2 of P.L.1999, c.34 (C.2A:62A-24), and store it
31 in an accessible location within the health club that is known and
32 available to the employees of the health club for the purposes of this
33 act; and

34 (2) ensure that the automated external defibrillator is tested and
35 maintained, and provide notification to the appropriate first aid,
36 ambulance, or rescue squad, or other appropriate emergency
37 medical services provider regarding the defibrillator, the type
38 acquired, and its location, pursuant to section 3 of P.L.1999, c.34
39 (C.2A:62A-25); and

40 b. The owner or operator of a health club that is subject to the
41 provisions of subsection a. of this section shall:

42 (1) arrange and pay for training in cardio-pulmonary
43 resuscitation and the use of an automated external defibrillator for
44 the employees of that health club in accordance with the provisions
45 of [section 3 of P.L.1999, c.34 (C.2A:62A-25)] paragraph (2) of
46 this subsection;

1 (2) ensure that the health club has at least one employee on site
2 during its normal business hours who **【is trained in cardio-**
3 **pulmonary resuscitation and the use of an automated external**
4 **defibrillator in accordance with the provisions of section 3 of**
5 **P.L.1999, c.34 (C.2A:62A-25)】 holds current certification from the**
6 **American Red Cross, American Heart Association, or other training**
7 **program recognized by the Department of Health and Senior**
8 **Services in cardio-pulmonary resuscitation and use of a**
9 **defibrillator; and**

10 (3) ensure that **【the employees of that health club comply with**
11 **the provisions of section 4 of P.L.1999, c.34 (C.2A:62A-26)**
12 **concerning the use of the automated external defibrillator】 an**
13 **employee who uses a defibrillator requests emergency medical**
14 **assistance from the appropriate first aid, ambulance, or rescue**
15 **squad as soon as practicable.**

16 (cf: P.L. 2005, c.346, s.2)

17

18 6. Section 1 of P.L.2004, c.93 (C.26:2H-12.26) is amended to
19 read as follows:

20 1. A nursing home that is licensed pursuant to P.L.1971, c.136
21 (C.26:2H-1 et al.) shall, no later than one year after the effective
22 date of P.L.2004, c.93 (C.26:2H-12.26), and an assisted living
23 facility that is licensed pursuant to P.L.1971, c.136 shall, no later
24 than one year after the effective date of P.L.2009, c.46:

25 a. acquire at least one defibrillator as defined in section 2 of
26 P.L.1999, c.34 (C.2A:62A-24), which shall be maintained in a
27 central location within the nursing home or assisted living facility
28 that shall be made known and available to the employees of the
29 nursing home or assisted living facility for the purposes of this act;

30 b. ensure that the defibrillator is tested and maintained, and
31 provide notification to the appropriate first aid, ambulance, or
32 rescue squad, or other appropriate emergency medical services
33 provider regarding the defibrillator, the type acquired, and its
34 location, pursuant to section 3 of P.L.1999, c.34 (C.2A:62A-25);

35 c. arrange and pay for training in cardio-pulmonary
36 resuscitation and the use of a defibrillator for employees of the
37 nursing home or assisted living facility **【in accordance with the**
38 **provisions of section 3 of P.L.1999, c.34 (C.2A:62A-25)】 to ensure**
39 **that the employees hold current certification from the American**
40 **Red Cross, American Heart Association, or other training program**
41 **recognized by the Department of Health and Senior Services in**
42 **cardio-pulmonary resuscitation and use of a defibrillator; and**

43 d. ensure that **【the employees of the nursing home or assisted**
44 **living facility comply with the provisions of section 4 of P.L.1999,**
45 **c.34 (C.2A:62A-26) concerning the use of the defibrillator】 an**
46 **employee who uses a defibrillator requests emergency medical**

1 assistance from the appropriate first aid, ambulance, or rescue
2 squad as soon as practicable.

3 (cf: P.L.2009, c.46, s.1)

4

5 7. This act shall take effect immediately.

6

7

8

9

10 Provides immunity from civil liability to certain individuals who
11 acquire or use an automated external defibrillator.

