

# Union Calendar No. 349

106<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 2498

[Report No. 106-634]

To amend the Public Health Service Act to provide for recommendations of the Secretary of Health and Human Services regarding the placement of automatic external defibrillators in Federal buildings in order to improve survival rates of individuals who experience cardiac arrest in such buildings, and to establish protections from civil liability arising from the emergency use of the devices.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 13, 1999

Mr. STEARNS (for himself Mr. RAHALL, Mr. ABERCROMBIE, Mr. BARRETT of Wisconsin, Mr. BILBRAY, Mr. BOEHLERT, Mr. COOK, Mr. DAVIS of Virginia, Mr. DELAHUNT, Mr. DEUTSCH, Mr. FOLEY, Mr. GALLEGLY, Mr. GEKAS, Mr. GREENWOOD, Mr. GUTIERREZ, Mr. HILLIARD, Ms. HOOLEY of Oregon, Mrs. JOHNSON of Connecticut, Mr. MASCARA, Mr. MATSUI, Mr. MEEHAN, Mrs. MINK of Hawaii, Mrs. MORELLA, Mr. PASCRELL, Mr. SANDLIN, and Mr. WEINER) introduced the following bill; which was referred to the Committee on Commerce

MAY 23, 2000

Additional sponsors: Mr. SERRANO, Mr. PETERSON of Pennsylvania, Mr. MCGOVERN, Mr. DOYLE, Ms. KAPTUR, Mr. BARTON of Texas, Mr. FILNER, Ms. DUNN, Mr. WAXMAN, Mr. SHAYS, Mr. HINCHEY, Mr. DUNCAN, Mr. DEFazio, Ms. SLAUGHTER, Mr. CANADY of Florida, Mr. SHOWS, Mr. WU, Ms. RIVERS, Mr. HANSEN, Mr. QUINN, Ms. ESHOO, Mr. ENGLISH, Mr. WELDON of Pennsylvania, Mr. RAMSTAD, Mrs. CAPPS, Mr. SMITH of Washington, Mr. PICKERING, Mr. PRICE of North Carolina, Mr. FALCONE, Mr. HALL of Texas, Mr. MARTINEZ, Mr. LANTOS, Mr. CASTLE, Mr. McDERMOTT, Mr. CAPUANO, Mr. LUTHER, Mrs. CLAYTON, Mr. WALSH, Mr. GOODLING, Mr. INSLEE, Mr. BURR of North Carolina, Mr. BLUNT, Mr. BRADY of Pennsylvania, Mr. SMITH of New Jersey, Mr. KILDEE, Mr. HOEFFEL, Ms. GRANGER, Mrs. FOWLER, Mr. BILIRAKIS, Mr. JONES of North Carolina, Mr. VENTO, Mr. LAFALCE, Mr. KENNEDY of Rhode Island, Mr. BURTON of Indiana, Mr. PALLONE, Mr.

CLEMENT, Mrs. BONO, Mr. GREEN of Texas, Mr. BALDACCI, Ms. DEGETTE, Ms. LEE, Mr. PAYNE, Ms. CARSON, Mr. STRICKLAND, Mr. STUPAK, Mrs. ROUKEMA, Mr. SALMON, Mr. BOYD, Mr. KANJORSKI, Ms. PELOSI, Mr. RUSH, Mr. SABO, Mr. BENTSEN, Mrs. LOWEY, Mr. BERMAN, Mr. GIBBONS, Ms. BROWN of Florida, Mr. EVANS, Mr. HUTCHINSON, Mr. PETERSON of Minnesota, Mr. OXLEY, Mr. LEVIN, Mr. ROMERO-BARCELO, Mr. PHELPS, Mr. GILLMOR, Mr. NEAL of Massachusetts, Mr. TAUZIN, Mr. KIND, Mr. GILCHREST, Mr. HASTINGS of Florida, Mr. TANCREDO, Mr. FOSSELLA, Mr. GONZALEZ, Mrs. THURMAN, Mrs. NAPOLITANO, Mr. LAHOOD, Mr. BLUMENAUER, Mr. SPENCE, Ms. BERKLEY, Mr. MCKEON, Mrs. JONES of Ohio, Mr. PORTMAN, Mr. GILMAN, Mr. SANDERS, Mr. HALL of Ohio, Mr. BASS, Mr. YOUNG of Florida, and Mr. UPTON

MAY 23, 2000

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on July 13, 1999]

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## A BILL

To amend the Public Health Service Act to provide for recommendations of the Secretary of Health and Human Services regarding the placement of automatic external defibrillators in Federal buildings in order to improve survival rates of individuals who experience cardiac arrest in such buildings, and to establish protections from civil liability arising from the emergency use of the devices.

