

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1269

Short Title: Limit Liability/Defibrillator.

(Public)

Sponsors: Senators Warren; Allran, Carpenter, Carter, Forrester, Garwood, Hagan, Horton, Hoyle, Kerr, Kinnaird, Lucas, Martin of Guilford, Odom, Phillips, Reeves, Robinson, Rucho, Soles, and Wellons.

Referred to: Judiciary I.

May 17, 2000

A BILL TO BE ENTITLED

1 AN ACT TO LIMIT LIABILITY WHEN A PERSON USES AN AUTOMATED
2 EXTERNAL DEFIBRILLATOR TO RENDER EMERGENCY HEALTH CARE
3 TREATMENT TO ATTEMPT TO SAVE THE LIFE OF A PERSON WHO IS IN
4 OR WHO APPEARS TO BE IN CARDIAC ARREST.
5

6 The General Assembly of North Carolina enacts:

7 Section 1.

8 AN ACT TO LIMIT LIABILITY WHEN A PERSON USES AN
9 AUTOMATED EXTERNAL DEFIBRILLATOR TO RENDER
10 EMERGENCY HEALTH CARE TREATMENT TO ATTEMPT TO
11 SAVE THE LIFE OF A PERSON WHO IS IN OR WHO APPEARS
12 TO BE IN CARDIAC ARREST.

13 The General Assembly of North Carolina enacts:

14 Section 1. Article 1B of Chapter 90 of the General Statutes is amended by
15 adding a new section to read:

16 "§ 90-21.15. Emergency treatment using automated external defibrillator;
17 immunity.

1 (a) Intent. – It is the intent of the General Assembly that, when used in accordance
2 with this section, an automated external defibrillator may be used during an emergency
3 for the purpose of attempting to save the life of another person who is in or who appears
4 to be in cardiac arrest.

5 (b) Definitions. – For purposes of this section:

6 (1) ' Automated external defibrillator' means a device, heart monitor, and
7 defibrillator that meets all of the following requirements:

8 a. The device has received approval from the United States Food
9 and Drug Administration of its premarket notification filed
10 pursuant to 21 U.S.C. § 360(k), as amended.

11 b. The device is capable of recognizing the presence or absence of
12 ventricular fibrillation or rapid ventricular tachycardia and is
13 capable of determining, without intervention by an operator,
14 whether defibrillation should be performed.

15 c. Upon determining that defibrillation should be performed, the
16 device automatically charges and requests delivery of, or
17 delivers, an electrical impulse to an individual's heart.

18 (2) ' Training' means successful completion of a nationally recognized
19 course or training program in cardiopulmonary resuscitation (CPR) and
20 automated external defibrillator use including the programs approved
21 and provided by the:

22 a. American Heart Association.

23 b. American Red Cross.

24 (c) Duties. – In order to enhance public health and safety, a seller of an automated
25 external defibrillator shall notify an agent of the local emergency communications or
26 vehicle dispatch center of the existence, location, and type of automated external
27 defibrillator.

28 (d) Immunity. – The use of an automated external defibrillator when used to
29 attempt to save or to save a life is 'first-aid or emergency health care treatment' as defined
30 in G.S. 90-21.14(a).

31 (e) Scope of Immunity. –

32 (1) In addition to the person actually using the automated external
33 defibrillator, the immunity from civil liability under subsection (d) of
34 this section includes (i) the person or entity who provides the CPR and
35 automated external defibrillator training, (ii) the person or entity
36 responsible for the site where the automated external defibrillator is
37 located provided there is a program of training, and (iii) a North
38 Carolina licensed physician writing a prescription for an automated
39 external defibrillator whether or not required by any federal or state law
40 for no compensation.

41 (2) No immunity from civil liability is granted, under this section, to any
42 emergency health care provider who receives compensation for

1 rendering cardiac defibrillation to patients as a regular part of that
2 provider's services to patients.

3 (f) Other Immunities. – This section does not diminish the qualified immunity
4 from civil liability for volunteers provided by G.S. 1-539.10, for persons rendering aid at
5 the scene of an accident provided by G.S. 20-166, for members of a volunteer fire
6 department or rescue squad provided by G.S. 58-82-5, or any other existing grant of
7 immunity.

8 (g) Use Not 'Practice of Medicine'. – The use of an automated external defibrillator
9 is not the 'practice of medicine' as defined in G.S. 90-18(b).

10 (h) No Purchase, Placement, or Use Requirement. – Nothing in this section
11 requires the purchase, placement, or use of automated external defibrillators by any
12 person, entity, or agency of State, county, or local government."

13 Section 2. G.S. 90-18(c) reads as rewritten:

14 "(c) The following shall not constitute practicing medicine or surgery as defined in
15 subsection (b) of this section:

16 ...
17 (17) The use of an automated external defibrillator as provided in G.S. 90-
18 21.15(g)."

19 Section 3. This act becomes effective October 1, 2000, and applies to causes
20 of action arising on or after that date.