

Regular Session, 2010

HOUSE BILL NO. 67

BY REPRESENTATIVE LOPINTO

LIABILITY/CIVIL: Limits civil liability for persons using automated external defibrillators

1 AN ACT

2 To amend and reenact R.S. 40:1236.14 and to enact R.S. 9:2793(C), relative to limitations
3 of liability; to provide a limitation of liability for the use of automated external
4 defibrillators at the scene of an emergency; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 9:2793(C) is hereby enacted to read as follows:

7 §2793. Gratuitous service at scene of emergency; limitation on liability

8 * * *

9 C. For purposes of this Section, rendering emergency care, first aid, or
10 rescue shall include the use of an automated external defibrillator as defined by R.S.
11 40:1236.12.

12 Section 2. R.S. 40:1236.14 is hereby amended and reenacted to read as follows:

13 §1236.14. Limitation of liability

14 In addition to the civil immunity provided to persons rendering emergency
15 assistance as provided by law, including R.S. 9:2793, R.S. 37:1731, 1732, and 1735,
16 and R.S. 40:1231.2, any prescribing advanced practice registered nurse or physician
17 who authorizes the purchase of the AED, any physician or advanced practice
18 registered nurse involved in the possessor's program, any individual or entity which
19 provides training in cardiopulmonary resuscitation and in the use of an AED, any
20 purchaser of an AED, any person or entity who owns or who is responsible for the
21 site or the private security patrol vehicle where an AED is located, and any expected
22 user regularly on the premises or in the vehicle shall not be liable for any civil

1 damages arising from any act or omission of acts related to the operation of or failure
 2 to operate an AED that do not amount to willful or wanton misconduct or gross
 3 negligence.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Lopinto

HB No. 67

Abstract: Limits the civil liability of a person using an automated external defibrillator at the scene of an emergency.

Present law provides that no person who in good faith gratuitously renders emergency care, first aid, or rescue at the scene of an emergency, or moves a person receiving such care, first aid, or rescue to a hospital or other place of medical care shall be liable for any civil damages as a result of any act or omission in rendering the care or services or as a result of any act or failure to act to provide or arrange for further medical treatment or care for the person involved in the emergency.

Present law provides that the limitation of liability shall not be considered gratuitous and shall not apply when rendered incidental to a business relationship, such as that of employer-employee, existing between the person rendering such care or service or transportation and the person receiving the same.

Present law does not provide an exemption from liability to those individuals who intentionally or by grossly negligent acts or omissions cause damages to another individual.

Present law provides that the immunity granted by present law shall be personal to the individual rendering such care or service or furnishing such transportation and shall not inure to the benefit of any employer or other person legally responsible for the acts or omissions of such individual, nor shall it inure to the benefit of any insurer.

Proposed law provides that, for purposes of the limitation of liability, rendering emergency care, first aid, or rescue shall include the use of an automated external defibrillator as defined by R.S. 40:1236.12.

Present law defines "automated external defibrillator" as a medical device heart monitor and defibrillator that: (1) has received approval of its pre-market notification filed pursuant to 21 U.S.C. 360(k) from the U.S. Food and Drug Administration; (2) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and is capable of determining whether defibrillation should be performed; (3) upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to an individual's heart; and (4) is capable of delivering the electrical impulse to an individual's heart.

Present law provides a limitation of liability for certain persons involved with an automated external defibrillator program, including any person responsible for the site.

Proposed law retains present law and specifies that an owner of the site is included in the limitation of liability,

(Amends R.S. 40:1236.14; Adds R.S. 9:2793(C))