

SENATE BILL 579

D3, F5

8lr2283
CF HB 1134

By: **Senator Forehand**

Introduced and read first time: February 1, 2008

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 2008

CHAPTER _____

1 AN ACT concerning

2 **Immunity from Liability – ~~Medical Emergency~~ – Use of Automated External**
3 **Defibrillator**

4 FOR the purpose of ~~providing immunity from civil liability under certain~~
5 ~~circumstances, notwithstanding certain other provisions of law, to an individual~~
6 ~~or facility that acquires an automated external defibrillator (AED) or that owns,~~
7 ~~manages, or is responsible for the premises where an AED is located, to a~~
8 ~~certain individual who retrieves an AED, or to a certain individual who uses,~~
9 ~~attempts to use, or fails to use an AED in response to a sudden cardiac arrest~~
10 ~~emergency at a facility; altering, under the Automated External Defibrillation~~
11 ~~Program of the Maryland Institute for Emergency Medical Services Systems,~~
12 altering the circumstances under which an individual is immune from civil
13 liability for providing automated external defibrillation; providing that
14 immunity from liability is not available to certain ~~persons~~ individuals for
15 certain conduct that is grossly negligent, willful or wanton misconduct, or
16 intentionally tortious conduct; and generally relating to immunity from liability
17 for use of an automated external defibrillator.

18 ~~BY repealing and reenacting, without amendments,~~
19 ~~Article – Courts and Judicial Proceedings~~
20 ~~Section 5-603(e)~~
21 ~~Annotated Code of Maryland~~
22 ~~(2006 Replacement Volume and 2007 Supplement)~~

23 ~~BY adding to~~
24 ~~Article – Courts and Judicial Proceedings~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~Section 5-603(d)~~
 2 ~~Annotated Code of Maryland~~
 3 ~~(2006 Replacement Volume and 2007 Supplement)~~

4 BY repealing and reenacting, without amendments,
 5 Article – Education
 6 Section 13-517(a)(1) and (3) and (m)(5)
 7 Annotated Code of Maryland
 8 (2006 Replacement Volume and 2007 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article – Education
 11 Section 13-517(m)(3) and (4)
 12 Annotated Code of Maryland
 13 (2006 Replacement Volume and 2007 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 15 MARYLAND, That the Laws of Maryland read as follows:

16 ~~Article – Courts and Judicial Proceedings~~

17 ~~5-603.~~

18 ~~(e) An individual who is not covered otherwise by this section is not civilly~~
 19 ~~liable for any act or omission in providing assistance or medical aid to a victim at the~~
 20 ~~scene of an emergency, if:~~

21 ~~(1) The assistance or aid is provided in a reasonably prudent manner;~~

22 ~~(2) The assistance or aid is provided without fee or other~~
 23 ~~compensation; and~~

24 ~~(3) The individual relinquishes care of the victim when someone who~~
 25 ~~is licensed or certified by this State to provide medical care or services becomes~~
 26 ~~available to take responsibility.~~

27 ~~(D) (1) IN THIS SUBSECTION, “AUTOMATED EXTERNAL~~
 28 ~~DEFIBRILLATOR (AED)” MEANS A MEDICAL HEART MONITOR AND~~
 29 ~~DEFIBRILLATOR DEVICE THAT:~~

