



Sen. Martin A. Sandoval

Filed: 4/27/2004

09300HB4232sam001

LRB093 18968 AMC 50123 a

1 AMENDMENT TO HOUSE BILL 4232

2 AMENDMENT NO. _____. Amend House Bill 4232 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Physical Fitness Facility Medical Emergency Preparedness Act.

6 Section 5. Definitions. In this Act, words and phrases have
7 the meanings set forth in the following Sections.

8 Section 5.5. Automated external defibrillator. "Automated
9 external defibrillator" or "AED" means an automated external
10 defibrillator as defined in the Automated External
11 Defibrillator Act.

12 Section 5.10. Department. "Department" means the
13 Department of Public Health.

14 Section 5.15. Director. "Director" means the Director of
15 Public Health.

16 Section 5.20. Medical emergency. "Medical emergency" means
17 the occurrence of a sudden, serious, and unexpected sickness or
18 injury that would lead a reasonable person, possessing an
19 average knowledge of medicine and health, to believe that the
20 sick or injured person requires urgent or unscheduled medical

1 care.

2 Section 5.25. Physical fitness facility.

3 (a) "Physical fitness facility" means the following:

4 (1) Any of the following indoor facilities that is (i)
5 owned or operated by a park district, municipality, or
6 other unit of local government, including a home rule unit,
7 or by a public or private elementary or secondary school,
8 college, university, or technical or trade school and (ii)
9 supervised by one or more persons, other than maintenance
10 or security personnel, employed by the unit of local
11 government, school, college, or university for the purpose
12 of directly supervising the physical fitness activities
13 taking place at any of these indoor facilities: a swimming
14 pool; stadium; athletic field; track and field facility;
15 tennis court; basketball court; or volleyball court; or
16 such facilities located adjacent thereto.

17 (2) Except as provided in subsection (b), any other
18 indoor establishment, whether public or private, that
19 provides services or facilities focusing primarily on
20 cardiovascular exertion as defined by Department rule.

21 (b) "Physical fitness facility" does not include a facility
22 serving less than a total of 100 individuals, as further
23 defined by Department rule. In addition, the term does not
24 include a facility located in a hospital or in a hotel or
25 motel, or any outdoor facility. The term also does not include
26 any facility that does not employ any persons to provide
27 instruction, training, or assistance for persons using the
28 facility.

29 Section 10. Medical emergency plan required.

30 (a) Before July 1, 2005, each person or entity, including a
31 home rule unit, that operates a physical fitness facility must
32 adopt and implement a written plan for responding to medical

1 emergencies that occur at the facility during the time that the
2 facility is open for use by its members or by the public. The
3 plan must comply with this Act and rules adopted by the
4 Department to implement this Act. The facility must file a copy
5 of the plan with the Department.

6 (b) Whenever there is a change in the structure occupied by
7 the facility or in the services provided or offered by the
8 facility that would materially affect the facility's ability to
9 respond to a medical emergency, the person or entity, including
10 a home rule unit, must promptly update its plan developed under
11 subsection (a) and must file a copy of the updated plan with
12 the Department.

13 Section 15. Automated external defibrillator required.

14 (a) By the dates specified in Section 50, every physical
15 fitness facility must have at least one AED on the facility
16 premises. The Department shall adopt rules to ensure
17 coordination with local emergency medical services systems
18 regarding the placement and use of AEDs in physical fitness
19 facilities. The Department may adopt rules requiring a facility
20 to have more than one AED on the premises, based on factors
21 that include the following:

22 (1) The size of the area or the number of buildings or
23 floors occupied by the facility.

24 (2) The number of persons using the facility, excluding
25 spectators.

26 (b) A physical fitness facility must ensure that there is a
27 trained AED user on staff.

28 (c) Every physical fitness facility must ensure that every
29 AED on the facility's premises is properly tested and
30 maintained in accordance with rules adopted by the Department.

31 Section 20. Training. The Department shall adopt rules to
32 establish programs to train physical fitness facility staff on

1 the role of cardiopulmonary resuscitation and the use of
2 automated external defibrillators. The rules must be
3 consistent with those adopted by the Department for training
4 AED users under the Automated External Defibrillator Act.

5 Section 30. Inspections. The Department shall inspect a
6 physical fitness facility in response to a complaint filed with
7 the Department alleging a violation of this Act. For the
8 purpose of ensuring compliance with this Act, the Department
9 may inspect a physical fitness facility at other times in
10 accordance with rules adopted by the Department.

11 Section 35. Penalties for violations.

12 (a) If a physical fitness facility violates this Act by (i)
13 failing to adopt or implement a plan for responding to medical
14 emergencies under Section 10 or (ii) failing to have on the
15 premises an AED or trained AED user as required under
16 subsection (a) or (b) of Section 15, the Director may issue to
17 the facility a written administrative warning without monetary
18 penalty for the initial violation. The facility may reply to
19 the Department with written comments concerning the facility's
20 remedial response to the warning. For subsequent violations,
21 the Director may impose a civil monetary penalty against the
22 facility as follows:

23 (1) At least \$1,500 but less than \$2,000 for a second
24 violation.

