

ASSEMBLY, No. 1774

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

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**Assemblyman Rible, Assemblywoman Angelini, Assemblymen Diegnan,
O'Scanlon, Assemblywoman Voss and Assemblyman Schroeder**

SYNOPSIS

Provides immunity from civil liability to anyone who in good faith uses an automated external defibrillator in an emergency.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 11/14/2011)

1 AN ACT concerning the use of automated external defibrillators and
2 amending P.L.1999, c.34.

3

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

6

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

9 1. The Legislature finds and declares that **[more]**:

10 a. More than 350,000 Americans die annually from out-of-
11 hospital sudden cardiac arrest. Many die needlessly because life
12 saving defibrillators are not immediately available. The American
13 Heart Association estimates that almost 100,000 deaths could be
14 prevented each year if defibrillators were more widely available to
15 designated responders~~].~~ Many communities in this State have
16 invested in 911 emergency telephone equipment, ambulances and
17 the training of emergency personnel. Not all emergency personnel,
18 however, have been trained in or have immediate access to
19 defibrillators. **];**

20 b. It is the intent of the Legislature to encourage greater
21 acquisition, deployment, and use of automated external
22 defibrillators by trained personnel throughout this State; however,
23 it should be noted that automated external defibrillators are
24 extremely accurate computerized devices that can be operated by
25 laypersons with minimal training;

26 c. In addition to their use by trained emergency personnel,
27 automated external defibrillators can be used effectively by
28 laypersons who are on-site to provide early defibrillation within the
29 first minutes of sudden cardiac arrest to increase survival rates and
30 thereby save many more victims of sudden cardiac arrest in this
31 State each year; and

32 d. A major impediment to the use of automated external
33 defibrillators by laypersons would be removed by providing limited
34 immunity to lay rescuers who use defibrillators to provide
35 emergency care and treatment to victims of sudden cardiac arrest.

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

37

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

40 3. A person or entity that acquires an automated external
41 defibrillator shall:

42 a. Ensure that any person, who is anticipated by the person or
43 entity that acquires the defibrillator to be in a position to render
44 emergency care or treatment by the use of a defibrillator in the
45 performance of that person's duties of employment or volunteer

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 service, shall, prior to using that defibrillator, **[has]** have
2 successfully completed and **[holds]** hold a current certification
3 from the American Red Cross, American Heart Association or other
4 training program recognized by the Department of Health and
5 Senior Services in cardio-pulmonary resuscitation and use of a
6 defibrillator;

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

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

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

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

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

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

32 b. Any person who uses a defibrillator shall request emergency
33 medical assistance from the appropriate first aid, ambulance or
34 rescue squad as soon as practicable.

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

36

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

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

1 providing, rendering, assisting in, or supervising the emergency
2 care or treatment.

3 b. The immunity provided in subsection a. of this section shall
4 include the prescribing licensed physician and the person or entity
5 who provided [the] training in cardio-pulmonary resuscitation and
6 use of the defibrillator to a person who uses or attempts to use a
7 defibrillator.

8 c. This subsection shall not immunize a person for any act of
9 gross negligence or willful or wanton misconduct. It shall not be
10 considered gross negligence or willful or wanton misconduct to fail
11 to use a defibrillator in the absence of an otherwise preexisting duty
12 to do so.

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

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15 5. This act shall take effect immediately.

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STATEMENT

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20 This bill amends P.L.1999, c.34 (C.2A:62A-23 et seq.) to
21 strengthen the immunity provisions of that law with regard to the
22 use of an automated external defibrillator (AED).

23 Specifically, the bill provides that any person who has access to
24 an AED and in good faith uses or attempts to use the AED to
25 provide emergency care or treatment - regardless of whether the
26 person has received training in the use of an AED as set forth in the
27 law - is immune from civil liability for any personal injury as a
28 result of using or attempting to use the AED, or as a result of any
29 acts or omissions by the person in the course of using the AED.

30 The immunity provided under the bill would not immunize a
31 person for any act of gross negligence or willful or wanton
32 misconduct. (Under the current law, it is not considered gross
33 negligence or willful or wanton misconduct to fail to use a
34 defibrillator in the absence of an otherwise preexisting duty to do
35 so.)

36 The bill revises the provisions of the current law concerning
37 training in the use of AEDs to require that a person or entity that
38 acquires an AED ensure that any person, who is anticipated by the
39 person or entity that acquires the AED 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, will, prior to using the AED, have successfully completed
43 and hold a current certification from a training program recognized
44 by the Department of Health and Senior Services (DHSS) in cardio-
45 pulmonary resuscitation and use of a defibrillator.

46 In addition, the bill eliminates the statutory prohibition against a
47 person using an AED unless the user has successfully completed

1 and holds a current certification from a training program recognized
2 by DHSS in cardio-pulmonary resuscitation and use of an AED.

3 The intent of this bill is to extend the immunity provided under
4 the current law to members of the general public who use or attempt
5 to use an AED at the scene of an emergency in good faith, even
6 though they may not have received the training specified in the
7 current law. The provisions of this bill are consistent with the
8 current effort being made to disseminate AEDs as widely as
9 possible among various public venues so that they will be available
10 in the event of an emergency that requires their use.