

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1269  
Judiciary II Committee Substitute Adopted 5/30/00  
Third Edition Engrossed 6/14/00

Short Title: Limit Liability/Defibrillator.

(Public)

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Sponsors:

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Referred to:

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May 17, 2000

1 A BILL TO BE ENTITLED  
2 AN ACT TO LIMIT LIABILITY WHEN A PERSON USES AN AUTOMATED  
3 EXTERNAL DEFIBRILLATOR TO RENDER EMERGENCY HEALTH CARE  
4 TREATMENT TO ATTEMPT TO SAVE THE LIFE OF A PERSON WHO IS IN  
5 OR WHO APPEARS TO BE IN CARDIAC ARREST.

6 The General Assembly of North Carolina enacts:

7 Section 1. Article 1B of Chapter 90 of the General Statutes is amended by  
8 adding a new section to read:

9 "**§ 90-21.15. Emergency treatment using automated external defibrillator;**  
10 **immunity.**

11 (a) Intent. – It is the intent of the General Assembly that, when used in accordance  
12 with this section, an automated external defibrillator may be used during an emergency  
13 for the purpose of attempting to save the life of another person who is in or who appears  
14 to be in cardiac arrest.

15 (b) Definitions. – For purposes of this section:

16 (1) 'Automated external defibrillator' means a device, heart monitor, and  
17 defibrillator that meets all of the following requirements:

- 1           a.     The device has received approval from the United States Food  
2           and Drug Administration of its premarket notification filed  
3           pursuant to 21 U.S.C. § 360(k), as amended.  
4           b.     The device is capable of recognizing the presence or absence of  
5           ventricular fibrillation or rapid ventricular tachycardia and is  
6           capable of determining, without intervention by an operator,  
7           whether defibrillation should be performed.  
8           c.     Upon determining that defibrillation should be performed, the  
9           device automatically charges and requests delivery of, or  
10          delivers, an electrical impulse to an individual's heart.

11          (2)   'Person' means an individual, corporation, limited liability company,  
12          partnership, association, unit of government, or other legal entity.

13          (3)   'Training' means a nationally recognized course or training program in  
14          cardiopulmonary resuscitation (CPR) and automated external  
15          defibrillator use including the programs approved and provided by the:

16           a.     American Heart Association.

17           b.     American Red Cross.

18          (c)   Immunity. – The use of an automated external defibrillator when used to  
19          attempt to save or to save a life shall constitute 'first-aid or emergency health care  
20          treatment' under G.S. 90-21.14(a).

21          (d)   The person who provides the cardiopulmonary resuscitation and automated  
22          external defibrillator training to a person using an automated external defibrillator, the  
23          person responsible for the site where the automated external defibrillator is located when  
24          the person has provided for a program of training, and a North Carolina licensed  
25          physician writing a prescription without compensation for an automated external  
26          defibrillator whether or not required by any federal or state law, shall be immune from  
27          civil liability arising from the use of an automated external defibrillator used in  
28          accordance with subsection (c) of this section.

29          (e)   The immunity from civil liability otherwise existing under law shall not be  
30          diminished by the provisions of this section.

31          (f)   No Purchase, Placement, or Use Requirement. – Nothing in this section  
32          requires the purchase, placement, or use of automated external defibrillators by any  
33          person, entity, or agency of State, county, or local government. Nothing in this section  
34          applies to a products liability claim against a manufacturer or seller as defined in G.S.  
35          99B-1."

36           Section 2. G.S. 90-18(c) reads as rewritten:

37           "(c)   The following shall not constitute practicing medicine or surgery as defined in  
38           subsection (b) of this section:

39           ...

40           (17)   The use of an automated external defibrillator as provided in G.S. 90-  
41           21.15."

42           Section 3. This act becomes effective October 1, 2000, and applies to causes  
43           of action arising on or after that date.