

CHAPTER 597

(House Bill 1134)

AN ACT concerning

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

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

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

~~BY adding to
Article – Courts and Judicial Proceedings
Section 5–603(d)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)~~

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

BY repealing and reenacting, with amendments,
Article – Education
Section 13–517(m)(3) and (4)

Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

~~Article Courts and Judicial Proceedings~~

~~5-603.~~

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

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

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

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

~~(D) (1) IN THIS SUBSECTION, "AUTOMATED EXTERNAL DEFIBRILLATOR (AED)" MEANS A MEDICAL HEART MONITOR AND DEFIBRILLATOR DEVICE THAT:~~

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

~~(II) RECOGNIZES THE PRESENCE OR ABSENCE OF 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:

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

(ii) Recognizes the presence or absence of 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.

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, May 22, 2008.