

HOUSE BILL 1117

D3, F5
HB 1134/08 – JUD

9lr1351

By: **Delegates Lee, Barkley, Beidle, Boteler, Bronrott, Carr, DeBoy, Dumais, Elliott, Frick, Hecht, Ivey, Kaiser, Kipke, Kramer, Krebs, Levi, Levy, McComas, McDonough, Montgomery, Ramirez, Riley, Robinson, Shewell, Sophocleus, Stocksdales, F. Turner, Valderrama, and Walkup**

Introduced and read first time: February 13, 2009

Assigned to: Judiciary

A BILL ENTITLED

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; providing that immunity from liability is not available
11 to certain persons for certain conduct that is grossly negligent, willful or wanton
12 misconduct, or intentionally tortious conduct; altering, under the Public Access
13 Automated External Defibrillator Program of the Maryland Institute for
14 Emergency Medical Services Systems, the circumstances under which an
15 individual is immune from civil liability for providing automated external
16 defibrillation; and generally relating to immunity from liability for use of an
17 automated external defibrillator.

18 BY repealing and reenacting, without amendments,
19 Article – Courts and Judicial Proceedings
20 Section 5–603(c)
21 Annotated Code of Maryland
22 (2006 Replacement Volume and 2008 Supplement)

23 BY adding to
24 Article – Courts and Judicial Proceedings
25 Section 5–603(d)
26 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 13–517(a)(1) and (2)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Education
Section 13–517(j)(3)
Annotated Code of Maryland
(2008 Replacement Volume)

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.

(c) 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.

(2) “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;

1 (ii) Recognizes the presence or absence of ventricular fibrillation
2 or rapid ventricular tachycardia;

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

5 (iv) On determining that defibrillation should be performed,
6 automatically charges; and

7 (v) 1. Requires operator intervention to deliver the
8 electrical impulse; or

9 2. Automatically continues with delivery of electrical
10 impulse.

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

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

16 (ii) [The assistance or aid is provided in a reasonably prudent
17 manner; and

18 (iii)] The automated external defibrillation is provided without
19 fee or other compensation.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2009.