

SB 619
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FILED

2008 MAR 20 PM 12: 08

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2008

SECRETARY OF STATE

COMMITTEE SUBSTITUTE

FOR

ENROLLED

Senate Bill No. 619

(SENATORS PREZIOSO, JENKINS, WELLS, HUNTER,
HALL, STOLLINGS, PLYMALE, UNGER, KESSLER,
FOSTER AND LOVE, *original sponsors*)

[Passed March 4, 2008; in effect ninety days from passage.]

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AN ACT to amend and reenact §16-4D-2, §16-4D-3 and §16-4D-4 of the Code of West Virginia, 1931, as amended, all relating to adding definitions for anticipated and unanticipated users of external defibrillators; and limiting liability toward unanticipated users who render aid.

Be it enacted by the Legislature of West Virginia:

That §16-4D-2, §16-4D-3 and §16-4D-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 4D. AUTOMATED EXTERNAL DEFIBRILLATORS.

§16-4D-2. Definitions.

1 (a) "Anticipated operator" means any person trained
2 in accordance with section three of this article who
3 utilizes an automated external defibrillator which was
4 placed through an early defibrillation program.

5 (b) "Automated external defibrillator", hereinafter
6 referred to as AED, means a medical device heart
7 monitor and defibrillator that: (1) Has undergone the
8 premarket approval process pursuant to the Federal
9 Food, Drug and Cosmetic Act, 21 U. S. C. §360, as
10 amended; (2) is capable of recognizing the presence or
11 absence of ventricular fibrillation; (3) is capable of
12 determining, without intervention by the operator,
13 whether defibrillation should be performed; and (4)
14 upon determining that defibrillation should be
15 performed, automatically charges and requests delivery
16 of an electrical impulse to an individual's heart.

17 (c) "Early defibrillation program" means a
18 coordinated program that meets the requirements of
19 section three of this article and one that provides early
20 public access to defibrillation for individuals
21 experiencing sudden cardiac arrest through the use of
22 an automated external defibrillator.

23 (d) "Emergency medical services (EMS)" means all
24 services established by the Emergency Medical Services
25 Act of 1973 in article four-c of this chapter, including,

26 but not limited to, the emergency medical services plan
27 of the Department of Health and Human Resources
28 providing a response to the medical needs of an
29 individual to prevent the loss of life or aggravation of
30 illness or injury.

31 (e) "Entity" means a public or private group,
32 organization, business, association or agency that meets
33 the requirements of section three of this article.
34 "Entity" does not include emergency medical services
35 operational programs or licensed commercial
36 ambulance services.

37 (f) "Medical director" means a duly licensed physician
38 who serves as the designated medical coordinator for an
39 entity's early defibrillation program.

40 (g) "Unanticipated operator" means any person
41 rendering emergency medical care involving the use of
42 an AED.

§16-4D-3. Early defibrillation programs.

1 An entity providing an early defibrillation program
2 shall:

3 (1) Register the program with the Office of Emergency
4 Medical Services, pursuant to article four-c of this
5 chapter, identifying the placement of AEDs, training of
6 anticipated operators, preplanned EMS system
7 coordination, designation of a medical director,
8 maintenance of AED equipment and reports of AED
9 utilization;

10 (2) Require the anticipated operator of an AED to

11 receive appropriate training in cardiopulmonary
12 resuscitation, referred to as "CPR", in the operation of
13 an AED and in the determination of advance directives
14 from the American Heart Association, American Red
15 Cross, any other nationally recognized course in CPR
16 and AED or an AED and CPR training program
17 approved by the Office of Emergency Medical Services;

18 (3) Maintain and test the AED in accordance with the
19 manufacturer's guidelines and keep written records of
20 this maintenance and testing;

21 (4) Designate a medical director for the coordination
22 of the program, which shall include, but not be limited
23 to, training, coordinating with EMS, creating AED
24 deployment strategies and reviewing each operation of
25 an AED;

26 (5) Notify the local EMS system and public safety
27 answering point or other appropriate emergency
28 dispatch center of the existence of an entity's early
29 defibrillation program, the location of the program and
30 the program's plan for coordination with the EMS
31 system;

32 (6) Provide that an operator of an AED who renders
33 emergency care or treatment on a person experiencing
34 cardiac arrest shall activate the EMS system as soon as
35 possible and shall report the use of an AED to the
36 program medical director; and

37 (7) Comply with the guidelines of the West Virginia
38 Office of Emergency Medical Services regarding data
39 collection and reporting.

§16-4D-4. Limitation on liability.

1 A person is not liable for civil damages as a result of
2 any act or omission in rendering emergency medical
3 care or treatment involving the use of an AED if the
4 care or treatment does not amount to gross negligence
5 and the following conditions are met:

6 (1) The person, entity, certified trainer or medical
7 director of the early defibrillation program is in
8 compliance with the provisions of section three of this
9 article; and

10 (2) The person is an anticipated operator of an AED
11 who gratuitously and in good faith rendered emergency
12 medical care, pursuant to the requirements of section
13 three of this article, other than in the ordinary course of
14 the person's employment or profession; or

15 (3) The person is an unanticipated operator who
16 gratuitously and in good faith rendered emergency
17 medical care.

Enr. Com. Sub for S. B. No. 619] 6

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

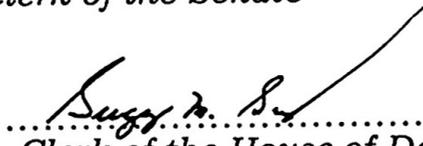

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Chairman Senate Committee


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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within as appended this
the 20th Day of March, 2008.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 17 2008

Time *11:15am*