

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1118

Short Title: Limit Liability/Defibrillators.

(Public)

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Sponsors: Representative Wright.

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Referred to: Health.

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April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO LIMIT LIABILITY WHEN A PERSON USES AN AUTOMATED EXTERNAL DEFIBRILLATOR TO RENDER EMERGENCY TREATMENT TO SAVE THE LIFE OF A PERSON IN CARDIAC ARREST.

The General Assembly of North Carolina enacts:

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

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

(a) Intent. – It is the intent of the General Assembly that, when used in accordance with this section, an automated external defibrillator may be used during an emergency for the purpose of saving the life of another person in cardiac arrest.

(b) Duties. – In order to ensure public health and safety:

(1) A person or entity that acquires an automated external defibrillator shall ensure that:

a. Expected users of automated external defibrillators receive the American Heart Association training in cardiopulmonary resuscitation (CPR) and automated external defibrillator use, or an equivalent, nationally recognized course in CPR and automated external defibrillator use.

1           **b.**     The defibrillator is maintained and tested according to the  
2           manufacturer's operational guidelines.

3           **c.**     A licensed physician is involved in the site's program for the  
4           purpose of ensuring compliance with requirements under this  
5           subsection for training, maintenance, and notification.

6           **d.**     Any person who renders emergency care or treatment on a  
7           person in cardiac arrest by using an automated external  
8           defibrillator activates the emergency medical services system as  
9           soon as possible and reports any clinical use of the automated  
10           external defibrillator to the licensed physician or medical  
11           authority under subsubdivision c. of this subdivision.

12           **(2)**    Any person or entity that acquires an automated external defibrillator  
13           shall notify an agent of the local emergency communications or vehicle  
14           dispatch center of the existence, location, and type of automated  
15           external defibrillator.

16           **(c)**    Immunity. – Subject to subsection (e) of this section, any person or entity who  
17           in good faith and without compensation renders emergency care or treatment by the use  
18           of an automated external defibrillator shall be immune from civil liability for any  
19           personal injury as a result of that care or treatment or as a result of any act or failure to  
20           act in providing or arranging further medical treatment when that person acts as an  
21           ordinary, reasonably prudent person would have acted under the same or similar  
22           circumstances. Subject to subsection (f) of this section, the immunity under this  
23           subsection applies only if the requirements under subsection (b) of this section have been  
24           satisfied.

25           **(d)**    Scope of Immunity. – The immunity from civil liability under subsection (c)  
26           of this section includes the licensed physician who is involved with automated external  
27           defibrillator site placement, the person or entity who provides the CPR and automated  
28           external defibrillator site placement, the person or entity who provides the CPR and  
29           automated external defibrillator training, and the person or entity responsible for the site  
30           where the automated external defibrillator is located.

31           **(e)**    Liability. – The immunity from civil liability under subsection (c) of this  
32           section does not apply if the personal injury results from the gross negligence or willful  
33           or wanton misconduct of the person administering the emergency care.

34           **(f)**    Duties Not Applicable. – The requirements under subsection (b) of this section  
35           are not a condition of immunity under this section when an individual uses an automated  
36           external defibrillator as a volunteer in an emergency setting under G.S. 1-539.10.

37           **(g)**    Definition. – As used in this section, 'automated external defibrillator' means a  
38           medical device that monitors and defibrillates the heart and that satisfies all of the  
39           following criteria:

40           **(1)**    The device has received approval from the United States Food and Drug  
41           Administration of its premarket notification filed pursuant to 21 U.S.C.  
42           § 360(k), as amended.

- 1           (2)   The device is capable of recognizing the presence or absence of  
2           ventricular fibrillation or rapid ventricular tachycardia and is capable of  
3           determining, without intervention by an operator, whether defibrillation  
4           should be performed.
- 5           (3)   Upon determining that defibrillation should be performed, the device  
6           automatically charges and requests delivery of an electrical impulse to  
7           an individual's heart."

8           Section 2. This act becomes effective October 1, 1999, and applies to causes  
9 of action arising on or after that date.