

Senate Bill 12

By: Senators Rhett of the 33rd, Harbison of the 15th and James of the 35th

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 **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 3,000 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, condominium, town home, or similar neighborhood  
30 facility.

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

35 (c) Each health club operating in this state shall ensure that:

36 (1) Persons authorized by the club to use the automated external defibrillator complete  
37 American Heart Association or American Red Cross training in cardiopulmonary  
38 resuscitation and automated external defibrillator use or complete an equivalent  
39 nationally recognized course;

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

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

45 (d)(1) The department is authorized and empowered to enforce compliance with this  
46 Code section and the rules and regulations adopted and promulgated under this Code  
47 section and, in connection therewith, to enter upon and inspect the premises of a health  
48 club at any reasonable time and in a reasonable manner, as provided in Article 2 of  
49 Chapter 5 of this title. An inspection shall be made in response to a complaint by a  
50 member of the public 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 clients of  
54 such health club, excluding spectators.

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

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

59 (B) For a second offense, a civil penalty of not less than \$1,500.00 nor more than  
60 \$2,000.00; and

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

62 Each day of violation shall constitute a separate violation for the purpose of computing  
63 the applicable civil penalty.

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

## 86 **SECTION 2.**

87 Code Section 51-1-29.3 of the Official Code of Georgia Annotated, relating to immunity for  
 88 operators of external defibrillators, is amended by revising subsection (a) as follows:  
 89 "(a) The persons described in this Code section shall be immune from civil liability for any  
 90 act or omission to act related to the provision of emergency care or treatment by the use of  
 91 or provision of an automated external defibrillator, as described in Code Sections 31-1-16,  
 92 31-11-53.1, and 31-11-53.2, except that such immunity shall not apply to an act of willful  
 93 or wanton misconduct and shall not apply to a person acting within the scope of a licensed  
 94 profession if such person acts with gross negligence. The immunity provided for in this  
 95 Code section shall extend to:  
 96 (1) Any person who gratuitously and in good faith renders emergency care or treatment  
 97 by the use of or provision of an automated external defibrillator without objection of the  
 98 person to whom care or treatment is rendered;

99 (2) The owner or operator of any premises or conveyance who installs or provides  
100 automated external defibrillator equipment in or on such premises or conveyance;  
101 (3) Any physician or other medical professional who authorizes, directs, or supervises  
102 the installation or provision of automated external defibrillator equipment in or on any  
103 premises or conveyance other than any medical facility as defined in paragraph (5) of  
104 Code Section 31-7-1; and  
105 (4) Any person who provides training in the use of automated external defibrillator  
106 equipment as required by paragraph (1) of subsection (c) of Code Section 31-1-16 or  
107 subparagraph (b)(1)(A) of Code Section 31-11-53.2, whether compensated or not. This  
108 Code section is not applicable to any training or instructions provided by the  
109 manufacturer of the automated external defibrillator or to any claim for failure to warn  
110 on the part of the manufacturer."

111 **SECTION 3.**

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