1        *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4        *This Act may be cited as the “Cardiac Arrest Survival*  
 5 *Act of 2000”.*

6 **SEC. 2. FINDINGS.**

7        *The Congress finds as follows:*

1           (1) *Over 700 lives are lost every day to sudden*  
2 *cardiac arrest in the United States alone.*

3           (2) *Two out of every three sudden cardiac deaths*  
4 *occur before a victim can reach a hospital.*

5           (3) *More than 95 percent of these cardiac arrest*  
6 *victims will die, many because of lack of readily*  
7 *available life saving medical equipment.*

8           (4) *With current medical technology, up to 30*  
9 *percent of cardiac arrest victims could be saved if vic-*  
10 *tims had access to immediate medical response, in-*  
11 *cluding defibrillation and cardiopulmonary resuscita-*  
12 *tion.*

13           (5) *Once a victim has suffered a cardiac arrest,*  
14 *every minute that passes before returning the heart to*  
15 *a normal rhythm decreases the chance of survival by*  
16 *10 percent.*

17           (6) *Most cardiac arrests are caused by abnormal*  
18 *heart rhythms called ventricular fibrillation. Ventric-*  
19 *ular fibrillation occurs when the heart's electrical sys-*  
20 *tem malfunctions, causing a chaotic rhythm that pre-*  
21 *vents the heart from pumping oxygen to the victim's*  
22 *brain and body.*

23           (7) *Communities that have implemented pro-*  
24 *grams ensuring widespread public access to*  
25 *defibrillators, combined with appropriate training,*



1 *“RECOMMENDATIONS AND GUIDELINES REGARDING AUTO-*  
2 *MATED EXTERNAL DEFIBRILLATORS FOR FEDERAL*  
3 *BUILDINGS*

4 *“SEC. 247. (a) GUIDELINES ON PLACEMENT.—The*  
5 *Secretary shall establish guidelines with respect to placing*  
6 *automated external defibrillator devices in Federal build-*  
7 *ings. Such guidelines shall take into account the extent to*  
8 *which such devices may be used by lay persons, the typical*  
9 *number of employees and visitors in the buildings, the ex-*  
10 *tent of the need for security measures regarding the build-*  
11 *ings, buildings or portions of buildings in which there are*  
12 *special circumstances such as high electrical voltage or ex-*  
13 *treme heat or cold, and such other factors as the Secretary*  
14 *determines to be appropriate.*

15 *“(b) RELATED RECOMMENDATIONS.—The Secretary*  
16 *shall publish in the Federal Register the recommendations*  
17 *of the Secretary on the appropriate implementation of the*  
18 *placement of automated external defibrillator devices under*  
19 *subsection (a), including procedures for the following:*

20 *“(1) Implementing appropriate training courses*  
21 *in the use of such devices, including the role of*  
22 *cardiopulmonary resuscitation.*

23 *“(2) Proper maintenance and testing of the de-*  
24 *vices.*

1           “(3) *Ensuring coordination with appropriate li-*  
2           *icensed professionals in the oversight of training of the*  
3           *devices.*

4           “(4) *Ensuring coordination with local emergency*  
5           *medical systems regarding the placement and inci-*  
6           *dents of use of the devices.*

7           “(c) *CONSULTATIONS; CONSIDERATION OF CERTAIN*  
8           *RECOMMENDATIONS.—In carrying out this section, the Sec-*  
9           *retary shall—*

10           “(1) *consult with appropriate public and private*  
11           *entities;*

12           “(2) *consider the recommendations of national*  
13           *and local public-health organizations for improving*  
14           *the survival rates of individuals who experience car-*  
15           *diac arrest in nonhospital settings by minimizing the*  
16           *time elapsing between the onset of cardiac arrest and*  
17           *the initial medical response; and*

18           “(3) *consult with and counsel other Federal*  
19           *agencies where such devices are to be used.*

20           “(d) *DATE CERTAIN FOR ESTABLISHING GUIDELINES*  
21           *AND RECOMMENDATIONS.—The Secretary shall comply*  
22           *with this section not later than 180 days after the date of*  
23           *the enactment of the Cardiac Arrest Survival Act of 2000.*

24           “(e) *DEFINITIONS.—For purposes of this section:*

1           “(1) The term ‘automated external defibrillator  
2           device’ has the meaning given such term in section  
3           248.

