

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 288

(Delegate Cullison, *et al.*)

Health and Government Operations and
Economic Matters

Finance

Grocery Stores and Restaurants - Automated External Defibrillator Program
(Joe Sheya Act)

This bill requires each owner and operator of a “grocery store” or a specified restaurant, beginning January 1, 2025, to place an automated external defibrillator (AED) in a prominent area (accessible to employees and customers) and maintain its functionality. A restaurant with an annual gross income of \$1.0 million or less (exclusive of sales for off-premises consumption) or a seating capacity of less than 100 individuals is exempt; likewise, a grocery store with an annual gross income of \$10.0 million or less is exempt. A grocery store or restaurant subject to the bill is excluded from the Maryland Public Access AED Program; however, the grocery store or restaurant must nonetheless register with the Maryland Institute for Emergency Medical Services Systems (MIEMSS). MIEMSS must jointly adopt regulations with the Maryland Department of Health (MDH), to implement the bill and, by December 1, 2024, MIEMSS must submit two reports to specified committees of the General Assembly.

Fiscal Summary

State Effect: Maryland Emergency Medical System Operations Fund (MEMSOF) expenditures increase by at least \$41,400 in FY 2024, as discussed below. Revenues are not affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	41,400	46,000	48,000	50,300	53,100
Net Effect	(\$41,400)	(\$46,000)	(\$48,000)	(\$50,300)	(\$53,100)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to materially affect local government finances or operations. To the extent that MDH requires local health departments (LHDs) to inspect and/or collect information on AEDs during inspections of grocery stores and restaurants, LHD expenditures may increase minimally.

Small Business Effect: Meaningful.

Analysis

Bill Summary: “Grocery store” means a store that has (1) all major food departments, including produce, meat, seafood, dairy, and canned and packaged goods or (2) at least one of the major food departments and a minimum of 12,000 square feet of floor space.

A grocery store or restaurant subject to the bill’s requirements is exempt from the definition of “facility” under Title 13, Subtitle 5 of the Education Article. Accordingly, a grocery store or restaurant that is required to make an AED available under the bill is not required to participate in the Maryland Public Access AED Program. Even so, a grocery store or restaurant subject to the bill must register with MIEMSS in order to (1) make its location publicly available to emergency dispatchers and (2) receive maintenance and recall notices from MIEMSS.

The bill provides the following liability protections to a grocery store, restaurant, and individual in addition to the existing immunities available under statutory or common law:

- a grocery store or restaurant is not civilly liable for any act or omission in the provision of automated external defibrillation if the grocery store or restaurant has placed an AED in a prominent area and maintained its functionality;
- an individual is not civilly liable for any act or omission if the individual is acting in good faith while rendering automated external defibrillation to another individual who is a victim or is reasonably believed to be a victim of a sudden cardiac arrest; the assistance or aid is provided in a reasonably prudent manner; and the automated external defibrillation is provided without fee or compensation; and
- a grocery store, restaurant, or individual is not civilly liable for failing to render automated external defibrillation to an individual who is a victim or is reasonably believed to be a victim of a sudden cardiac arrest.

MDH and MIEMSS must jointly adopt regulations that establish guidelines for periodic inspections and annual maintenance of the AEDs and assist owners and operators of a grocery store or restaurant in carrying out the requirements of the bill. By December 1, 2024, MIEMSS must report to the Senate Finance Committee, the House Health and Government Operations Committee, and the House Economic Matters Committee on (1) the grocery stores and restaurants that registered AEDs in accordance with the bill and (2) the number of adverse cardiac events that required the use of an AED in those grocery stores and restaurants.

Additionally, MIEMSS must evaluate, in collaboration with the Maryland Restaurant Association and Maryland Retailers Association, the impact of mandating additional grocery stores and restaurants to place AEDs on-site and register with the agency. MIEMSS must report its findings and recommendations from that evaluation to the Senate Finance Committee, the House Health and Government Operations Committee, and the House Economic Matters Committee by December 1, 2024.

Current Law:

Definitions

“AED” means a medical heart monitor and defibrillator device that (1) is cleared for market by the U.S. Food and Drug Administration; (2) recognizes the presence or absence of ventricular fibrillation or rapid ventricular tachycardia; (3) determines, without intervention by an operator, whether defibrillation should be performed, and on determination that defibrillation should be performed, automatically charges; and (4) requires operator intervention to deliver an electrical impulse or automatically continues with delivery of electrical impulse.

