

Senate Bill 420

By: Senators Rhett of the 33rd, Burke of the 11th, Jones II of the 22nd, Unterman of the 45th, Harbison of the 15th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 1 of Title 31 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding health, so as to require certain health clubs in this
3 state to have at least one functional automated external defibrillator on site at such facility
4 at all times for use during emergencies; to provide for definitions; to provide for
5 requirements for maintaining and using the defibrillator; to provide for inspections; to
6 provide for rules and regulations; to provide for penalties; to amend Code Section 51-1-29.3
7 of the Official Code of Georgia Annotated, relating to immunity for operators of external
8 defibrillators, so as to provide tort immunity for individuals using a defibrillator at a health
9 club; to provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Article 1 of Chapter 1 of Title 31 of the Official Code of Georgia Annotated, relating to
13 general provisions regarding health, is amended by adding a new Code section to read as
14 follows:

15 "31-1-16.

16 (a) As used in this Code section, the term:

17 (1) 'Automated external defibrillator' means a defibrillator which:

18 (A) Is capable of cardiac rhythm analysis;

19 (B) Will charge and be capable of being activated to deliver a countershock after
20 electrically detecting the presence of certain cardiac dysrhythmias; and

21 (C) Is capable of continuous recording of the cardiac dysrhythmia at the scene with a
22 mechanism for transfer and storage or for printing for review subsequent to use.

23 (2)(A) 'Health club' means any commercial enterprise with 100 or more clients that
24 provides, as its primary purpose, services or facilities for the preservation, maintenance,
25 encouragement, or development of physical fitness or well-being, including, but not
26 limited to, athletic clubs, gyms, and fitness centers.

27 (B) Such term shall not include a hospital, a health care facility, or a hotel or motel,
28 unless the hotel or motel allows membership by individuals who are not guests of the
29 hotel or motel, or an apartment, a condominium, or a town home or similar
30 neighborhood facility.

31 (b) No later than July 1, 2019, each health club operated in this state shall have at least one
32 functional automated external defibrillator on site at such facility at all times which is
33 easily accessible during business hours, for use during emergencies.

34 (c) Each health club shall:

35 (1) Ensure that expected users of the automated external defibrillator complete
36 American Heart Association or American Red Cross training in cardiopulmonary
37 resuscitation and automated external defibrillator use or complete an equivalent
38 nationally recognized course;

39 (2) Ensure that the automated external defibrillator is maintained and tested according
40 to the manufacturer's operational guidelines; and

41 (3) Ensure that designated personnel activate the emergency medical services system as
42 soon as reasonably possible after any person renders emergency care or treatment to a
43 person in cardiac arrest by using an automated external defibrillator.

44 (d)(1) The Department of Public Health under its environmental division and the county
45 boards of health and their duly authorized agents are authorized and empowered to
46 enforce compliance with this Code section and the rules and regulations adopted and
47 promulgated under this Code section and, in connection therewith, to enter upon and
48 inspect the premises of a health club at any reasonable time and in a reasonable manner,
49 as provided in Article 2 of Chapter 5 of this title. Such inspection shall include a
50 response to a complaint alleging noncompliance with this Code section.

51 (2) The department may adopt rules requiring a health club to have more than one
52 automated external defibrillator on the premises based on the size of the area or the
53 number of buildings or floors occupied by such health club and the number of persons
54 using such health club, excluding spectators.

55 (e)(1) Any person who is found by the department after a hearing to have violated any
56 provision of this Code section or duly promulgated supplementary rules and regulations
57 or failed, neglected, or refused to comply with any final or emergency order of the
58 department acting under authority of this Code section shall be subject to a civil penalty
59 as follows:

60 (A) For a first offense, neither fine nor punishment, but only a written warning;

61 (B) For a second or subsequent offense, a civil penalty of not less than \$1,500.00 nor
62 more than \$2,000.00; and

63 (C) For a third or subsequent offense, a civil penalty of not less than \$2,000.00. Each
 64 day of violation shall be considered a separate offense.

65 (2) Any person penalized under this Code section shall be entitled to judicial review. All
 66 hearings and proceedings for judicial review under this Code section shall be in
 67 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

68 **SECTION 2.**

69 Code Section 51-1-29.3 of the Official Code of Georgia Annotated, relating to tort immunity
 70 for operators of external defibrillators, is amended by revising subsection (a) as follows:

71 "(a) The persons described in this Code section shall be immune from civil liability for
 72 any act or omission to act related to the provision of emergency care or treatment by the
 73 use of or provision of an automated external defibrillator, as described in Code
 74 Sections 31-1-16, 31-11-53.1, and 31-11-53.2, except that such immunity shall not apply
 75 to an act of willful or wanton misconduct and shall not apply to a person acting within
 76 the scope of a licensed profession if such person acts with gross negligence. The
 77 immunity provided for in this Code section shall extend to:

78 (1) Any person who gratuitously and in good faith renders emergency care or treatment
 79 by the use of or provision of an automated external defibrillator without objection of the
 80 person to whom care or treatment is rendered;

81 (2) The owner or operator of any premises or conveyance who installs or provides
 82 automated external defibrillator equipment in or on such premises or conveyance;

83 (3) Any physician or other medical professional who authorizes, directs, or supervises
 84 the installation or provision of automated external defibrillator equipment in or on any
 85 premises or conveyance other than any medical facility as defined in paragraph (5) of
 86 Code Section 31-7-1; and

87 (4) Any person who provides training in the use of automated external defibrillator
 88 equipment as required by subparagraph (b)(1)(A) of Code Section 31-11-53.2, whether
 89 compensated or not. This Code section is not applicable to any training or instructions
 90 provided by the manufacturer of the automated external defibrillator or to any claim for
 91 failure to warn on the part of the manufacturer."

92 **SECTION 3.**

93 All laws and parts of laws in conflict with this Act are repealed.