

By: Gallego

H.B. No. 808

Substitute the following for H.B. No. 808:

By: Davis of Harris

C.S.H.B. No. 808

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the availability of automated external defibrillators
3 at certain athletic clubs.

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

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

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

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

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

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

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

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

22 (A) provides sports or exercise equipment,
23 facilities, or instruction to its customers or members or to the
24 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. CERTAIN ATHLETIC CLUBS; LIMITATION ON
7 LIABILITY. (a) An athletic club shall make available at each
8 facility or location an automated external defibrillator.

9 (b) An athletic club shall make reasonable efforts to ensure
10 that at least one athletic club employee trained in the proper use
11 of an automated external defibrillator is present during staffed
12 business hours at each facility or location.

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

21 (d) This section does not apply to an athletic club that:

22 (1) is located on the premises of a hotel and is
23 available only to hotel guests;

24 (2) is located on the premises of an apartment
25 building or complex and is available only to tenants of the
26 apartment building or complex;

27 (3) is owned and maintained by a homeowner association

1 or neighborhood association and is available only to residents in
2 the neighborhood who pay dues; or

3 (4) is located in a building owned by a municipality.

4 SECTION 3. This Act takes effect September 1, 2010.