

JAN 19 2007

A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. In 2000, Congress found that over seven hundred
2 lives are lost every day to sudden cardiac arrest in the United
3 States. Most cardiac arrests are caused by abnormal heart
4 rhythms called ventricular fibrillation. Ventricular
5 fibrillation occurs when the heart's electrical system
6 malfunctions, causing a chaotic rhythm that prevents the heart
7 from pumping oxygen to the victim's brain and body. Once a
8 victim suffers a cardiac arrest, every minute that passes before
9 returning the heart to a normal rhythm decreases the chance of
10 survival. Two out of every three sudden cardiac deaths occur
11 before a victim can reach a hospital.

12 Congress further found that with current medical
13 technology, up to thirty per cent of cardiac arrest victims
14 could be saved if victims had access to immediate medical
15 response, including defibrillation and cardiopulmonary
16 resuscitation. Automatic external defibrillator devices have
17 been demonstrated to be safe and effective, even when used by



1 lay people, since the devices are designed not to allow a user
2 to administer a shock until after the device has analyzed a
3 victim's heart rhythm and determined that an electric shock is
4 required. The federal "Cardiac Arrest Survival Act" was enacted
5 in 2000 to increase public awareness regarding automatic
6 external defibrillator devices and encourage their use in
7 federal buildings. Subsequent federal legislation provided
8 funds for the purchase and placement of automated external
9 defibrillators in public places, and encouraged private
10 companies to purchase automatic external defibrillators and
11 train employees in cardiopulmonary resuscitation and emergency
12 defibrillation.

13 The legislature finds that the overall congressional
14 findings are applicable to Hawaii. The purpose of this Act is
15 to increase the availability and use of automatic external
16 defibrillators.

17 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
18 amended by adding a new part to be appropriately designated and
19 to read as follows:

20 **"PART . AUTOMATIC EXTERNAL DEFIBRILLATORS**

21 **§321-A Definitions.** As used in this part:



1 "Automatic external defibrillator" means a medical device
2 heart monitor and defibrillator that:

3 (1) Is cleared for market by the Federal Food and Drug
4 Administration;

5 (2) Recognizes the presence or absence of ventricular
6 fibrillation or rapid ventricular tachycardia;

7 (3) Determines, without intervention by an operator,
8 whether defibrillation should be performed;

9 (4) On determining that defibrillation should be
10 performed, automatically charges; and

11 (5) Requires operator intervention to deliver the
12 electrical impulse or automatically continues with
13 delivery of electrical impulse.

14 "Defibrillation" means administering an electrical impulse
15 to an individual in order to stop ventricular fibrillation or
16 rapid ventricular tachycardia.

17 "Department" means the department of health.

18 "Employee" means a person who performs a service for wages
19 or other remuneration under a contract for hire, written or
20 oral, express or implied.

21 "Employer" means a person who employs one or more
22 employees.



1 "Employment" means any service performed by a person for
2 another person under any contract for hire, written or oral,
3 express or implied.

4 "Health care facility" includes any program, institution,
5 place, building, or agency, or portion thereof, private or
6 public, whether organized for profit or not, that is used,
7 operated, or designed to provide medical diagnosis, treatment,
8 or rehabilitative or preventive care to any person. The term
9 includes health care facilities that are commonly referred to as
10 hospitals, outpatient clinics, organized ambulatory health care
11 facilities, emergency care facilities and centers, health
12 maintenance organizations, or others providing similarly
13 organized services regardless of nomenclature.

14 "Health care provider" means any person who is licensed,
15 certified, or otherwise authorized or permitted by law to
16 administer health care in the practice of a profession or the
17 ordinary course of business.

18 "Physical fitness facility" means an indoor facility,
19 public or private, including a swimming pool, stadium, athletic
20 field, track, tennis court, basketball court, or volleyball
21 court, that:



1 (1) Is supervised by one or more persons, other than
2 maintenance or security personnel, employed to provide
3 supervision, instruction, training, or assistance to
4 persons using the facility; or

5 (2) Provides services or facilities focusing primarily on
6 cardiovascular exertion.

