

SENATE BILL NO. 86

INTRODUCED BY G. HERTZ

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AUTOMATIC EXTERNAL DEFIBRILLATOR PROGRAM LAWS; REVISING AUTOMATIC EXTERNAL DEFIBRILLATOR USE REQUIREMENTS; REVISING REMEDIES RELATED TO VIOLATION ENFORCEMENT; ELIMINATING RULEMAKING AUTHORITY OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AMENDING SECTIONS 50-6-501, 50-6-502, 50-6-504, AND 50-6-505, MCA; AND REPEALING SECTION 50-6-503, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-6-501, MCA, is amended to read:

"50-6-501. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

- (1) "Automated external defibrillator" or "AED" means a medical device that:
 - (a) has received approval for marketing from the U.S. food and drug administration;
 - (b) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and of determining, without intervention by an operator, whether defibrillation should be performed;
 - (c) upon determining that defibrillation should be performed, automatically charges and indicates that it is ready to deliver an electrical impulse to an individual's heart; and
 - (d) may be used by an operator of the device to deliver an electrical impulse to an individual's heart.
- ~~(2) "Department" means the department of public health and human services provided for in 2-15-2201.~~
- ~~(3) "Emergency medical service" means an emergency medical service as defined by 50-6-302.~~
- ~~(4)~~(2) "Entity" means a public agency, department, office, board, or commission or other

1 governmental organization or a private corporation, partnership, group, or business or other private
2 organization.

3 ~~(5)(3)~~ "Physician" means an individual licensed to practice medicine pursuant to Title 37, chapter 3,
4 part 3.

5 ~~(6)(4)~~ "Public safety answering point" means a communications facility operated on a 24-hour basis
6 that first receives 9-1-1 calls from persons in a 9-1-1 service area and that may, as appropriate, directly
7 dispatch public or private safety services or transfer or relay 9-1-1 calls to appropriate public safety agencies."

8

9 **Section 2.** Section 50-6-502, MCA, is amended to read:

10 **"50-6-502. AED program--requirements Requirements for AED use.** In order for an entity to use
11 or allow the use of an automated external defibrillator, the entity shall:

12 (1) ~~establish a program for the use of an AED that includes a written plan that complies with this~~
13 ~~part and rules adopted by the department pursuant to 50-6-503. The plan must specify: provide written notice of~~
14 ~~where the AED is to be placed to the public safety answering point for the jurisdiction where the AED is located;~~

15 ~~(a) — where the AED will be placed;~~

16 ~~(b) — the individuals who are authorized to operate the AED;~~

17 ~~(c) — how AED use will be coordinated with an emergency medical service providing services in the~~
18 ~~area where the AED is located;~~

19 ~~(d) — the medical oversight that will be provided;~~

20 ~~(e) — the maintenance that will be performed on the AED;~~

21 ~~(f) — records that will be kept by the program;~~

22 ~~(g) — reports that will be made of AED use; and~~

23 ~~(h) — other matters as specified by the department;~~

24 ~~(2) — adhere to the written plan required by subsection (1);~~

25 ~~(3) — ensure that before using the AED, an individual authorized to operate the AED receives~~
26 ~~appropriate training approved by the department in cardiopulmonary resuscitation and the proper use of an~~
27 ~~AED;~~

28 ~~(4)(2)~~ maintain, test, and operate the AED according to the manufacturer's guidelines and maintain

- 1 written records of all maintenance and testing performed on the AED; and
- 2 ~~(5)(3)~~ each time an AED is used for an individual in cardiac arrest, require that an emergency medical
- 3 service is summoned to provide assistance as soon as possible ~~and that the AED use is reported to the~~
- 4 ~~department as required by the written plan;~~
- 5 ~~(6) — before allowing any use of an AED, provide the following to all licensed emergency medical~~
- 6 ~~services and any public safety answering point or emergency dispatch center providing services to the area~~
- 7 ~~where the AED is located:~~
- 8 ~~(a) — a copy of the plan prepared pursuant to this section; and~~
- 9 ~~(b) — written notice, in a format prescribed by department rules, stating:~~
- 10 ~~(i) — that an AED program is established by the entity;~~
- 11 ~~(ii) — where the AED is located; and~~
- 12 ~~(iii) — how the use of the AED is to be coordinated with the local emergency medical service system;~~
- 13 ~~and~~
- 14 ~~(7) — comply with this part and rules adopted by the department pursuant to 50-6-503."~~

15

16 **Section 3.** Section 50-6-504, MCA, is amended to read:

17 **"50-6-504. Enforcement --~~cessation order -- hearing -- injunction.~~** (1) ~~If the department receives~~

18 ~~information that an AED is being used in violation of this part or a rule adopted by the department pursuant to~~

19 ~~50-6-503, it may send a written order to the entity responsible for use of the AED, as specified in the plan~~

20 ~~prepared pursuant to 50-6-502, ordering the entity to cease the violation immediately. The order is effective~~

21 ~~upon receipt by the entity, and the entity shall comply with the terms of the order. If the department receives~~

22 ~~information that the violation has been corrected, the department may rescind its order by sending a notice to~~

23 ~~that effect to the entity. The rescission is effective upon its receipt by the entity.~~

24 ~~(2) — The entity may request a hearing to contest an order issued by the department pursuant to~~

25 ~~subsection (1) by submitting a written request to the department within 30 days after receipt of the order. A~~

26 ~~request for a hearing does not stay the enforceability of the department's order. The hearing must be held~~

27 ~~within 30 days after the department receives the request, unless the hearings officer sets a later date for good~~

28 ~~cause. The hearing must be held pursuant to the contested case provisions of the Montana Administrative~~

1 Procedure Act.

2 (3) ~~Either~~ In the event of a violation of a provision of this part, either the county attorney for the
3 county in which the violation occurred or the department of public health and human services may bring an
4 action in the district court of the county where the violation occurred to ~~enforce the department's order or to~~
5 directly enjoin ~~a~~ the violation of this part ~~or a rule adopted pursuant to 50-6-503."~~

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7 **Section 4.** Section 50-6-505, MCA, is amended to read:

8 **"50-6-505. Liability limitations.** (1) An individual who provides emergency care or treatment by using
9 an AED in compliance with this part ~~and rules adopted by the department pursuant to 50-6-503~~ and an
10 individual providing cardiopulmonary resuscitation to an individual upon whom an AED is or may be used are
11 immune from civil liability for a personal injury that results from that care or treatment or from civil liability as a
12 result of any act or failure to act in providing or arranging further medical treatment for the individual upon
13 whom the AED was used unless the individual using the AED or the person providing cardiopulmonary
14 resuscitation, as applicable, acts with gross negligence or with willful or with wanton disregard for the care of
15 the person upon whom the AED is or may be used.

16 (2) The following individuals or entities are immune from civil liability for any personal injury that
17 results from an act or omission that does not amount to willful or wanton misconduct or gross negligence if
18 applicable provisions of this part ~~and rules adopted by the department pursuant to 50-6-503~~ have been met by
19 the individual or entity:

20 (a) a person providing medical oversight of the AED program, ~~as designated in the plan prepared~~
21 ~~pursuant to 50-6-502;~~

22 (b) the entity responsible for the AED program, ~~as designated in the plan prepared pursuant to 50-~~
23 ~~6-502;~~

24 (c) an individual providing training to others on the use of an AED."

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26 NEW SECTION. **Section 5. Repealer.** The following section of the Montana Code Annotated is
27 repealed:

28 50-6-503. Rulemaking.

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