25 (2) At least \$2,000 for a third or subsequent
26 violation.

27 (b) The Director may impose a civil monetary penalty under
28 this Section only after it provides the following to the
29 facility:

30 (1) Written notice of the alleged violation.

31 (2) Written notice of the facility's right to request
32 an administrative hearing on the question of the alleged

1 violation.

2 (3) An opportunity to present evidence, orally or in
3 writing or both, on the question of the alleged violation
4 before an impartial hearing examiner appointed by the
5 Director.

6 (4) A written decision from the Director, based on the
7 evidence introduced at the hearing and the hearing
8 examiner's recommendations, finding that the facility
9 violated this Act and imposing the civil penalty.

10 (c) The Attorney General may bring an action in the circuit
11 court to enforce the collection of a monetary penalty imposed
12 under this Section.

13 (d) The fines shall be deposited into the Physical Fitness
14 Facility Medical Emergency Preparedness Fund to be
15 appropriated to the Department, together with any other
16 amounts, for the costs of administering this Act.

17 Section 40. Rules. The Department shall adopt rules to
18 implement this Act.

19 Section 45. Liability. Nothing in this Act shall be
20 construed to either limit or expand the exemptions from civil
21 liability in connection with the purchase or use of an
22 automated external defibrillator that are provided under the
23 Automated External Defibrillator Act or under any other
24 provision of law. A right of action does not exist in
25 connection with the use or non-use of an automated external
26 defibrillator at a facility governed by this Act, except for
27 willful or wanton misconduct, provided that the person, unit of
28 state or local government, or school district operating the
29 facility has adopted a medical emergency plan as required under
30 Section 10 of this Act, has an automated external defibrillator
31 at the facility as required under Section 15 of this Act, and
32 has maintained the automated external defibrillator in

1 accordance with the rules adopted by the Department.

2 Section 50. Compliance dates; private and public indoor
3 physical fitness facilities.

4 (a) Privately owned indoor physical fitness facilities.
5 Every privately owned or operated indoor physical fitness
6 facility must be in compliance with this Act on or before July
7 1, 2006.

8 (b) Publicly owned indoor physical fitness facilities. A
9 public entity owning or operating 4 or fewer indoor physical
10 fitness facilities must have at least one such facility in
11 compliance with this Act on or before July 1, 2006; its second
12 facility in compliance by July 1, 2007; its third facility in
13 compliance by July 1, 2008; and its fourth facility in
14 compliance by July 1, 2009.

15 A public entity owning or operating more than 4 indoor
16 physical fitness facilities must have 25% of those facilities
17 in compliance by July 1, 2006; 50% of those facilities in
18 compliance by July 1, 2007; 75% of those facilities in
19 compliance by July 1, 2008; and 100% of those facilities in
20 compliance by July 1, 2009.

21 Section 55. Home rule. A home rule unit must comply with
22 the requirements of this Act. A home rule unit may not regulate
23 physical fitness facilities in a manner inconsistent with this
24 Act. This Section is a limitation under subsection (i) of
25 Section 6 of Article VII of the Illinois Constitution on the
26 concurrent exercise by home rule units of powers and functions
27 exercised by the State.

28 Section 90. The State Finance Act is amended by adding
29 Section 5.625 as follows:

30 (30 ILCS 105/5.625 new)

1 Sec. 5.625. The Physical Fitness Facility Medical
2 Emergency Preparedness Fund.

3 Section 95. The State Mandates Act is amended by adding
4 Section 8.28 as follows:

5 (30 ILCS 805/8.28 new)

6 Sec. 8.28. Exempt mandate. Notwithstanding Sections 6 and 8
7 of this Act, no reimbursement by the State is required for the
8 implementation of any mandate created by this amendatory Act of
9 the 93rd General Assembly.

10 Section 100. The Automated External Defibrillator Act is
11 amended by changing Section 30 as follows:

12 (410 ILCS 4/30)

13 Sec. 30. Exemption from civil liability.

14 (a) A physician licensed in Illinois to practice medicine
15 in all its branches who authorizes the purchase of an automated
16 external defibrillator is not liable for civil damages as a
17 result of any act or omission arising out of authorizing the
18 purchase of an automated external defibrillator, except for
19 willful or wanton misconduct, if the requirements of this Act
20 are met.

21 (b) An individual or entity providing training in the use
22 of automated external defibrillators is not liable for civil
23 damages as a result of any act or omission involving the use of
24 an automated external defibrillator, except for willful or
25 wanton misconduct, if the requirements of this Act are met.

26 (c) A person, unit of State or local government, or school
27 district owning, occupying, or managing the premises where an
28 automated external defibrillator is located is not liable for
29 civil damages as a result of any act or omission involving the
30 use of an automated external defibrillator, except for willful

1 or wanton misconduct, if the requirements of this Act are met.

2 (d) An ~~A-trained~~ AED user is not liable for civil damages
3 as a result of any act or omission involving the use of an
4 automated external defibrillator in an emergency situation,
5 except for willful or wanton misconduct, if the requirements of
6 this Act are met.

7 (e) This Section does not apply to a public hospital.

8 (Source: P.A. 91-524, eff. 1-1-00.)".