4           “(2) The term ‘Federal building’ includes a  
5           building or portion of a building leased by a Federal  
6           agency, and includes buildings on military installa-  
7           tions of the United States.”.

8   **SEC. 4. GOOD SAMARITAN PROTECTIONS REGARDING**  
9                           **EMERGENCY USE OF AUTOMATED EXTERNAL**  
10                          **DEFIBRILLATORS.**

11           *Part B of title II of the Public Health Service Act,*  
12           *as amended by section 3 of this Act, is amended by adding*  
13           *at the end the following section:*

14           “*LIABILITY REGARDING EMERGENCY USE OF AUTOMATED*  
15                           *EXTERNAL DEFIBRILLATORS*

16           “*SEC. 248. (a) GOOD SAMARITAN PROTECTIONS RE-*  
17           *GARDING AEDS.—Except as provided in subsection (b),*  
18           *any person who uses an automated external defibrillator*  
19           *device on a victim of a perceived medical emergency is im-*  
20           *mune from civil liability for any harm resulting from the*  
21           *use of such device; and in addition, any person who ac-*  
22           *quired the device is immune from such liability, if the harm*  
23           *was not due to the failure of such acquirer of the device—*

24                    “*(1) to notify local emergency response personnel*  
25                    *or other appropriate entities of the most recent place-*

1 *ment of the device within a reasonable period of time*  
2 *after the device was placed;*

3 *“(2) to properly maintain and test the device; or*

4 *“(3) to provide appropriate training in the use*  
5 *of the device to an employee or agent of the acquirer*  
6 *when the employee or agent was the person who used*  
7 *the device on the victim, except that such requirement*  
8 *of training does not apply if—*

9 *“(A) the employee or agent was not an em-*  
10 *ployee or agent who would have been reasonably*  
11 *expected to use the device; or*

12 *“(B) the period of time elapsing between the*  
13 *engagement of the person as an employee or*  
14 *agent and the occurrence of the harm (or between*  
15 *the acquisition of the device and the occurrence*  
16 *of the harm, in any case in which the device was*  
17 *acquired after such engagement of the person)*  
18 *was not a reasonably sufficient period in which*  
19 *to provide the training.*

20 *“(b) INAPPLICABILITY OF IMMUNITY.—Immunity*  
21 *under subsection (a) does not apply to a person if—*

22 *“(1) the harm involved was caused by willful or*  
23 *criminal misconduct, gross negligence, reckless mis-*  
24 *conduct, or a conscious, flagrant indifference to the*  
25 *rights or safety of the victim who was harmed; or*

1           “(2) *the person is a licensed or certified health*  
2           *professional who used the automated external*  
3           *defibrillator device while acting within the scope of*  
4           *the license or certification of the professional and*  
5           *within the scope of the employment or agency of the*  
6           *professional; or*

7           “(3) *the person is a hospital, clinic, or other*  
8           *health care entity, and the harm was caused by an*  
9           *employee or agent of the entity who used the device*  
10          *while acting within the scope of the employment or*  
11          *agency of the employee or agent; or*

12          “(4) *the person is an acquirer of the device who*  
13          *leased the device to a health care entity (or who other-*  
14          *wise provided the device to such entity for compensa-*  
15          *tion without selling the device to the entity), and the*  
16          *harm was caused by an employee or agent of the enti-*  
17          *ty who used the device while acting within the scope*  
18          *of the employment or agency of the employee or agent.*

19          “(c) *RULES OF CONSTRUCTION.—*

20          “(1) *IN GENERAL.—The following applies with*  
21          *respect to this section:*

22                  “(A) *This section does not establish any*  
23                  *cause of action, or require that an automated ex-*  
24                  *ternal defibrillator device be placed at any build-*  
25                  *ing or other location.*

1           “(B) *With respect to a class of persons for*  
2 *which this section provides immunity from civil*  
3 *liability, this section supersedes the law of a*  
4 *State only to the extent that the State has no*  
5 *statute or regulations that provide persons in*  
6 *such class with immunity for civil liability aris-*  
7 *ing from the use by such persons of automated*  
8 *external defibrillator devices in emergency situa-*  
9 *tions (within the meaning of the State law or*  
10 *regulation involved).*

