

By: Gallego

H.B. No. 2026

Substitute the following for H.B. No. 2026:

By: Delisi

C.S.H.B. No. 2026

A BILL TO BE ENTITLED

AN ACT

relating to the availability of automated external defibrillators at certain athletic clubs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 779.001, Health and Safety Code, is amended to read as follows:

Sec. 779.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Automated [~~"automated~~] external defibrillator" means a heart monitor and defibrillator that:

(A) [~~(1)~~] has received approval from the United States Food and Drug Administration of its premarket notification filed under 21 U.S.C. Section 360(k), as amended;

(B) [~~(2)~~] is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and is capable of determining, without interpretation of cardiac rhythm by an operator, whether defibrillation should be performed; and

(C) [~~(3)~~] on determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to an individual's heart.

(2) "Athletic club" means an entity that:

(A) provides sports or exercise equipment, facilities, or instruction to its customers or members or to the guests of its customers or members; and

1                   (B) provides sports or exercise equipment,  
2 facilities, or instruction to or has enrolled at least 125  
3 customers or members.

4           SECTION 2. Chapter 779, Health and Safety Code, is amended  
5 by adding Section 779.009 to read as follows:

6           Sec. 779.009. ATHLETIC CLUBS; LIMITATION ON LIABILITY. (a)  
7 An athletic club shall:

8                   (1) make available at each facility or location an  
9 automated external defibrillator; and

10                   (2) make reasonable efforts to ensure during staffed  
11 business hours the presence at each facility or location of at least  
12 one athletic club employee trained in the proper use of an automated  
13 external defibrillator.

14                   (b) An athletic club or other person is not liable for civil  
15 damages arising from the use, attempt to use, or failure to use an  
16 automated external defibrillator on the premises of an athletic  
17 club unless the act is wilful or wanton or constitutes gross  
18 negligence. The limitation on liability provided by this subsection  
19 is not exclusive and a person may raise any other defense to  
20 liability available under law.

21           SECTION 3. Section 779.009(b), Health and Safety Code, as  
22 added by this Act, applies only to a cause of action that accrues on  
23 or after September 1, 2008. A cause of action that accrued before  
24 September 1, 2008, is governed by the law in effect at the time the  
25 cause of action accrued, and that law is continued in effect for  
26 that purpose.

27           SECTION 4. This Act takes effect September 1, 2008.