

Senate Bill 150

By: Senators Halpern of the 39th, Orrock of the 36th, Beach of the 21st, Seay of the 34th, Rhett of the 33rd and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Part 3 of Article 16 of Chapter 2 of Title 20 and Chapter 1 of Title 31 of the  
2 Official Code of Georgia Annotated, relating to health of students in elementary and  
3 secondary education and general provisions regarding health, respectively, so as to require  
4 certain public schools, health clubs, and public sports facilities to have at least one functional  
5 automated external defibrillator on site; to provide for definitions; to provide for trained staff;  
6 to provide for maintenance and testing of the automated external defibrillator; to require  
7 extensive physical examinations of students and athletes prior to participation in a sport at  
8 a public school or public sports facility; to provide for the wearing of heart vest monitors  
9 during practices; to provide for enforcement and penalties; to amend Code Section 51-1-29.3  
10 of the Official Code of Georgia Annotated, relating to immunity for operators of external  
11 defibrillators, so as to provide tort immunity for individuals using an automated external  
12 defibrillator at a public school or public sports facility which conducts or participates in  
13 organized sports competitions; to provide for related matters; to provide for an effective date;  
14 to repeal conflicting laws; and for other purposes.

S. B. 150

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15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 SECTION 1.

17 Part 3 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,  
18 relating to health of students in elementary and secondary education, is amended by revising  
19 Code Section 20-2-775, relating to automated external defibrillators required in high schools,  
20 as follows:

21 "20-2-775.

22 (a) As used in this Code section, the term 'automated external defibrillator' means a  
23 defibrillator which:

24 (1) Is capable of cardiac rhythm analysis;

25 (2) Will charge and be capable of being activated to deliver a countershock after  
26 electrically detecting the presence of certain cardiac dysrhythmias; and

27 (3) Is capable of continuously recording cardiac dysrhythmia at the scene with a  
28 mechanism for transfer and storage or for printing for review subsequent to use.

29 (b) No later than July 1, ~~2008~~ 2023, each public ~~high~~ school in this state which has an  
30 interscholastic athletics program shall have at least one functional automated external  
31 defibrillator on site at such school at all times and easily accessible during any school  
32 related function, including athletic tryouts, practices, ~~athletic~~ competitions, and other  
33 occasions where students and others will be present, for use during emergencies.

34 (c) Each ~~high~~ public school possessing and maintaining an automated external defibrillator  
35 shall:

36 (1) Ensure that adequate staff and expected users of the automated external defibrillator  
37 receive 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) Notify the appropriate emergency medical services system of the existence and  
41 location of the automated external defibrillator prior to said automated external  
42 defibrillator being placed in use;

43 (3) Ensure that the automated external defibrillator is maintained and tested according  
44 to the manufacturer's operational guidelines;

45 (4) Ensure that there is involvement of a licensed physician or other person authorized  
46 by the Georgia Composite Medical Board in the site's automated external defibrillator  
47 program to ensure compliance with requirements for training, notification, and  
48 maintenance; and

49 (5) Ensure that designated personnel activate the emergency medical services system as  
50 soon as reasonably possible after any person renders emergency care or treatment to a  
51 person in cardiac arrest by using an automated external defibrillator and reports any  
52 clinical use of the automated external defibrillator to the licensed physician or other  
53 person authorized by the Georgia Composite Medical Board who is supervising the  
54 program.

55 (d) Prior to participating in any athletic tryouts, practices, or competitions at a public  
56 school, each student shall be required to undergo an extensive physical examination,  
57 including an echocardiogram, at the expense of such student. In the event any cardiac  
58 related medical issue is identified in such physical examination, the public school shall  
59 allow the student to wear a heart vest to monitor his or her heart activity during practices.

60 ~~(d)~~(e) Subject to appropriations by the General Assembly, the Department of Education  
61 shall provide funds to local school systems to assist in the purchase of automated external  
62 defibrillators pursuant to this Code section.

63 ~~(e)~~(f) The department and local school systems shall use diligent efforts to identify private  
64 sources of funding or donation of funding and equipment to meet the requirements of this  
65 Code section."

66

**SECTION 2.**

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

69 "31-1-25.

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

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

72 (A) Is capable of cardiac rhythm analysis;

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

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

77 (2)(A) 'Health club' means any commercial enterprise with 3,000 or more clients that  
78 provides, as its primary purpose, services or facilities for the preservation, maintenance,  
79 encouragement, or development of physical fitness or well-being, including, but not  
80 limited to, athletic clubs, gyms, and fitness centers.

81 (B) Such term shall not include a hospital; a health care facility; or a hotel or motel,  
82 unless the hotel or motel allows membership by individuals who are not guests of the  
83 hotel or motel; or an apartment, condominium, town home, or similar neighborhood  
84 facility.

85 (3) 'Public sports facility' means a public postsecondary institution or a public  
86 recreational facility which conducts or participates in organized sports competitions.

87 (4) 'Sport' or 'sports' means any activity involving physical exertion and skill in which  
88 an individual or team competes against another or others.

89 (b)(1) No later than January 1, 2024, each health club operating in this state shall have  
90 at least one functional automated external defibrillator on site at such facility at all times  
91 and such automated external defibrillator shall be easily accessible during business hours,  
92 for use during emergencies.