7 "Place of employment" means any place where employment is
8 carried on.

9 "Trained automatic external defibrillator user" means a
10 person who successfully completes a training course that
11 includes cardiopulmonary resuscitation and verifies proficiency
12 in the use of an automatic external defibrillator, or who is
13 licensed to practice medicine under chapter 453 or 460.

14 **§321-B Automatic external defibrillator program.** (a) The
15 department shall develop standards for automatic external
16 defibrillator instructors and automatic external defibrillator
17 training courses in accordance with nationally recognized
18 guidelines.

19 (b) The department shall identify or develop an
20 appropriate curriculum designed for a trained automatic external
21 defibrillator user who is a member of the general public, and a



1 training curriculum designed for a trained automatic external
2 defibrillator user who is a health care provider.

3 (c) The department shall make educational materials
4 available to the public about the availability and benefit of
5 programs that train individuals as automatic external
6 defibrillator users. The materials shall include information
7 about any exemption from liability for an individual who renders
8 defibrillation, and shall encourage members of the public to
9 become trained automatic external defibrillator users.

10 **§321-C Physical fitness facility.** A physical fitness
11 facility shall have at least one automatic external
12 defibrillator on the premises and shall ensure that there is at
13 least one trained automatic external defibrillator user on
14 staff.

15 **§321-D Place of employment.** Any employer who has one
16 hundred or more employees in the employer's employment at any
17 one place of employment shall have at least one automatic
18 external defibrillator at that place of employment.

19 **§321-E Residential buildings.** Any residential building or
20 portion thereof in which space is let by the owner or operator
21 to one hundred or more unrelated persons shall have at least one
22 automatic external defibrillator on the premises.



1 **§321-F State buildings; new or renovated.** (a) The state
2 capitol and each state operated airport facility in the State
3 shall have at least one automatic external defibrillator on the
4 premises.

5 (b) All state buildings and any state building that is
6 constructed after December 31, 2007, or that undergoes a major
7 renovation at a cost of \$250,000 or more shall have at least one
8 automatic external defibrillator on the premises.

9 **§321-G Maintenance and oversight.** (a) Any person who
10 acquires an automatic external defibrillator pursuant to this
11 part shall take reasonable measures to ensure that the automatic
12 external defibrillator is:

- 13 (1) Used by a trained automatic external defibrillator
- 14 user;
- 15 (2) Maintained and tested according to the manufacturer's
- 16 guidelines; and
- 17 (3) Readily accessible for use.

18 (b) Any person in possession of an automatic external
19 defibrillator shall register with the local emergency medical
20 service the existence, location, and type of the automatic
21 external defibrillator unless it was acquired for use in a
22 private residence or a health care facility.



1 (c) Any person who renders out-of-hospital emergency care
2 or treatment to a person by using an automatic external
3 defibrillator shall activate the emergency medical service
4 system as soon as possible and report any clinical use of the
5 automatic external defibrillator.

6 **§321-H Rules.** The department shall adopt rules pursuant
7 to chapter 91 necessary for the purposes of this part.

8 **§321-I Penalty.** Violation of this part shall be a fine of
9 \$."

10 SECTION 3. Section 453-2, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) Nothing herein shall:

13 (1) Apply to so-called Christian Scientists so long as
14 they merely practice the religious tenets of their
15 church without pretending a knowledge of medicine or
16 surgery;

17 (2) Prohibit service in the case of emergency or the
18 domestic administration of family remedies;

19 (3) Apply to any commissioned medical officer in the
20 United States armed forces or public health service
21 engaged in the discharge of one's official duty, nor
22 to any practitioner of medicine and surgery from



