

The Senate Committee on Health and Human Services offered the following substitute to SB 420:

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:

SECTION 1.

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

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 250 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 persons authorized by the club to use the automated external defibrillator
 36 complete American Heart Association or American Red Cross training in
 37 cardiopulmonary resuscitation and automated external defibrillator use or complete an
 38 equivalent 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 is authorized and empowered to enforce
 45 compliance with this Code section and the rules and regulations adopted and promulgated
 46 under this Code section and, in connection therewith, to enter upon and inspect the
 47 premises of a health club at any reasonable time and in a reasonable manner, as provided
 48 in Article 2 of Chapter 5 of this title. An inspection shall be made in response to a
 49 complaint by a member of the public alleging noncompliance with this Code section.

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

54 (e)(1) Any person who violates any provision of this Code section or any rule or
 55 regulation, or order issued under this Code section may be subject to a civil penalty as
 56 follows:

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

58 (B) For a second offense, a civil penalty of not less than \$1,500.00 nor more than
 59 \$2,000.00;

60 (C) For a third or subsequent offense, a civil penalty of not less than \$2,000.00; and

61 (D) If any violation is a continuing one, each day of such violation shall constitute a
 62 separate violation for the purpose of computing the applicable civil penalty.

- 63 (2) Whenever the department proposes to subject a person to the imposition of a civil
 64 penalty under this subsection, it shall notify such person in writing:
- 65 (A) Setting forth the date, facts, and nature of each act or omission with which the
 66 person is charged;
- 67 (B) Specifically identifying the particular provision or provisions of the Code section,
 68 rule, regulation, or order involved in the violation; and
- 69 (C) Advising of each penalty which the department proposes to impose and its amount.
 70 Such written notice shall be sent by registered or certified mail or statutory overnight
 71 delivery by the department to the last known address of such person. The person so
 72 notified shall be granted an opportunity to show in writing, within such reasonable period
 73 as the department shall by rule or regulation prescribe, why such penalty should not be
 74 imposed. The notice shall also advise such person that, upon failure to pay the civil
 75 penalty provided for by this subsection, such penalty may be collected by civil action.
 76 Any person upon whom a civil penalty is imposed may contest such action in an
 77 administrative hearing pursuant to Chapter 13 of Title 50, the 'Georgia Administrative
 78 Procedure Act.'
- 79 (3) On the request of the department, the Attorney General is authorized to institute a
 80 civil action to collect a penalty imposed pursuant to this subsection. The Attorney
 81 General shall have the exclusive power to compromise, mitigate, or remit such civil
 82 penalties as are referred to him for collection.
- 83 (4) All moneys collected from civil penalties shall be paid to the state for deposit in the
 84 general fund."

85 **SECTION 2.**

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

88 "(a) The persons described in this Code section shall be immune from civil liability for any
 89 act or omission to act related to the provision of emergency care or treatment by the use of
 90 or provision of an automated external defibrillator, as described in Code Sections 31-1-16,
 91 31-11-53.1, and 31-11-53.2, except that such immunity shall not apply to an act of willful
 92 or wanton misconduct and shall not apply to a person acting within the scope of a licensed
 93 profession if such person acts with gross negligence. The immunity provided for in this
 94 Code section shall extend to:

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

- 98 (2) The owner or operator of any premises or conveyance who installs or provides
99 automated external defibrillator equipment in or on such premises or conveyance;
- 100 (3) Any physician or other medical professional who authorizes, directs, or supervises
101 the installation or provision of automated external defibrillator equipment in or on any
102 premises or conveyance other than any medical facility as defined in paragraph (5) of
103 Code Section 31-7-1; and
- 104 (4) Any person who provides training in the use of automated external defibrillator
105 equipment as required by subparagraph (b)(1)(A) of Code Section 31-11-53.2, whether
106 compensated or not. This Code section is not applicable to any training or instructions
107 provided by the manufacturer of the automated external defibrillator or to any claim for
108 failure to warn on the part of the manufacturer."

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SECTION 3.

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