- 93 (2) Each health club operating in this state shall ensure that:
- 94 (A) Persons authorized by the club to use the automated external defibrillator complete
- 95 American Heart Association or American Red Cross training in cardiopulmonary
- 96 resuscitation and automated external defibrillator use or complete an equivalent
- 97 nationally recognized course;
- 98 (B) The automated external defibrillator is maintained and tested according to the
- 99 manufacturer's operational guidelines; and
- 100 (C) Designated personnel activate the emergency medical services system as soon as
- 101 reasonably possible after any person renders emergency care or treatment to a person
- 102 in cardiac arrest by using an automated external defibrillator.
- 103 (3)(A) The department is authorized and empowered to enforce compliance with this
- 104 Code section and the rules and regulations adopted and promulgated under this Code
- 105 section and, in connection therewith, to enter upon and inspect the premises of a health
- 106 club at any reasonable time and in a reasonable manner, as provided in Article 2 of
- 107 Chapter 5 of this title. An inspection may be made in response to a complaint by a
- 108 member of the public alleging noncompliance with this Code section.
- 109 (B) The department may adopt rules requiring a health club to have more than one
- 110 automated external defibrillator on the premises based on the size of the area or the
- 111 number of buildings or floors occupied by such health club and the number of clients
- 112 of such health club, excluding spectators, and may adopt rules requiring a health club
- 113 to designate one or more persons to be responsible for compliance with this Code
- 114 section.
- 115 (4)(A) Any person who violates any provision of this Code section or any rule,
- 116 regulation, or order issued under this Code section may be subject to a civil penalty as
- 117 follows:
- 118 (i) For a first offense, neither fine nor punishment, but only a written warning;

119 (ii) For a second offense, a civil penalty of not less than \$1,500.00 nor more  
120 than \$2,000.00; and

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

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

124 (B)(i) Whenever the department proposes to subject a person to the imposition of a  
125 civil penalty under this subsection, it shall notify such person in writing:

126 (I) Setting forth the date, facts, and nature of each act or omission with which the  
127 person is charged;

128 (II) Specifically identifying the particular provision or provisions of the Code  
129 section, rule, regulation, or order involved in the violation; and

130 (III) Advising of each penalty that the department proposes to impose and its  
131 amount.

132 (ii) Such written notice shall be sent by registered or certified mail or statutory  
133 overnight delivery by the department to the last known address of such person. The  
134 person so notified shall be granted an opportunity to show in writing, within such  
135 reasonable period as the department shall by rule or regulation prescribe, why such  
136 penalty should not be imposed. The notice shall also advise such person that, upon  
137 failure to pay the civil penalty provided for by this subsection, such penalty may be  
138 collected by civil action. Prior to any referral to the Attorney General pursuant to  
139 paragraph (4) of this subsection, the department is authorized to compromise or  
140 mitigate any civil penalty with the person upon whom the civil penalty is to be  
141 imposed. Any person upon whom a civil penalty is imposed may contest such action  
142 in an administrative hearing pursuant to Chapter 13 of Title 50, the 'Georgia  
143 Administrative Procedure Act.'

144 (C) On the request of the department, the Attorney General is authorized to institute  
145 a civil action to collect a penalty imposed pursuant to this subsection. The Attorney

146 General shall have the exclusive power to compromise, mitigate, or remit such civil  
147 penalties as are referred to him or her for collection.

148 (D) In any action brought by the state to enforce this chapter, the state shall be entitled  
149 to recover the costs of investigation, expert witness fees, costs of the action, and  
150 reasonable attorney fees.

151 (E) All moneys collected from civil penalties shall be paid to the state for deposit in  
152 the general fund.

153 (5) The performance of the duties of the department contained in this subsection shall be  
154 contingent upon appropriations made by the General Assembly specifically for the  
155 department for such purposes.

156 (c)(1) Each public sports facility in this state shall have at least one functional automated  
157 external defibrillator on site at such facility at all times and easily accessible during any  
158 sports tryouts, practices, and competitions for use during emergencies.

159 (2) Each public sports facility shall:

160 (A) Ensure that adequate staff and expected users of the automated external  
161 defibrillator receive American Heart Association or American Red Cross training in  
162 cardiopulmonary resuscitation and automated external defibrillator use or complete an  
163 equivalent nationally recognized course;

164 (B) Notify the appropriate emergency medical services system of the existence and  
165 location of the automated external defibrillator prior to said automated external  
166 defibrillator being placed in use;

167 (C) Ensure that the automated external defibrillator is maintained and tested according  
168 to the manufacturer's operational guidelines;

169 (D) Ensure that there is involvement of a licensed physician or other person authorized  
170 by the Georgia Composite Medical Board in the facility's automated external  
171 defibrillator program to ensure compliance with requirements for training, notification,  
172 and maintenance; and

173 (E) Ensure that designated personnel activate the emergency medical services system  
 174 as soon as reasonably possible after any person renders emergency care or treatment to  
 175 a person in cardiac arrest by using an automated external defibrillator and reports any  
 176 clinical use of the automated external defibrillator to the licensed physician or other  
 177 person authorized by the Georgia Composite Medical Board who is supervising the  
 178 program.

179 (3) Prior to participating in any organized sports tryouts, practices, or competitions at a  
 180 public sports facility, each athlete shall be required to undergo an extensive physical  
 181 examination, including an echocardiogram, at the expense of such athlete. In the event  
 182 any cardiac related medical issue is identified in such physical examination, the public  
 183 sports facility shall allow the athlete to wear a heart monitor during practices."

184 **SECTION 3.**

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

187 "(a) The persons described in this Code section shall be immune from civil liability for any  
 188 act or omission to act related to the provision of emergency care or treatment by the use of  
 189 or provision of an automated external defibrillator, as described in Code Sections 20-2-775,  
 190 31-1-25, 31-11-53.1, and 31-11-53.2, except that such immunity shall not apply to an act  
 191 of willful or wanton misconduct and shall not apply to a person acting within the scope of  
 192 a licensed profession if such person acts with gross negligence. The immunity provided  
 193 for in this Code section shall extend to:

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

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



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

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

208 **SECTION 4.**

209 This Act shall become effective on July 1, 2023.

210 **SECTION 5.**

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