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

7603

I N S E N A T E

April 26, 2010

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health 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 emergency 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 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.

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

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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; OR (III) BY A PERSON WHO OPERATES THE AUTOMATED EXTERNAL DEFIBRILLATOR OTHER THAN AS PART OF OR INCIDENTAL TO HIS OR HER EMPLOYMENT OR REGULAR DUTIES, WHO IS ACTING IN GOOD FAITH, WITH REASONABLE CARE, AND WITHOUT EXPECTATION OF MONETARY COMPENSATION, TO PROVIDE FIRST AID THAT INCLUDES OPERATION OF AN AUTOMATED EXTERNAL DEFIBRILLATOR; NOR SHALL THIS SECTION LIMIT ANY GOOD SAMARITAN PROTECTIONS PROVIDED IN SECTION THREE THOUSAND-A OF THIS ARTICLE.

S 3. This act shall take effect immediately.