A “facility” is defined as an agency, association, corporation, firm, partnership, or other entity.

Maryland Public Access AED Program

The Maryland Public Access AED Program was first established by Chapter 167 of 1999. The program permits a facility that meets specified requirements to make AEDs available to victims of sudden cardiac arrest. MIEMSS is the State agency that oversees the program, including approving entities to participate and issuing registrations.

Under Maryland regulations (COMAR 30.06.02.01), to be eligible for registration or renewal of registration, each facility must designate an AED coordinator who must:

- complete cardiopulmonary resuscitation (CPR) and AED training and subsequent refresher training, in accordance with specified requirements;
- be responsible for implementing and administering the AED program at the facility; and
- ensure that monthly safety inspections of all supplemental and AED equipment are conducted.

A facility must ensure that all expected AED operators have completed CPR and AED training and subsequent refresher training, as specified. AEDs must be placed in locations that are visible and readily accessible to any person willing to operate the AED in the event

of a suspected cardiac arrest. A facility must have a telephone or communication service available at all times at which an AED is operated for the notification of a public safety answering point; it must also submit data or other information concerning the AED program as requested by MIEMSS.

Exempt Entities

The following entities are exempt from the State's registration requirements for AEDs: (1) a jurisdictional emergency medical services operation program; (2) a licensed commercial ambulance service; (3) specified health care facilities; and (4) licensed dentist and physician offices.

Immunity and Liability Protections

In addition to other immunities available under statutory or common law, a registered facility is not civilly liable for any act or omission in the provision of automated external defibrillation if the facility (1) has made automated external defibrillation available, as specified, and (2) possesses a valid certificate. An individual is not civilly liable for any act or omission if the individual (1) acts in good faith while rendering automated external defibrillation to a person who is a victim of or is reasonably believed to be a victim of a sudden cardiac arrest; (2) provides aid or assistance in a reasonably prudent manner; and (3) renders aid or assistance without fee or other compensation. The foregoing immunities do not apply if the conduct of a registered facility or an individual amounts to gross negligence, willful or wanton misconduct, or intentionally tortious conduct.

State Expenditures: MIEMSS advises that one new full-time position is likely necessary to implement the bill and its reporting requirements. However, the Department of Legislative Services (DLS) advises that the duties under the bill can likely be fulfilled with one part-time (50%) administrator and, if necessary, the use of contractual services to complete the required studies. Thus, MEMSOF expenditures increase by at least \$41,371 in fiscal 2024, which reflects the bill's October 1, 2023 effective date. This estimate reflects the cost of hiring one part-time (50%) administrator to establish and oversee a registration system for grocery stores and restaurants subject to the bill, adopt regulations in concert with MDH, and comply with the bill's reporting requirements. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	0.5
Salary and Fringe Benefits	\$34,359
Operating Expenses	<u>7,012</u>
Total FY 2024 State Expenditures	\$41,371

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Small Business Effect: Expenditures for some small business grocery stores and restaurants increase as a result of the bill's requirement to place an AED in a prominent area and maintain its functionality. The Maryland Restaurant Association advises that there are approximately 11,000 Maryland restaurants. Based on 2017 U.S. Economic Census data, the National Restaurant Association estimates that 39% of restaurants nationally have annual gross income greater than \$1.0 million (which equates to approximately 4,300 restaurants in Maryland). Since, however, the bill specifies that a restaurant's gross income excludes sales for off-premises consumption and exempts restaurants with a seating capacity of less than 100, the number of restaurants affected by the bill cannot be reliably estimated. The number of grocery stores that may be subject to the bill is also unknown.

Additional Comments: According to MIEMSS, new AED units cost between \$880 to \$1,700 and certified pre-owned AEDs generally range from \$500 to \$880. The American Red Cross offers CPR and AED training courses that cost between \$75 to \$115 per person. It holds on-site AED training at several locations in Maryland, including Annapolis, Baltimore, Salisbury, Silver Spring, and Walkersville.

DLS advises that the report on the bill's implementation is due one month before the requirement for registration; accordingly, the report is likely to contain only minimal data with respect to implementation or will be delayed, likely by one year.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 299 (Senator Kramer, *et al.*) - Finance.

Information Source(s): Maryland Association of County Health Officers; Maryland Institute for Emergency Medical Services Systems; Maryland Department of Health; Department of Legislative Services

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