SENATE, No. 852

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator ROBERT M. GORDON

District 38 (Bergen and Passaic)

Co-Sponsored by:

Senators Addiego, Allen and Madden

SYNOPSIS

Provides immunity from civil liability to certain individuals who acquire or use an automated external defibrillator.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 1/31/2012)

1 AN ACT concerning the acquisition and use of automated external
2 defibrillators, and amending P.L.1999, c.34, P.L.2005, c.346,
3 and P.L.2004, c.93.
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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
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8 1. Section 1 of P.L.1999, c.34 (C.2A:62A-23) is amended to
9 read as follows:

10 1. The Legislature finds that **[more]**:

11 a. More than 350,000 Americans die annually from out-of-
12 hospital sudden cardiac arrest. Many die needlessly because life
13 saving defibrillators are not immediately available. The American
14 Heart Association estimates that almost 100,000 deaths could be
15 prevented each year if defibrillators were more widely available **[to**
16 designated responders.

17 Many communities in this State have invested in 911 emergency
18 telephone equipment, ambulances and the training of emergency
19 personnel. Not all emergency personnel, however, have been
20 trained in or have immediate access to defibrillators. **];**

21 b. Due to technological advances, automated external
22 defibrillators may be used by lay persons without any training to
23 provide defibrillation within the first minutes of cardiac arrest to
24 victims, thereby increasing the victims' chances of survival; and

25 c. It is the intent of the Legislature to encourage greater
26 acquisition, deployment, and use of automated external
27 defibrillators **[by trained personnel]** throughout this State by
28 expanding immunity from civil liability of persons who acquire
29 automated external defibrillators and by granting immunity from
30 civil liability to lay persons who use them in good faith in
31 emergency situations.

32 (cf: P.L.1999, c.34, s.1)
33

34 2. Section 3 of P.L.1999, c.34 (C.2A:62A-25) is amended to
35 read as follows:

36 3. A person or entity that acquires an automated external
37 defibrillator shall:

38 a. Ensure that any person, who is anticipated by the person or
39 entity that acquires the defibrillator to be in a position to render
40 emergency care or treatment by the use of a defibrillator in the
41 performance of that person's duties of employment or volunteer
42 service, shall, prior to using that defibrillator, **[has]** have
43 successfully completed and **[holds]** hold a current certification
44 from the American Red Cross, American Heart Association, or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 other training program recognized by the Department of Health and
2 Senior Services in cardio-pulmonary resuscitation and use of a
3 defibrillator; however, a person or entity that acquires a defibrillator
4 shall not be liable for any act or omission of any lay person who
5 uses the defibrillator in the rendering of emergency care;

6 b. Ensure that the defibrillator is maintained and tested
7 according to the manufacturer's operational guidelines;

8 c. Notify the appropriate first aid, ambulance [or], rescue
9 squad, or other appropriate emergency medical services provider
10 that the person or entity has acquired the defibrillator, the type
11 acquired, and its location; and

12 d. Prior to purchasing the automated external defibrillator,
13 provide the prescribing licensed physician with documentation that
14 the person or entity purchasing the defibrillator has a protocol in
15 place to comply with the requirements of subsections a., b., and c.
16 of this section.

17 (cf: P.L.1999, c.34, s.3)

18

19 3. Section 4 of P.L.1999, c.34 (C.2A:62A-26) is amended to
20 read as follows:

21 4. a. [A person shall not use a defibrillator unless he has
22 successfully completed and holds a current certification from the
23 American Red Cross, American Heart Association or other training
24 program recognized by the Department of Health and Senior
25 Services in cardio-pulmonary resuscitation and use of a
26 defibrillator; provided however, this section shall not be applicable
27 to a person who is licensed as a paramedic, emergency medical
28 technician-D, or a first responder-D by the Department of Health
29 and Senior Services.] (Deleted by amendment, P.L. _____, c. _____)
30 (pending before the Legislature as this bill)

31 b. Any person who uses a defibrillator shall request emergency
32 medical assistance from the appropriate first aid, ambulance, or
33 rescue squad as soon as practicable; however, a lay person who, in
34 good faith, fails to request emergency medical assistance pursuant
35 to this subsection shall be immune from civil liability for any
36 personal injury that results from that failure.

