

1 ENGROSSED SENATE
2 BILL NO. 745

By: Jolley of the Senate

3 and

4 Sullivan of the House
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7 An Act relating to torts; amending 76 O.S. 2001,
8 Section 5A, as amended by Section 1, Chapter 127,
9 O.S.L. 2004 (76 O.S. Supp. 2008, Section 5A), which
10 relates to use of automated external defibrillator;
11 modifying eligibility for immunity from liability
12 related to certain equipment; and providing an
13 effective date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 76 O.S. 2001, Section 5A, as
16 amended by Section 1, Chapter 127, O.S.L. 2004 (76 O.S. Supp. 2008,
17 Section 5A), is amended to read as follows:

18 Section 5A. A. 1. Any person ~~who is qualified pursuant to~~
19 ~~this subsection and~~ who, in good faith and without expectation of
20 compensation, renders emergency care or treatment outside of a
21 medical facility by the use of an automated external defibrillator
22 shall be immune from civil liability for personal injury which
23 results from the use of the device, except for acts of gross
24 negligence or willful or wanton misconduct in the use of such
device.

1 2. ~~A person is qualified pursuant to this subsection upon~~
2 ~~successful completion of appropriate training in the use of~~
3 ~~automated external defibrillators and cardiopulmonary resuscitation.~~
4 ~~Appropriate training shall consist of a course in the use of~~
5 ~~automated external defibrillators and cardiopulmonary resuscitation.~~
6 ~~Such courses shall be approved pursuant to rules promulgated by the~~
7 ~~State Board of Health and shall be subject to approval or~~
8 ~~disapproval in the discretion of the Commissioner of Health. These~~
9 ~~rules may include appropriate periodic retraining at intervals~~
10 ~~established by the Commissioner by rule.~~

11 ~~3.~~ Course directors and trainers who have completed the
12 training required by the State Department of Health for teaching
13 courses in the use of automated external defibrillators and
14 cardiopulmonary resuscitation shall be immune from civil liability
15 for personal injury which results from the use of the device, except
16 for acts of gross negligence or willful or wanton misconduct in the
17 teaching of such training courses.

18 B. A prescribing physician who, in good faith and without
19 expectation of compensation, writes a prescription for the use of an
20 automated external defibrillator to render emergency care or
21 treatment shall be immune from civil liability for personal injury
22 which results from the use of the device, except for acts of gross
23 negligence or willful or wanton misconduct in the prescribing of the
24 device.

1 C. An entity ~~which~~ or individual who owns, leases, possesses,
2 or otherwise controls an automated external defibrillator shall be
3 immune from civil liability for personal injury which results from
4 the use of the device, except for acts of gross negligence or
5 willful or wanton misconduct, ~~if the entity:~~

6 ~~1. Requires its own authorized agents who may use the automated~~
7 ~~external defibrillator to be qualified pursuant to subsection A of~~
8 ~~this section if not available to the public; or~~

9 ~~2. Maintains and stores its automated external defibrillator~~
10 ~~with a usage detection device which automatically signals first~~
11 ~~responders or designated qualified employees of the entity if made~~
12 ~~available to the public; and~~

13 ~~3. Maintains and tests its automated external defibrillator~~
14 ~~according to the manufacturer's instructions.~~

15 D. An entity ~~which~~ or individual who owns, leases, possesses or
16 otherwise controls an automated external defibrillator shall
17 communicate to the proper first responder the locations and
18 placements of the automated external defibrillator owned, leased,
19 possessed or otherwise controlled by the entity or individual.

20 E. For purposes of this section:

21 1. "Automated external defibrillator" means a medical device
22 consisting of a heart monitor and defibrillator which:
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- a. has received approval of its premarket notification, filed pursuant to 21 U.S.C., Section 360(k), from the United States Food and Drug Administration,
- b. is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia, and is capable of determining, without intervention by an operator, whether defibrillation should be performed, and
- c. upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to an individual's heart;

2. "Entity" means public and private organizations including, but not limited to, the State of Oklahoma and its agencies and political subdivisions, a proprietorship, partnership, limited liability company, corporation, or other legal entity, whether or not operated for profit;

3. "First responder" means an individual certified by the State Department of Health to perform emergency medical services in accordance with the Oklahoma Emergency Response Systems Development Act and in accordance with the rules and standards promulgated by the State Board of Health; and

4. "Prescribing physician" means a person licensed to practice medicine in the state pursuant to Chapters 11 and 14 of Title 59 of the Oklahoma Statutes.

SECTION 2. This act shall become effective November 1, 2009.

Passed the Senate the 26th day of February, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2009.

Presiding Officer of the House
of Representatives