

Enrolled
House Bill 3482

Sponsored by COMMITTEE ON HEALTH AND HUMAN SERVICES

CHAPTER

AN ACT

Relating to automated external defibrillators; creating new provisions; repealing ORS 30.801; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section:

(a) **“Automated external defibrillator” means an automated external defibrillator approved for sale by the federal Food and Drug Administration.**

(b) **“Public setting” means a location that is:**

(A) **Accessible to members of the general public, employees, visitors and guests, but that is not a private residence;**

(B) **A public school facility as defined in section 4 of this 2005 Act; or**

(C) **A health club as defined in section 6 of this 2005 Act.**

(2) **A person may not bring a cause of action against another person for damages for injury, death or loss that result from acts or omissions involving the use, attempted use or nonuse of an automated external defibrillator when the other person:**

(a) **Used or attempted to use an automated external defibrillator;**

(b) **Was present when an automated external defibrillator was used or should have been used;**

(c) **Provided training in the use of an automated external defibrillator;**

(d) **Is a physician and provided services related to the placement or use of an automated external defibrillator; or**

(e) **Possesses or controls one or more automated external defibrillators placed in a public setting and reasonably complied with the following requirements:**

(A) **Maintained, inspected and serviced the automated external defibrillator, the battery for the automated external defibrillator and the electrodes for the automated external defibrillator in accordance with guidelines set forth by the manufacturer.**

(B) **Ensured that a sufficient number of employees received training in the use of an automated external defibrillator so that at least one trained employee may be reasonably expected to be present at the public setting during regular business hours.**

(C) **Stored the automated external defibrillator in a location from which the automated external defibrillator can be quickly retrieved during regular business hours.**

(D) **Clearly indicated the presence and location of each automated external defibrillator.**

(E) **Established a policy to call 9-1-1 to activate the emergency medical services system as soon as practicable after the potential need for the automated external defibrillator is recognized.**

(3) The immunity provided by this section does not apply if:

(a) The person against whom the action is brought acted with gross negligence or with reckless, wanton or intentional misconduct;

(b) The use, attempted use or nonuse of an automated external defibrillator occurred at a location where emergency medical care is regularly available; or

(c) The person against whom the action is brought possesses or controls one or more automated external defibrillators in a public setting and the person's failure to reasonably comply with the requirements described in subsection (2)(e) of this section caused the alleged injury, death or loss.

(4) Nothing in this section affects the liability of a manufacturer, designer, developer, distributor or supplier of an automated external defibrillator, or an accessory for an automated external defibrillator, under the provisions of ORS 30.900 to 30.920 or any other applicable state or federal law.

SECTION 2. Section 1 of this 2005 Act applies to causes of action arising on or after the effective date of this 2005 Act.

SECTION 3. Section 4 of this 2005 Act shall be known as the Graeme Jones and Eddie Barnett Memorial Act.

SECTION 4. (1) As used in this section, "public school facility" means a building or pre-manufactured structure used by a school district or public charter school to provide educational services to children.

(2) In addition to those moneys distributed through the State School Fund, the Department of Education may award grants to school districts and public charter schools to provide automated external defibrillators in public school facilities.

(3) The goal of the grant program is to provide automated external defibrillators in at least two public school facilities in each school district.

(4) Each school district and public charter school may apply for a grant under this section. The amount of any grant received by a school district or public charter school under this section may not exceed 60 percent of the actual costs for which grant funds may be used under subsection (5) of this section.

(5) Any school district or public charter school that receives grant funds under this section shall use the funds for:

(a) Purchasing or leasing automated external defibrillators to be placed in public school facilities;

(b) Providing training to school district and public charter school employees and volunteers on the use of automated external defibrillators; and

(c) Any other expense related to providing automated external defibrillators in public school facilities if the expense is approved by the Department of Education.

(6) The State Board of Education may adopt rules:

(a) To establish criteria for awarding grants based on the goal set forth in subsection (3) of this section;

(b) To determine the amount of each grant pursuant to subsection (4) of this section; and

(c) That are necessary for the administration of this section.

(7) The Department of Education shall seek federal grant funds for the purposes of the grant program.

(8) For purposes of the grant program, the Department of Education may accept contributions of funds and assistance from the United States Government and its agencies or from any other source, public or private, and agree to conditions placed on the funds not inconsistent with the purposes of the grant program.

(9) All funds received by the Department of Education under this section shall be paid into the Department of Education Account established in ORS 326.115 to the credit of the grant program.

SECTION 5. Section 6 of this 2005 Act shall be known as the Kirk Spencer Memorial Act.

SECTION 6. (1) As used in this section, "health club" means an indoor facility:

(a) With the primary purpose of offering exercise or athletic activities that patrons or members may participate in for a fee; and

(b) That typically has at the facility on a regular business day 100 or more persons who are employees, patrons or members participating in the exercise or athletic activities offered at the facility.

(2) The owner of a health club shall have on the premises at all times at least one automated external defibrillator.

(3) Subsection (2) of this section does not apply to:

(a) Any facility owned by an education service district, public charter school or school district; or

(b) Any facility owned by a hotel as defined in ORS 699.005.

SECTION 7. Section 6 of this 2005 Act becomes operative on July 1, 2006.

SECTION 8. ORS 30.801 is repealed.

SECTION 9. The repeal of ORS 30.801 by section 8 of this 2005 Act does not affect any causes of action arising before the effective date of this 2005 Act.

SECTION 10. This 2005 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect on its passage.

Passed by House May 31, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate June 27, 2005

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President of Senate

Received by Governor:

.....M.,....., 2005

Approved:

.....M.,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2005

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Secretary of State