37 (cf: P.L.1999, c.34, s.4)

38

39 4. Section 5 of P.L.1999, c.34 (C.2A:62A-27) is amended to
40 read as follows:

41 5. a. (1) Any person or entity who, in good faith, acquires or
42 provides a defibrillator, renders emergency care or treatment by the
43 use of a defibrillator [or], assists in or supervises [such] the
44 emergency care or treatment by the use of a defibrillator, or
45 attempts to use a defibrillator for the purpose of rendering
46 emergency care or treatment, and[,] who has complied with the
47 requirements of this act, shall be immune from civil liability for any

1 personal injury as a result of **[such]** that care or treatment, or as a
2 result of any acts or omissions by the person or entity in providing,
3 rendering, assisting in, or supervising the emergency care or
4 treatment.

5 (2) A person or entity providing or maintaining an automatic
6 external defibrillator shall not be liable for any act or omission
7 involving the use of a defibrillator in the rendering of emergency
8 care by a lay person.

9 b. The immunity provided in subsection a. of this section shall
10 include the prescribing licensed physician and the person or entity
11 who provided **[the]** training in cardio-pulmonary resuscitation and
12 use of the defibrillator.

13 c. This subsection shall not immunize a person for any act of
14 gross negligence or willful or wanton misconduct. It shall not be
15 considered gross negligence or willful or wanton misconduct to fail
16 to use a defibrillator in the absence of an otherwise preexisting duty
17 to do so.

18 (cf: P.L.1999, c.34, s.5)

19

20 5. Section 2 of P.L.2005, c.346 (C.2A:62A-31) is amended to
21 read as follows:

22 2. No later than one year after the effective date of this act:

23 a. The owner or operator of a health club registered with the
24 Director of the Division of Consumer Affairs in the Department of
25 Law and Public Safety pursuant to P.L.1987, c.238 (C.56:8-39 et
26 seq.) shall:

27 (1) acquire at least one automated external defibrillator as
28 defined in section 2 of P.L.1999, c.34 (C.2A:62A-24), and store it
29 in an accessible location within the health club that is known and
30 available to the employees of the health club for the purposes of this
31 act; and

32 (2) ensure that the automated external defibrillator is tested and
33 maintained, and provide notification to the appropriate first aid,
34 ambulance **[or]**, rescue squad, or other appropriate emergency
35 medical services provider regarding the defibrillator, the type
36 acquired, and its location, pursuant to section 3 of P.L.1999, c.34
37 (C.2A:62A-25); and

38 b. The owner or operator of a health club that is subject to the
39 provisions of subsection a. of this section shall:

40 (1) arrange and pay for training in cardio-pulmonary
41 resuscitation and the use of an automated external defibrillator for
42 the employees of that health club in accordance with the provisions
43 of **[section 3 of P.L.1999, c.34 (C.2A:62A-25)]** paragraph (2) of
44 this subsection;

45 (2) ensure that the health club has at least one employee on site
46 during its normal business hours who **[is trained in cardio-**
47 **pulmonary resuscitation and the use of an automated external**

1 defibrillator in accordance with the provisions of section 3 of
2 P.L.1999, c.34 (C.2A:62A-25) **】 holds current certification from the**
3 American Red Cross, American Heart Association, or other training
4 program recognized by the Department of Health and Senior
5 Services in cardio-pulmonary resuscitation and use of a
6 defibrillator; and

7 (3) ensure that **【the employees of that health club comply with**
8 the provisions of section 4 of P.L.1999, c.34 (C.2A:62A-26)
9 concerning the use of the automated external defibrillator **】 an**
10 employee who uses a defibrillator requests emergency medical
11 assistance from the appropriate first aid, ambulance, or rescue
12 squad as soon as practicable.

