Senate Bill 1006

Sponsored by Senator HASS; Senator KRUSE (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced.**

Modifies circumstances under which owner of place of public assembly or health club is required to have automated external defibrillator on premises.

Removes certain prerequisites to limitation of liability relating to use and possession of automated external defibrillator.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to automated external defibrillators; creating new provisions; amending ORS 30.802, 431.680 and 431.690; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 431.690 is amended to read:

431.690. (1) As used in this section, "place of public assembly" means [*a facility*] **a single building** that has 50,000 square feet or more of **indoor** floor space and where:

(a)(A) The public congregates for purposes such as deliberation, shopping, entertainment, amusement or awaiting transportation; or

(B) Business activities are conducted; and

(b) At least [*25*] **50** individuals congregate on a normal business day.

(2) Notwithstanding ORS 431.680 (3)(b), the owner of a place of public assembly shall have on the premises at least one automated external defibrillator.

[*(3)(a) Notwithstanding the requirements of ORS 30.802, a person may not bring a cause of action against the owner of a place of public assembly who complies with subsection (2) of this section for injury, death or loss that results from acts or omissions involving the use, attempted use or nonuse of an automated external defibrillator.*]

[*(b) Nothing in this subsection limits the liability of an owner for damages resulting from the owner's gross negligence or reckless, wanton or intentional misconduct.*]

[*(4)*] **(3)** [*Subsections (2) and (3)*] **Subsection (2)** of this section [*do*] **does** not apply to:

(a) A [*facility*] **building** owned by a school district, education service district, private school or public charter school; or

(b) A [*facility*] **building** primarily used for worship or education associated with worship.

SECTION 2. ORS 431.680 is amended to read:

431.680. (1) As used in this section, "health club" means an indoor facility:

(a) With the primary purpose of offering exercise or athletic activities that patrons or members may participate in for a fee; and

(b) That typically has at the facility on a regular business day [*100*] **50** or more persons who are employees, patrons or members participating in the exercise or athletic activities offered at the facility.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

(2) The owner of a health club shall have on the premises at all times at least one automated external defibrillator.

(3) Subsection (2) of this section does not apply to:

(a) [*Any*] **A** facility owned by an education service district, public charter school or school district; or

(b) [*Any*] **A** facility owned by a hotel as defined in ORS 699.005.

SECTION 3. ORS 30.802 is amended to read:

30.802. (1) As used in this section:

(a) "Automated external defibrillator" means an automated external defibrillator approved for sale by the federal Food and Drug Administration.

(b) "Public setting" means a location that is:

(A) Accessible to members of the general public, employees, visitors and guests, but that is not a private residence;

(B) A public school facility as defined in ORS 327.365; [*or*]

(C) A health club as defined in ORS 431.680[.]**; or**

(D) A place of public assembly as defined in ORS 431.690.

(2) A person may not bring a cause of action against another person for damages for injury, death or loss that result from acts or omissions involving the use, attempted use or nonuse of an automated external defibrillator when the other person:

(a) Used or attempted to use an automated external defibrillator;

(b) Was present when an automated external defibrillator was used or should have been used;

(c) Provided training in the use of an automated external defibrillator;

(d) Is a physician and provided services related to the placement or use of an automated external defibrillator; or

(e) Possesses or controls one or more automated external defibrillators placed in a public setting**.** [*and reasonably complied with the following requirements:*]

[*(A) Maintained, inspected and serviced the automated external defibrillator, the battery for the automated external defibrillator and the electrodes for the automated external defibrillator in accordance with guidelines set forth by the manufacturer.*]

[*(B) Ensured that a sufficient number of employees received training in the use of an automated external defibrillator so that at least one trained employee may be reasonably expected to be present at the public setting during regular business hours.*]

[*(C) Stored the automated external defibrillator in a location from which the automated external defibrillator can be quickly retrieved during regular business hours.*]

[*(D) Clearly indicated the presence and location of each automated external defibrillator.*]

[*(E) Established a policy to call 9-1-1 to activate the emergency medical services system as soon as practicable after the potential need for the automated external defibrillator is recognized.*]

(3) The immunity provided by this section does not apply if:

(a) The person against whom the action is brought acted with gross negligence or with reckless, wanton or intentional misconduct; **or**

(b) The use, attempted use or nonuse of an automated external defibrillator occurred at a location where emergency medical care is regularly available**.** [*; or*]

[*(c) The person against whom the action is brought possesses or controls one or more automated external defibrillators in a public setting and the person's failure to reasonably comply with the requirements described in subsection (2)(e) of this section caused the alleged injury, death or loss.*]

(4) Nothing in this section affects the liability of a manufacturer, designer, developer, distributor or supplier of an automated external defibrillator, or an accessory for an automated external defibrillator, under the provisions of ORS 30.900 to 30.920 or any other applicable state or federal law.

SECTION 4. The amendments to ORS 30.802 and 431.690 by sections 1 and 3 of this 2010 Act apply to causes of action that arise on or after the effective date of this 2010 Act.

SECTION 5. This 2010 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect on its passage.