

BILL ANALYSIS

Senate Research Center
87R3264 EAS-D

S.B. 199
By: Nelson
Health & Human Services
3/15/2021
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 1999 and 2001 the legislature passed legislation that shields from liability laypersons who use automated external defibrillators (AEDs) at the scene of an emergency. This led to widespread usage at gyms, malls, airports, state buildings, and other businesses, saving countless lives. Advancement in AED technology makes the devices extremely easy to use, and in many instances the rescuer is not an employee but a customer or bystander. S.B. 199 extends current liability protections regarding AED usage to businesses and property owners. The bill also repeals burdensome training requirements to better align training with current AED technology.

As proposed, S.B. 199 amends current law relating to automated external defibrillators.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the State Board of Education on behalf of the State Board for Educator Certification is modified in SECTION 3 (Section 21.0541, Education Code) of this bill.

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is rescinded in SECTION 4 (Section 779.002, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 779.003, Health and Safety Code, as follows:

Sec. 779.003. New heading: ACQUISITION AND MAINTENANCE OF AUTOMATED EXTERNAL DEFIBRILLATOR. Requires a person or entity that owns or leases an automated external defibrillator to, among other actions, ensure that a licensed physician is involved in the acquisition and installation of an automated external defibrillator at a designated location and to conduct a monthly inspection to verify that the automated external defibrillator is placed at its designated location, is ready for use after the most recent replacement of its batteries and pads, and is not damaged in a manner that could prevent operation. Makes nonsubstantive changes.

SECTION 2. Amends Section 779.006, Health and Safety Code, as follows:

Sec. 779.006. LIABILITY EXEMPTION. (a) Creates this subsection from existing text. Deletes existing text providing that a person or entity that provides approved training in the use of an automated external defibrillator, in accordance with Chapter 779 (Automated External Defibrillators), Health and Safety Code, and the person or entity that acquires the automated external defibrillator and meets the requirements of Chapter 779 are not liable for civil damages for such prescription, training, or acquisition unless the conduct is wilfully or wantonly negligent. Makes conforming changes.

(b) Creates this subsection from existing text. Provides that any person or entity that owns, occupies, manages, or is otherwise responsible for the designated location where an automated external defibrillator is placed are not liable for civil damages related to the use or attempted use of the automated external defibrillator

unless the conduct is wilfully or wantonly negligent or the requirements established by Chapter 779 are not satisfied. Makes conforming changes

(c) Provides that the immunity described by this section applies regardless of whether the person who uses or attempts to use the automated external defibrillator received training on the use of an automated external defibrillator.

SECTION 3. Amends Section 21.0541, Education Code, to require the State Board for Educator Certification (SBEC) to adopt rules allowing an educator to receive credit towards the educator's continuing education requirements for completion of an instructional course on the use of an automated external defibrillator that meets any guidelines for automated external defibrillator training approved by SBEC, rather than meets the guidelines for automated external defibrillator training approved under Section 779.002 (Training), Health and Safety Code.

SECTION 4. (1) Repealer: Section 22.902(b) (relating to approved training for the use of an automated external defibrillator), Education Code.

(2) Repealer: Section 779.002 (Training), Health and Safety Code.

SECTION 5. Effective date: September 1, 2021.