11           “(C) *This section does not waive any pro-*  
12 *tection from liability for Federal officers or em-*  
13 *ployees under—*

14                   “(i) *section 224; or*

15                   “(ii) *sections 1346(b), 2672, and 2679*  
16 *of title 28, United States Code, or under al-*  
17 *ternative benefits provided by the United*  
18 *States where the availability of such benefits*  
19 *precludes a remedy under section 1346(b) of*  
20 *title 28.*

21           “(2) *CIVIL ACTIONS UNDER FEDERAL LAW.—*

22                   “(A) *IN GENERAL.—The applicability of*  
23 *subsections (a) and (b) includes applicability to*  
24 *any action for civil liability described in sub-*  
25 *section (a) that arises under Federal law.*

1           “(B) *FEDERAL AREAS ADOPTING STATE*  
2           *LAW.—If a geographic area is under Federal ju-*  
3           *risdiction and is located within a State but out*  
4           *of the jurisdiction of the State, and if, pursuant*  
5           *to Federal law, the law of the State applies in*  
6           *such area regarding matters for which there is*  
7           *no applicable Federal law, then an action for*  
8           *civil liability described in subsection (a) that in*  
9           *such area arises under the law of the State is*  
10          *subject to subsections (a) through (c) in lieu of*  
11          *any related State law that would apply in such*  
12          *area in the absence of this subparagraph.*

13          “(d) *FEDERAL JURISDICTION.—In any civil action*  
14          *arising under State law, the courts of the State involved*  
15          *have jurisdiction to apply the provisions of this section ex-*  
16          *clusive of the jurisdiction of the courts of the United States.*

17          “(e) *DEFINITIONS.—*

18                 “(1) *PERCEIVED MEDICAL EMERGENCY.—For*  
19                 *purposes of this section, the term ‘perceived medical*  
20                 *emergency’ means circumstances in which the behav-*  
21                 *ior of an individual leads a reasonable person to be-*  
22                 *lieve that the individual is experiencing a life-threat-*  
23                 *ening medical condition that requires an immediate*  
24                 *medical response regarding the heart or other*  
25                 *cardiopulmonary functioning of the individual.*

1           “(2) *OTHER DEFINITIONS.*—*For purposes of this*  
2           *section:*

3                   “(A) *The term ‘automated external*  
4                   *defibrillator device’ means a defibrillator device*  
5                   *that—*

6                           “(i) *is commercially distributed in ac-*  
7                           *cordance with the Federal Food, Drug, and*  
8                           *Cosmetic Act;*

9                           “(ii) *is capable of recognizing the pres-*  
10                          *ence or absence of ventricular fibrillation,*  
11                          *and is capable of determining without*  
12                          *intervention by the user of the device wheth-*  
13                          *er defibrillation should be performed;*

14                          “(iii) *upon determining that*  
15                          *defibrillation should be performed, is able to*  
16                          *deliver an electrical shock to an individual;*  
17                          *and*

18                          “(iv) *in the case of a defibrillator de-*  
19                          *vice that may be operated in either an auto-*  
20                          *mated or a manual mode, is set to operate*  
21                          *in the automated mode.*

22                          “(B)(i) *The term ‘harm’ includes physical,*  
23                          *nonphysical, economic, and noneconomic losses.*

24                          “(ii) *The term ‘economic loss’ means any*  
25                          *pecuniary loss resulting from harm (including*

1           *the loss of earnings or other benefits related to*  
2           *employment, medical expense loss, replacement*  
3           *services loss, loss due to death, burial costs, and*  
4           *loss of business or employment opportunities) to*  
5           *the extent recovery for such loss is allowed under*  
6           *applicable State law.*

7           “(iii) *The term ‘noneconomic losses’ means*  
8           *losses for physical and emotional pain, suffering,*  
9           *inconvenience, physical impairment, mental an-*  
10          *guish, disfigurement, loss of enjoyment of life,*  
11          *loss of society and companionship, loss of consor-*  
12          *tium (other than loss of domestic service), he-*  
13          *donic damages, injury to reputation and all*  
14          *other nonpecuniary losses of any kind or na-*  
15          *ture.’”.*

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