

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1636

Short Title: Limit Liability/Defibrillators.

(Public)

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Sponsors: Representatives Wright; and Wainwright.

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Referred to: Health.

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May 18, 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. Article 1B of Chapter 90 of the General Statutes is amended by  
8 adding a new section to read:

9 "**§ 90-21.15. Emergency treatment using automated external defibrillator;**  
10 **immunity.**

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

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

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

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

1           b. The device is capable of recognizing the presence or absence of  
2           ventricular fibrillation or rapid ventricular tachycardia and is  
3           capable of determining, without intervention by an operator,  
4           whether defibrillation should be performed.

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

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

12           a. American Heart Association.

13           b. American Red Cross.

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

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

21           (e) Scope of Immunity. –

22           (1) In addition to the person actually using the automated external  
23           defibrillator, the immunity from civil liability under subsection (d) of  
24           this section includes (i) the person or entity who provides the CPR and  
25           automated external defibrillator training, (ii) the person or entity  
26           responsible for the site where the automated external defibrillator is  
27           located provided there is a program of training, and (iii) a North  
28           Carolina licensed physician writing a prescription for an automated  
29           external defibrillator whether or not required by any federal or state law  
30           for no compensation.

31           (2) No immunity from civil liability is granted, under this section, to any  
32           emergency health care provider who receives compensation for  
33           rendering cardiac defibrillation to patients as a regular part of that  
34           provider's services to patients.

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

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

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

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

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

7               ...

8               (17) The use of an automated external defibrillator as provided in G.S. 90-  
9 21.15(g)."

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