1 another state when in actual consultation, including
2 but not limited to, in-person, mail, electronic,
3 telephonic, fiber-optic, or other telemedicine
4 consultation with a licensed physician of this State,
5 if the physician from another state at the time of
6 such consultation is licensed to practice in the state
7 in which the physician resides; provided that:

8 (A) The physician from another state shall not open
9 an office, or appoint a place to meet patients,
10 or receive calls within the limits of the State;
11 and

12 (B) The licensed physician of this State retains
13 control and remains responsible for the provision
14 of care for the patient; and

15 provided further that the laws and regulations
16 relating to contagious diseases are not violated;

17 (4) Prohibit services rendered by any person certified
18 under part II of this chapter to provide emergency
19 medical services, or any physician assistant, when the
20 services are rendered under the direction and control
21 of a physician licensed in this State except for final
22 refraction resulting in a prescription for spectacles,



1 contact lenses, or visual training as performed by an
2 oculist or optometrist duly licensed by the State.

3 The direction and control shall not be construed in
4 every case to require the personal presence of the
5 supervising and controlling physician. Any physician
6 who employs or directs a person certified under part
7 II of this chapter to provide emergency medical
8 services, or physician assistant, shall retain full
9 professional and personal responsibility for any act
10 which constitutes the practice of medicine when
11 performed by such person or physician assistant; or

12 (5) Prohibit automatic external defibrillation by:

13 (A) Any first responder personnel certified by the
14 department of health to provide automatic
15 external defibrillation when it is rendered under
16 the medical oversight of a physician licensed in
17 this State; [~~or~~]

18 (B) Any person who successfully completes training
19 under an automatic external defibrillator program
20 [~~administered by a physician~~]. An "automatic
21 external defibrillator program" means [~~an~~
22 ~~appropriate~~] a training course that includes



1 cardiopulmonary resuscitation and verifies
2 proficiency in the use of an automatic external
3 defibrillator[-]; or

4 (C) An individual attempting in good faith, without
5 remuneration or expectation of remuneration, to
6 resuscitate a person by administering any
7 automatic external defibrillator."

8 SECTION 4. Section 663-1.5, Hawaii Revised Statutes, is
9 amended by amending subsection (e) to read as follows:

10 "(e) [~~Any person who successfully completes training under~~
11 ~~any automatic external defibrillator program administered by a~~
12 ~~physician]~~ An individual shall not be liable for any civil
13 damages resulting from any act or omission while attempting in
14 good faith, without remuneration or expectation of remuneration,
15 to resuscitate a person in immediate danger of loss of life, or
16 reasonably believed by the individual to be in immediate danger
17 of loss of life, when administering any automatic external
18 defibrillator, regardless of where the automatic external
19 defibrillator that is used is located, except as may result from
20 the person's gross negligence or wanton acts or omissions.

21 Any person, including an employer, who establishes an
22 automatic external defibrillator program shall not be liable for



1 any civil damages resulting from any act or omission of the
 2 [~~persons or employees~~] individuals trained under the program
 3 who, in good faith and without remuneration or the expectation
 4 of remuneration, attempt to resuscitate a person in immediate
 5 danger of loss of life, or reasonably believed by the individual
 6 to be in immediate danger of loss of life, by administering an
 7 automatic external defibrillator."

8 SECTION 5. This Act does not affect rights and duties that
 9 matured, penalties that were incurred, and proceedings that were
 10 begun, before its effective date.

11 SECTION 6. In codifying the new sections added by section
 12 2 of this Act, the revisor of statutes shall substitute
 13 appropriate section numbers for the letters used in designating
 14 the new sections in this Act.

15 SECTION 7. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

17 SECTION 8. This Act shall take effect on January 1, 2008.

18

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Report Title:

Health; Automatic External Defibrillator

Description:

Requires certain places of employment, physical fitness facilities, and buildings, to be equipped with an automatic external defibrillator. Expands the "Good Samaritan" exemption from liability as it applies to users of automatic external defibrillators.