13 (cf: P.L. 2005, c.346, s.2)

14

15 6. Section 1 of P.L.2004, c.93 (C.26:2H-12.26) is amended to
16 read as follows:

17 1. A nursing home that is licensed pursuant to P.L.1971, c.136
18 (C.26:2H-1 et al.) shall, no later than one year after the effective
19 date of P.L.2004, c.93 (C.26:2H-12.26), and an assisted living
20 facility that is licensed pursuant to P.L.1971, c.136 shall, no later
21 than one year after the effective date of P.L.2009, c.46:

22 a. acquire at least one defibrillator as defined in section 2 of
23 P.L.1999, c.34 (C.2A:62A-24), which shall be maintained in a
24 central location within the nursing home or assisted living facility
25 that shall be made known and available to the employees of the
26 nursing home or assisted living facility for the purposes of this act;

27 b. ensure that the defibrillator is tested and maintained, and
28 provide notification to the appropriate first aid, ambulance **【or】**,
29 rescue squad, or other appropriate emergency medical services
30 provider regarding the defibrillator, the type acquired, and its
31 location, pursuant to section 3 of P.L.1999, c.34 (C.2A:62A-25);

32 c. arrange and pay for training in cardio-pulmonary
33 resuscitation and the use of a defibrillator for employees of the
34 nursing home or assisted living facility **【in accordance with the**
35 provisions of section 3 of P.L.1999, c.34 (C.2A:62A-25)】 to ensure
36 that the employees hold current certification from the American
37 Red Cross, American Heart Association, or other training program
38 recognized by the Department of Health and Senior Services in
39 cardio-pulmonary resuscitation and use of a defibrillator; and

40 d. ensure that **【the employees of the nursing home or assisted**
41 living facility comply with the provisions of section 4 of P.L.1999,
42 c.34 (C.2A:62A-26) concerning the use of the defibrillator **】 an**
43 employee who uses a defibrillator requests emergency medical
44 assistance from the appropriate first aid, ambulance, or rescue
45 squad as soon as practicable.

46 (cf: P.L.2009, c.46, s.1)

1 7. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill broadens certain immunity provisions with regard to the
7 acquisition and use of an automated external defibrillator (AED),
8 which can save the lives of cardiac arrest victims when
9 administered within the first few minutes after cardiac arrest.

10 In the past, individuals required training to operate an AED, but
11 newer AEDs prompt users through the defibrillation process.
12 Although it would be ideal to have fully-trained individuals who
13 know all aspects of the chain of survival required to save cardiac
14 arrest victims, and are immediately available to administer cardio-
15 pulmonary resuscitation (CPR) and use an AED, such trained
16 persons are not always available. Lay persons can improve the
17 survival rates of cardiac arrest victims through the use of AEDs.
18 This bill amends current law in order to encourage the acquisition
19 of AEDs in public venues and to encourage lay persons to use
20 AEDs.

21 The bill amends the legislative findings in section 1 of P.L.1999,
22 c.34 (C.2A:62A-23) to note the recent development of AED
23 technology and provide the rationale for expanding immunity from
24 civil liability regarding AEDs.

25 The bill eliminates statutory language that prohibits persons from
26 using an AED unless they hold a current certification in CPR and
27 the use of an AED. The bill also amends the current requirement
28 that the person or entity acquiring an AED ensure that any person
29 who will use the AED hold a certification, so that the person or
30 entity instead will be required to ensure that anyone anticipated to
31 be in a position to render emergency care or treatment using an
32 AED hold a certification. The bill adds language that expressly
33 provides immunity from civil liability to the person or entity
34 acquiring an AED for the acts or omissions of a lay person
35 involving the use of the AED.

36 In addition, the bill provides immunity from civil liability to any
37 lay person who uses an AED and fails, in good faith, to request
38 emergency medical assistance as soon as practicable.

