

**ASSEMBLY BILL**

**No. 1702**

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**Introduced by Assembly Member Swanson**

February 1, 2010

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An act to amend Section 104113 of the Health and Safety Code, relating to defibrillators.

LEGISLATIVE COUNSEL'S DIGEST

AB 1702, as introduced, Swanson. Defibrillators.

Existing law, until July 1, 2012, requires every health studio, as defined, to acquire an automatic external defibrillator, provides immunity for use or nonuse of the devices, except as specified, and establishes standards for the devices, including, but not limited to, maintenance and staff training regarding proper use.

This bill would extend the requirements to acquire an automatic external defibrillator to July 1, 2015; however, the immunity provisions and the standards governing the maintenance of the device and the training of personnel in the use of the device would remain in effect after that date if the entities that are subject to the bill elect to continue the installation of the device, as specified. The bill would require that records of a readiness check on a defibrillator be maintained for 2 years after the check. The bill would also, beginning July 1, 2011, apply these requirements and this immunity to golf courses and amusement parks, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 104113 of the Health and Safety Code  
 2 is amended to read:  
 3 104113. (a) (1) Commencing July 1, 2007, every health studio,  
 4 as defined in subdivision (g), *commencing July 1, 2011, every*  
 5 *amusement park, as defined in subdivision (g), and commencing*  
 6 *July 1, 2011, every golf course*, shall acquire an automatic external  
 7 defibrillator. The requirement to acquire an automatic external  
 8 defibrillator pursuant to this subdivision shall terminate on July  
 9 1, ~~2012~~: 2015.  
 10 (2) Commencing July 1, 2007, ~~and until July 1, 2012~~, every  
 11 health studio, as defined in subdivision (g), ~~shall commencing July~~  
 12 *1, 2011, every amusement park, as defined in subdivision (g), and*  
 13 *commencing July 1, 2011, every golf course, shall, until July 1,*  
 14 *2015, maintain, and train personnel in the use of, any automatic*  
 15 *external defibrillator acquired pursuant to paragraph (1).*  
 16 (3) On or after July 1, ~~2012~~, 2015, *an amusement park, a golf*  
 17 *course, or a health studio that elects to continue the installation of*  
 18 *an automatic external defibrillator that was acquired pursuant to*  
 19 *paragraph (1) shall maintain and train personnel in the use of an*  
 20 *automatic external defibrillator pursuant to this section, and shall*  
 21 *not be liable for civil damages resulting from the use, attempted*  
 22 *use, or nonuse of an automatic external defibrillator as provided*  
 23 *by this section.*  
 24 (b) An employee of *an amusement park, a golf course, or a*  
 25 *health studio who renders emergency care or treatment is not liable*  
 26 *for civil damages resulting from the use, attempted use, or nonuse*  
 27 *of an automatic external defibrillator, except as provided in*  
 28 *subdivision (f).*  
 29 (c) When an employee uses, does not use, or attempts to use,  
 30 an automatic external defibrillator consistent with the requirements  
 31 of this section to render emergency care or treatment, the members  
 32 of the board of directors of the facility shall not be liable for civil  
 33 damages resulting from any act or omission in rendering the  
 34 emergency care or treatment, including the use or nonuse of an  
 35 automatic external defibrillator, except as provided in subdivision  
 36 (f).  
 37 (d) Except as provided in subdivision (f), when an employee of  
 38 *an amusement park, a golf course, or a health studio renders*

1 emergency care or treatment using an automatic external  
2 defibrillator, the owners, managers, employees, or otherwise  
3 responsible authorities of the facility shall not be liable for civil  
4 damages resulting from any act or omission in the course of  
5 rendering that emergency care or treatment, provided that the  
6 facility fully complies with subdivision (e).

7 (e) Notwithstanding Section 1797.196, in order to ensure public  
8 safety, *an amusement park, a golf course, or a health studio* shall  
9 do all of the following:

10 (1) Comply with all regulations governing the placement of an  
11 automatic external defibrillator.

12 (2) Ensure all of the following:

13 (A) The automatic external defibrillator is maintained and  
14 regularly tested according to the operation and maintenance  
15 guidelines set forth by the manufacturer, the American Heart  
16 Association, or the American Red Cross, and according to any  
17 applicable rules and regulations set forth by the governmental  
18 authority under the federal Food and Drug Administration and any  
19 other applicable state and federal authority.

20 (B) The automatic external defibrillator is checked for readiness  
21 after each use and at least once every 30 days if the automatic  
22 external defibrillator has not been used in the preceding 30 days.  
23 Records of ~~these checks~~ *a check* shall be ~~maintained~~ *maintained*  
24 *for two years after the check.*

25 (C) Any person who renders emergency care or treatment on a  
26 person in cardiac arrest by using an automatic external defibrillator  
27 activates the emergency medical services system as soon as  
28 possible, and reports any use of the automatic external defibrillator  
29 to the licensed physician and to the local EMS agency.

30 (D) For every automatic external defibrillator unit acquired, up  
31 to five units, no less than one employee per automatic external  
32 defibrillator unit shall complete a training course in  
33 cardiopulmonary resuscitation and automatic external defibrillator  
34 use that complies with the regulations adopted by the Emergency  
35 Medical Services Authority and the standards of the American  
36 Heart Association or the American Red Cross. After the first five  
37 automatic external defibrillator units are acquired, for each  
38 additional five automatic external defibrillator units acquired, a  
39 minimum of one employee shall be trained beginning with the first  
40 additional automatic external defibrillator unit acquired. Acquirers

1 of automatic external defibrillator units shall have trained  
 2 employees who should be available to respond to an emergency  
 3 that may involve the use of an automatic external defibrillator unit  
 4 during normal operating hours. Acquirers of automatic external  
 5 defibrillator units may need to train additional employees to assure  
 6 that a trained employee is available at all times.

7 (E) There is a written plan that exists that describes the  
 8 procedures to be followed in the event of an emergency that may  
 9 involve the use of an automatic external defibrillator, to ensure  
 10 compliance with the requirements of this section. The written plan  
 11 shall include, but not be limited to, immediate notification of 911  
 12 and trained office personnel at the start of automatic external  
 13 defibrillator procedures.

14 (f) Subdivisions (b), (c), and (d) do not apply in the case of  
 15 personal injury or wrongful death that results from gross negligence  
 16 or willful or wanton misconduct on the part of the person who  
 17 uses, attempts to use, or maliciously fails to use an automatic  
 18 external defibrillator to render emergency care or treatment.

19 (g) *For purposes of this section:*

20 (1) *“Amusement park” means any area where amusement park*  
 21 *rides are inspected pursuant to Part 8.1 (commencing with Section*  
 22 *7920) of Division 5 of the Labor Code.*

23 ~~(g) For purposes of this section, “health~~

24 (2) *“Health studio” means any facility permitting the use of its*  
 25 *facilities and equipment or access to its facilities and equipment,*  
 26 *to individuals or groups for physical exercise, body building,*  
 27 *reducing, figure development, fitness training, or any other similar*  
 28 *purpose, on a membership basis. “Health studio” does not include*  
 29 *any hotel or similar business that offers fitness facilities to its*  
 30 *registered guests for a fee or as part of the hotel charges.*