S T A T E O F N E W Y O R K

8741

2009-2010 Regular Sessions

I N A S S E M B L Y

June 5, 2009

Introduced by M. of A. PAULIN, GALEF, GUNTHER, SCHIMMINGER, COOK, FIELDS, KOON, MAISEL, REILLY, TITONE, WEISENBERG, ZEBROWSKI, BACALLES, SKARTADOS -- Multi-Sponsored by -- M. of A. BARCLAY, BING, BURLING, CALHOUN, CONTE, CROUCH, DelMONTE, DUPREY, FINCH, GIGLIO, MARKEY, McDONOUGH, McENENY, McKEVITT, MOLINARO, OAKS, RAIA, SALADINO, THIELE, TOWNSEND, WALKER -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the general business law, in relation to causes of action against certain businesses arising in connection with the AED

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 2 of section 3000-a of the public health law, as separately amended by chapters 578 and 583 of the laws of 1999, is amended to read as follows:

2. (i) [A] ANY person who, or entity, partnership, corporation, firm or society that, purchases, OPERATES, FACILITATES IMPLEMENTATION or makes available resuscitation equipment that facilitates first aid, an automated external defibrillator or an epinephrine auto-injector device as required by or pursuant to law or local law, or (ii) an emergency health care provider under a collaborative agreement pursuant to section three thousand-b of this article with respect to an automated external defibrillator, or (iii) the emergency health care provider with a collaborative agreement under section three thousand-c of this article with respect to use of an epinephrine auto-injector device, shall not be liable for damages arising either from the use of that equipment by a person who voluntarily and without expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or medical emergency, or from the use of defectively manufactured equipment; provided that this subdivision shall not limit the person's or entity's, partnership's, corporation's, firm's, society's or the emer-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD14081-01-9

gency health care provider's liability for his, her or its own [negligence,] gross negligence or intentional misconduct.

S 2. Paragraph (a) of subdivision 3 of section 3000-b of the public health law, as amended by chapter 583 of the laws of 1999, is amended and a new paragraph (g) is added to read as follows:

(a) [No person may operate an automated external defibrillator unless the person has successfully completed a training course in the operation of an automated external defibrillator approved by a nationally-recognized organization or the state emergency medical services council. However, this section shall not prohibit operation of an automated external defibrillator, (i) by a health care practitioner licensed or certified under title VIII of the education law or a person certified under this article acting within his or her lawful scope of practice or (ii) by a person acting pursuant to a lawful prescription.] THE PUBLIC ACCESS DEFIBRILLATION PROVIDER SHALL ASSURE ANTICIPATED USERS OF THE AUTOMATED EXTERNAL DEFIBRILLATOR ARE TRAINED USING A NATIONALLY RECOGNIZED, EVIDENCE-BASED GUIDELINES COURSE.

(G) THIS SECTION DOES NOT LIMIT THE USAGE OF THE AED TO A TRAINED RESPONDER NOR SHALL IT LIMIT ANY GOOD SAMARITAN PROTECTIONS PROVIDED IN SECTION 3000-A OF THIS ARTICLE.

S 3. Section 627-a of the general business law, as added by chapter 186 of the laws of 2004, is amended to read as follows:

S 627-a. Automated external defibrillator requirements. 1. Every health club as defined under paragraph b of subdivision one of section three thousand-d of the public health law whose membership is five hundred persons or more shall have on the premises at least one automated external defibrillator and shall have in attendance, at all times during STAFFED business hours, at least one individual performing employment or individual acting as an authorized volunteer who holds a valid certification of completion of a course in the study of the operation of AEDs and a valid certification of the completion of a course in the training of cardiopulmonary resuscitation provided by a nationally recognized organization or association.

2. Health clubs and staff pursuant to subdivision one of this section shall be deemed a "public access defibrillation provider" as defined in paragraph (c) of subdivision one of section three thousand-b of the public health law and shall be subject to the requirements and limitation of such section.

3. [Pursuant to sections three thousand-a and three thousand-b of the public health law, any public access defibrillation provider, or any employee or other agent of the provider who, in accordance with the provisions of this section, voluntarily and without expectation of monetary compensation renders emergency medical or first aid treatment using an AED which has been made available pursuant to this section, to a person who is unconscious, ill or injured, shall be liable only pursuant to section three thousand-a of the public health law.] ABSENT A SHOWING OF GROSS NEGLIGENCE OR WILLFUL OR WANTON MISCONDUCT, NO CAUSE OF ACTION AGAINST A HEALTH CLUB OWNER/PROVIDER OF AN AED OR AN EMPLOYEE OF SUCH HEALTH CLUB MAY ARISE IN CONNECTION WITH THE USE OR NON-USE OF A DEFIBRILLATOR.

S 4. This act shall take effect immediately.