39 Finally, the bill makes technical amendments to section 2 of
40 P.L.2005, c.346 (C.2A:62A-31) and section 1 of P.L.2004, c.93
41 (C.26:2H-12.26) in order to retain current requirements regarding
42 AEDs that apply to health clubs, nursing homes, and assisted living
43 facilities. These facilities must maintain a working AED on site,
44 and their employees are required to hold certification in CPR and
45 the use of an AED, and request emergency medical assistance when
46 rescuing a victim in cardiac arrest.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 852

STATE OF NEW JERSEY

DATED: JANUARY 30, 2012

The Senate Health, Human Services and Senior Citizens Committee reports favorably Senate Bill No. 852.

As reported, this bill broadens certain immunity provisions with regard to the acquisition and use of an automated external defibrillator (AED), which can save the lives of cardiac arrest victims when administered within the first few minutes after cardiac arrest.

In the past, individuals required training to operate an AED, but newer AEDs prompt users through the defibrillation process. Although it would be ideal to have fully-trained individuals who know all aspects of the chain of survival required to save cardiac arrest victims, and are immediately available to administer cardio-pulmonary resuscitation (CPR) and use an AED, such trained persons are not always available. Lay persons can improve the survival rates of cardiac arrest victims through the use of AEDs. This bill amends current law in order to encourage the acquisition of AEDs in public venues and to encourage lay persons to use AEDs.

The bill amends the legislative findings in section 1 of P.L.1999, c.34 (C.2A:62A-23) to note the recent development of AED technology and provide the rationale for expanding immunity from civil liability regarding AEDs.

The bill eliminates statutory language that prohibits persons from using an AED unless they hold a current certification in CPR and the use of an AED. The bill also amends the current requirement that the person or entity acquiring an AED ensure that any person who will use the AED hold a certification, so that the person or entity instead will be required to ensure that anyone anticipated to be in a position to render emergency care or treatment using an AED hold a certification. The bill adds language that expressly provides immunity from civil liability to the person or entity acquiring an AED for the acts or omissions of a lay person involving the use of the AED.

In addition, the bill provides immunity from civil liability to any lay person who uses an AED and fails, in good faith, to request emergency medical assistance as soon as practicable.

Finally, the bill makes technical amendments to section 2 of P.L.2005, c.346 (C.2A:62A-31) and section 1 of P.L.2004, c.93

(C.26:2H-12.26) in order to retain current requirements regarding AEDs that apply to health clubs, nursing homes, and assisted living facilities. These facilities must maintain a working AED on site, and their employees are required to hold certification in CPR and the use of an AED, and request emergency medical assistance when rescuing a victim in cardiac arrest.

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY, No. 832

STATE OF NEW JERSEY

215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Assemblyman JOSEPH CRYAN

District 20 (Union)

Assemblyman JASON O'DONNELL

District 31 (Hudson)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Assemblywoman AMY H. HANDLIN

District 13 (Monmouth)

Co-Sponsored by:

Assemblyman Peterson

SYNOPSIS

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CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 1/31/2012)

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10 1. The Legislature finds that **[more]**:

11 a. More than 350,000 Americans die annually from out-of-
12 hospital sudden cardiac arrest. Many die needlessly because life
13 saving defibrillators are not immediately available. The American
14 Heart Association estimates that almost 100,000 deaths could be
15 prevented each year if defibrillators were more widely available **[to**
16 designated responders.

17 Many communities in this State have invested in 911 emergency
18 telephone equipment, ambulances and the training of emergency
19 personnel. Not all emergency personnel, however, have been
20 trained in or have immediate access to defibrillators. **];**

21 b. Due to technological advances, automated external
22 defibrillators may be used by lay persons without any training to
23 provide defibrillation within the first minutes of cardiac arrest to
24 victims, thereby increasing the victims' chances of survival; and

25 c. It is the intent of the Legislature to encourage greater
26 acquisition, deployment, and use of automated external
27 defibrillators **[by trained personnel]** throughout this State by
28 expanding immunity from civil liability of persons who acquire
29 automated external defibrillators and by granting immunity from
30 civil liability to lay persons who use them in good faith in
31 emergency situations.