30 ~~(I) IS CLEARED FOR MARKET BY THE FEDERAL FOOD AND~~
 31 ~~DRUG ADMINISTRATION;~~

32 ~~(II) RECOGNIZES THE PRESENCE OR ABSENCE OF~~
 33 ~~VENTRICULAR FIBRILLATION OR RAPID VENTRICULAR TACHYCARDIA;~~

~~(III) DETERMINES, WITHOUT INTERVENTION BY AN OPERATOR, WHETHER DEFIBRILLATION SHOULD BE PERFORMED;~~

~~(IV) ON DETERMINING THAT DEFIBRILLATION SHOULD BE PERFORMED, AUTOMATICALLY CHARGES; AND~~

~~(V) 1. REQUIRES OPERATOR INTERVENTION TO DELIVER THE ELECTRICAL IMPULSE; OR~~

~~2. AUTOMATICALLY CONTINUES WITH DELIVERY OF ELECTRICAL IMPULSE.~~

~~(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING INDIVIDUALS AND FACILITIES ARE IMMUNE FROM CIVIL LIABILITY FOR DAMAGES RELATING TO THE USE, POSSESSION, OR PURCHASE OF AN AUTOMATED EXTERNAL DEFIBRILLATOR (AED) OR ARISING OUT OF ANY ACT OR OMISSION IN PREPARING FOR OR RESPONDING TO A SUSPECTED SUDDEN CARDIAC ARREST EMERGENCY:~~

~~(I) AN INDIVIDUAL OR FACILITY THAT ACQUIRES AN AED;~~

~~(II) AN INDIVIDUAL OR FACILITY THAT OWNS, MANAGES, OR IS OTHERWISE RESPONSIBLE FOR THE PREMISES ON WHICH AN AED IS LOCATED;~~

~~(III) AN INDIVIDUAL WHO RETRIEVES AN AED IN RESPONSE TO A PERCEIVED SUDDEN CARDIAC ARREST EMERGENCY AT A FACILITY; OR~~

~~(IV) AN INDIVIDUAL WHO USES, ATTEMPTS TO USE, OR FAILS TO USE AN AED IN RESPONSE TO A PERCEIVED SUDDEN CARDIAC ARREST EMERGENCY AT A FACILITY.~~

~~(3) THE IMMUNITY PROVIDED IN THIS SUBSECTION IS NOT AVAILABLE IF THE CONDUCT OF THE INDIVIDUAL OR FACILITY AMOUNTS TO GROSS NEGLIGENCE, WILLFUL OR WANTON MISCONDUCT, OR INTENTIONALLY TORTIOUS CONDUCT.~~

Article - Education

13-517.

(a) (1) In this section the following words have the meanings indicated.

(3) "Automated external defibrillator (AED)" means a medical heart monitor and defibrillator device that:

1 (i) Is cleared for market by the federal Food and Drug
2 Administration;

3 (ii) Recognizes the presence or absence of ventricular fibrillation
4 or rapid ventricular tachycardia;

5 (iii) Determines, without intervention by an operator, whether
6 defibrillation should be performed;

7 (iv) On determining that defibrillation should be performed,
8 automatically charges; and

9 (v) 1. Requires operator intervention to deliver the
10 electrical impulse; or

11 2. Automatically continues with delivery of electrical
12 impulse.

13 (m) (3) In addition to any other immunities available under statutory or
14 common law, an individual is not civilly liable for any act or omission if:

15 (i) The individual is acting in good faith while rendering
16 automated external defibrillation to a person who is a victim or reasonably believed by
17 the individual to be a victim of a sudden cardiac arrest; ~~AND~~

18 (ii) ~~¶~~The assistance or aid is provided in a reasonably prudent
19 manner; AND

20 (iii) ~~¶~~ The automated external defibrillation is provided without
21 fee or other compensation]; and

22 (iv) 1. The act or omission occurs while the individual is
23 providing automated external defibrillation in accordance with the requirements of
24 this section at an authorized facility;

25 2. The individual has successfully completed an AED
26 training course and is authorized to provide automated external defibrillation; or

27 3. The individual is using an automated external
28 defibrillator obtained by a prescription issued by a physician].

29 (4) The immunities in this subsection are not available if the conduct
30 of the authorized facility **OR AN INDIVIDUAL** amounts to gross negligence, willful or
31 wanton misconduct, or intentionally tortious conduct.

1 (5) This subsection does not affect, and may not be construed as
2 affecting, any immunities from civil or criminal liability or defenses established by any
3 other provision of the Code or by common law to which an authorized facility or an
4 individual may be entitled.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.