32 (cf: P.L.1999, c.34, s.1)
33

34 2. Section 3 of P.L.1999, c.34 (C.2A:62A-25) is amended to
35 read as follows:

36 3. A person or entity that acquires an automated external
37 defibrillator shall:

38 a. Ensure that any person, who is anticipated by the person or
39 entity that acquires the defibrillator to be in a position to render
40 emergency care or treatment by the use of a defibrillator in the
41 performance of that person's duties of employment or volunteer
42 service, shall, prior to using that defibrillator, **[has]** have
43 successfully completed and **[holds]** hold a current certification
44 from the American Red Cross, American Heart Association, or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 other training program recognized by the Department of Health and
2 Senior Services in cardio-pulmonary resuscitation and use of a
3 defibrillator; however, a person or entity that acquires a defibrillator
4 shall not be liable for any act or omission of any lay person who
5 uses the defibrillator in the rendering of emergency care;

6 b. Ensure that the defibrillator is maintained and tested
7 according to the manufacturer's operational guidelines;

8 c. Notify the appropriate first aid, ambulance [or], rescue
9 squad, or other appropriate emergency medical services provider
10 that the person or entity has acquired the defibrillator, the type
11 acquired, and its location; and

12 d. Prior to purchasing the automated external defibrillator,
13 provide the prescribing licensed physician with documentation that
14 the person or entity purchasing the defibrillator has a protocol in
15 place to comply with the requirements of subsections a., b., and c.
16 of this section.

17 (cf: P.L.1999, c.34, s.3)

18

19 3. Section 4 of P.L.1999, c.34 (C.2A:62A-26) is amended to
20 read as follows:

21 4. a. [A person shall not use a defibrillator unless he has
22 successfully completed and holds a current certification from the
23 American Red Cross, American Heart Association or other training
24 program recognized by the Department of Health and Senior
25 Services in cardio-pulmonary resuscitation and use of a
26 defibrillator; provided however, this section shall not be applicable
27 to a person who is licensed as a paramedic, emergency medical
28 technician-D, or a first responder-D by the Department of Health
29 and Senior Services.] (Deleted by amendment, P.L. _____, c. _____)
30 (pending before the Legislature as this bill)

31 b. Any person who uses a defibrillator shall request emergency
32 medical assistance from the appropriate first aid, ambulance, or
33 rescue squad as soon as practicable; however, a lay person who, in
34 good faith, fails to request emergency medical assistance pursuant
35 to this subsection shall be immune from civil liability for any
36 personal injury that results from that failure.

37 (cf: P.L.1999, c.34, s.4)

38

39 4. Section 5 of P.L.1999, c.34 (C.2A:62A-27) is amended to
40 read as follows:

41 5. a. (1) Any person or entity who, in good faith, acquires or
42 provides a defibrillator, renders emergency care or treatment by the
43 use of a defibrillator [or], assists in or supervises [such] the
44 emergency care or treatment by the use of a defibrillator, or
45 attempts to use a defibrillator for the purpose of rendering
46 emergency care or treatment, and[,] who has complied with the
47 requirements of this act, shall be immune from civil liability for any

1 personal injury as a result of **[such]** that care or treatment, or as a
2 result of any acts or omissions by the person or entity in providing,
3 rendering, assisting in, or supervising the emergency care or
4 treatment.

5 (2) A person or entity providing or maintaining an automatic
6 external defibrillator shall not be liable for any act or omission
7 involving the use of a defibrillator in the rendering of emergency
8 care by a lay person.

9 b. The immunity provided in subsection a. of this section shall
10 include the prescribing licensed physician and the person or entity
11 who provided **[the]** training in cardio-pulmonary resuscitation and
12 use of the defibrillator.

13 c. This subsection shall not immunize a person for any act of
14 gross negligence or willful or wanton misconduct. It shall not be
15 considered gross negligence or willful or wanton misconduct to fail
16 to use a defibrillator in the absence of an otherwise preexisting duty
17 to do so.

18 (cf: P.L.1999, c.34, s.5)

19

20 5. Section 2 of P.L.2005, c.346 (C.2A:62A-31) is amended to
21 read as follows:

22 2. No later than one year after the effective date of this act:

23 a. The owner or operator of a health club registered with the
24 Director of the Division of Consumer Affairs in the Department of
25 Law and Public Safety pursuant to P.L.1987, c.238 (C.56:8-39 et
26 seq.) shall:

27 (1) acquire at least one automated external defibrillator as
28 defined in section 2 of P.L.1999, c.34 (C.2A:62A-24), and store it
29 in an accessible location within the health club that is known and
30 available to the employees of the health club for the purposes of this
31 act; and

32 (2) ensure that the automated external defibrillator is tested and
33 maintained, and provide notification to the appropriate first aid,
34 ambulance **[or]**, rescue squad, or other appropriate emergency
35 medical services provider regarding the defibrillator, the type
36 acquired, and its location, pursuant to section 3 of P.L.1999, c.34
37 (C.2A:62A-25); and

38 b. The owner or operator of a health club that is subject to the
39 provisions of subsection a. of this section shall:

40 (1) arrange and pay for training in cardio-pulmonary
41 resuscitation and the use of an automated external defibrillator for
42 the employees of that health club in accordance with the provisions
43 of **[section 3 of P.L.1999, c.34 (C.2A:62A-25)]** paragraph (2) of
44 this subsection;

45 (2) ensure that the health club has at least one employee on site
46 during its normal business hours who **[is trained in cardio-**
47 **pulmonary resuscitation and the use of an automated external**

1 defibrillator in accordance with the provisions of section 3 of
2 P.L.1999, c.34 (C.2A:62A-25) holds current certification from the
3 American Red Cross, American Heart Association, or other training
4 program recognized by the Department of Health and Senior
5 Services in cardio-pulmonary resuscitation and use of a
6 defibrillator; and

7 (3) ensure that **the employees of that health club comply with**
8 **the provisions of section 4 of P.L.1999, c.34 (C.2A:62A-26)**
9 **concerning the use of the automated external defibrillator** an
10 employee who uses a defibrillator requests emergency medical
11 assistance from the appropriate first aid, ambulance, or rescue
12 squad as soon as practicable.

13 (cf: P.L. 2005, c.346, s.2)

14

15 6. Section 1 of P.L.2004, c.93 (C.26:2H-12.26) is amended to
16 read as follows:

17 1. A nursing home that is licensed pursuant to P.L.1971, c.136
18 (C.26:2H-1 et al.) shall, no later than one year after the effective
19 date of P.L.2004, c.93 (C.26:2H-12.26), and an assisted living
20 facility that is licensed pursuant to P.L.1971, c.136 shall, no later
21 than one year after the effective date of P.L.2009, c.46:

22 a. acquire at least one defibrillator as defined in section 2 of
23 P.L.1999, c.34 (C.2A:62A-24), which shall be maintained in a
24 central location within the nursing home or assisted living facility
25 that shall be made known and available to the employees of the
26 nursing home or assisted living facility for the purposes of this act;

27 b. ensure that the defibrillator is tested and maintained, and
28 provide notification to the appropriate first aid, ambulance **[or]**,
29 rescue squad, or other appropriate emergency medical services
30 provider regarding the defibrillator, the type acquired, and its
31 location, pursuant to section 3 of P.L.1999, c.34 (C.2A:62A-25);

32 c. arrange and pay for training in cardio-pulmonary
33 resuscitation and the use of a defibrillator for employees of the
34 nursing home or assisted living facility **[in accordance with the**
35 **provisions of section 3 of P.L.1999, c.34 (C.2A:62A-25)]** to ensure
36 that the employees hold current certification from the American
37 Red Cross, American Heart Association, or other training program
38 recognized by the Department of Health and Senior Services in
39 cardio-pulmonary resuscitation and use of a defibrillator; and

40 d. ensure that **the employees of the nursing home or assisted**
41 **living facility comply with the provisions of section 4 of P.L.1999,**
42 **c.34 (C.2A:62A-26) concerning the use of the defibrillator** an
43 employee who uses a defibrillator requests emergency medical
44 assistance from the appropriate first aid, ambulance, or rescue
45 squad as soon as practicable.

46 (cf: P.L.2009, c.46, s.1)

1 7. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill broadens certain immunity provisions with regard to the
7 acquisition and use of an automated external defibrillator (AED),
8 which can save the lives of cardiac arrest victims when
9 administered within the first few minutes after cardiac arrest.

10 In the past, individuals required training to operate an AED, but
11 newer AEDs prompt users through the defibrillation process.
12 Although it would be ideal to have fully-trained individuals who
13 know all aspects of the chain of survival required to save cardiac
14 arrest victims, and are immediately available to administer cardio-
15 pulmonary resuscitation (CPR) and use an AED, such trained
16 persons are not always available. Lay persons can improve the
17 survival rates of cardiac arrest victims through the use of AEDs.
18 This bill amends current law in order to encourage the acquisition
19 of AEDs in public venues and to encourage lay persons to use
20 AEDs.

21 The bill amends the legislative findings in section 1 of P.L.1999,
22 c.34 (C.2A:62A-23) to note the recent development of AED
23 technology and provide the rationale for expanding immunity from
24 civil liability regarding AEDs.

25 The bill eliminates statutory language that prohibits persons from
26 using an AED unless they hold a current certification in CPR and
27 the use of an AED. The bill also amends the current requirement
28 that the person or entity acquiring an AED ensure that any person
29 who will use the AED hold a certification, so that the person or
30 entity instead will be required to ensure that anyone anticipated to
31 be in a position to render emergency care or treatment using an
32 AED hold a certification. The bill adds language that expressly
33 provides immunity from civil liability to the person or entity
34 acquiring an AED for the acts or omissions of a lay person
35 involving the use of the AED.

36 In addition, the bill provides immunity from civil liability to any
37 lay person who uses an AED and fails, in good faith, to request
38 emergency medical assistance as soon as practicable.

39 Finally, the bill makes technical amendments to section 2 of
40 P.L.2005, c.346 (C.2A:62A-31) and section 1 of P.L.2004, c.93
41 (C.26:2H-12.26) in order to retain current requirements regarding
42 AEDs that apply to health clubs, nursing homes, and assisted living
43 facilities. These facilities must maintain a working AED on site,
44 and their employees are required to hold certification in CPR and
45 the use of an AED, and request emergency medical assistance when
46 rescuing a victim in cardiac arrest.

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 832

STATE OF NEW JERSEY

DATED: JANUARY 30, 2012

The Assembly Health and Senior Services Committee reports favorably Assembly Bill No. 832.

This bill broadens certain immunity provisions with regard to the acquisition and use of an automated external defibrillator (AED).

The bill amends the legislative findings in section 1 of P.L.1999, c.34 (C.2A:62A-23) to note the recent development of AED technology and provide the rationale for expanding immunity from civil liability regarding AEDs.

In order to encourage the acquisition of AEDs in public venues and encourage lay persons to use AEDs, the bill:

- eliminates statutory language that prohibits persons from using an AED unless they hold a current certification in CPR and the use of an AED;

- amends the current requirement that the person or entity acquiring an AED ensure that any person who will use the AED hold a certification, so that the person or entity instead will be required to ensure that anyone anticipated to be in a position to render emergency care or treatment using an AED hold a certification;

- adds language that expressly provides immunity from civil liability to the person or entity acquiring an AED for the acts or omissions of a lay person involving the use of the AED; and

- provides immunity from civil liability to any lay person who uses an AED and fails, in good faith, to request emergency medical assistance as soon as practicable.

Finally, the bill makes technical amendments to section 2 of P.L.2005, c.346 (C.2A:62A-31) and section 1 of P.L.2004, c.93 (C.26:2H-12.26) in order to retain current AED requirements that apply to health clubs, nursing homes, and assisted living facilities (specifically that these facilities maintain a working AED on site, and ensure that their employees are certified in CPR and the use of an AED and, when they use an AED, request emergency medical assistance from the appropriate first aid, ambulance, or rescue squad as soon as practicable).

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.