



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

HB4219

Introduced 1/26/2004, by JoAnn D. Osmond - Sidney H. Mathias

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.625 new
30 ILCS 805/8.28 new
410 ILCS 4/30

Creates the Physical Fitness Facility Medical Emergency Preparedness Act. Requires various indoor physical fitness facilities to develop and implement a plan for responding to medical emergencies and to file a copy of the plan with the Department of Public Health. Requires each such facility to have at least one automated external defibrillator (AED) on the facility premises and to have a trained AED user on staff. Requires the Department to adopt rules to ensure coordination with local emergency medical services systems regarding the placement and use of AEDs in physical fitness facilities. Authorizes the Department to inspect facilities to investigate complaints and ensure compliance with the Act. Authorizes civil monetary penalties for violations of the Act. Contains provisions concerning civil liability in connection with the purchase or use of an AED. Establishes a time frame for compliance with the Act. Preempts home rule. Provides for the deposit of fines into the Physical Fitness Facility Medical Emergency Preparedness Fund, and amends the State Finance Act to include the Fund as a special fund. Amends the State Mandates Act to provide that no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act. Amends the Automated External Defibrillator Act to provide that (i) a unit of State or local government, or school district (as well as a "person") is not liable for civil damages as a result of an act or omission involving the use of an AED, (ii) "an" AED user (instead of "a trained" AED user) is not liable for such damages, and (iii) the provisions concerning exemption from civil liability do not apply to a public hospital.

LRB093 18953 WGH 44688 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT in relation to health, which may be known as the
2 Colleen O'Sullivan Law.

3 **Be it enacted by the People of the State of Illinois,**
4 **represented in the General Assembly:**

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

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

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

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

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

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

23 Section 5.25. Physical fitness facility.

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

25 (1) Any of the following indoor facilities that is (i)
26 owned or operated by a park district, municipality, or
27 other unit of local government, including a home rule unit,

1 or by a public or private elementary or secondary school,
2 college, university, or technical or trade school and (ii)
3 supervised by one or more persons, other than maintenance
4 or security personnel, employed by the unit of local
5 government, school, college, or university for the purpose
6 of directly supervising the physical fitness activities
7 taking place at any of these indoor facilities: a swimming
8 pool; stadium; athletic field; track and field facility;
9 tennis court; basketball court; or volleyball court; or
10 such facilities located adjacent thereto.

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

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

23 Section 10. Medical emergency plan required.

24 (a) Before July 1, 2005, each person or entity, including a
25 home rule unit, that operates a physical fitness facility must
26 adopt and implement a written plan for responding to medical
27 emergencies that occur at the facility during the time that the
28 facility is open for use by its members or by the public. The
29 plan must comply with this Act and rules adopted by the
30 Department to implement this Act. The facility must file a copy
31 of the plan with the Department.

32 (b) Whenever there is a change in the structure occupied by
33 the facility or in the services provided or offered by the
34 facility that would materially affect the facility's ability to
35 respond to a medical emergency, the person or entity, including

1 a home rule unit, must promptly update its plan developed under
2 subsection (a) and must file a copy of the updated plan with
3 the Department.

4 Section 15. Automated external defibrillator required.

5 (a) By the dates specified in Section 50, every physical
6 fitness facility must have at least one AED on the facility
7 premises. The Department shall adopt rules to ensure
8 coordination with local emergency medical services systems
9 regarding the placement and use of AEDs in physical fitness
10 facilities. The Department may adopt rules requiring a facility
11 to have more than one AED on the premises, based on factors
12 that include the following:

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

15 (2) The number of persons using the facility, excluding
16 spectators.

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

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

22 Section 20. Training. The Department shall adopt rules to
23 establish programs to train physical fitness facility staff on
24 the role of cardiopulmonary resuscitation and the use of
25 automated external defibrillators. The rules must be
26 consistent with those adopted by the Department for training
27 AED users under the Automated External Defibrillator Act.

28 Section 30. Inspections. The Department shall inspect a
29 physical fitness facility in response to a complaint filed with
30 the Department alleging a violation of this Act. For the
31 purpose of ensuring compliance with this Act, the Department
32 may inspect a physical fitness facility at other times in
33 accordance with rules adopted by the Department.

1 Section 35. Penalties for violations.

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

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

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

17 (b) The Director may impose a civil monetary penalty under
18 this Section only after it provides the following to the
19 facility:

20 (1) Written notice of the alleged violation.

21 (2) Written notice of the facility's right to request
22 an administrative hearing on the question of the alleged
23 violation.

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

28 (4) A written decision from the Director, based on the
29 evidence introduced at the hearing and the hearing
30 examiner's recommendations, finding that the facility
31 violated this Act and imposing the civil penalty.

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

35 (d) The fines shall be deposited into the Physical Fitness

1 Facility Medical Emergency Preparedness Fund to be
2 appropriated to the Department, together with any other
3 amounts, for the costs of administering this Act.

4 Section 40. Rules. The Department shall adopt rules to
5 implement this Act.

6 Section 45. Liability. Nothing in this Act shall be
7 construed to either limit or expand the exemptions from civil
8 liability in connection with the purchase or use of an
9 automated external defibrillator that are provided under the
10 Automated External Defibrillator Act or under any other
11 provision of law. A right of action does not exist in
12 connection with the use or non-use of an automated external
13 defibrillator at a facility governed by this Act, provided that
14 the person, unit of state or local government, or school
15 district operating the facility has adopted a medical emergency
16 plan as required under Section 10 of this Act, has an automated
17 external defibrillator at the facility as required under
18 Section 15 of this Act, and has maintained the automated
19 external defibrillator in accordance with the rules adopted by
20 the Department.

21 Section 50. Compliance dates; private and public indoor
22 physical fitness facilities.

23 (a) Privately owned indoor physical fitness facilities.
24 Every privately owned or operated indoor physical fitness
25 facility must be in compliance with this Act on or before July
26 1, 2005.

27 (b) Publicly owned indoor physical fitness facilities. A
28 public entity owning or operating 4 or fewer indoor physical
29 fitness facilities must have at least one such facility in
30 compliance with this Act on or before July 1, 2005; its second
31 facility in compliance by July 1, 2006; its third facility in
32 compliance by July 1, 2007; and its fourth facility in
33 compliance by July 1, 2008.

1 A public entity owning or operating more than 4 indoor
2 physical fitness facilities must have 25% of those facilities
3 in compliance by July 1, 2005; 50% of those facilities in
4 compliance by July 1, 2006; 75% of those facilities in
5 compliance by July 1, 2007; and 100% of those facilities in
6 compliance by July 1, 2008.

7 Section 55. Home rule. A home rule unit must comply with
8 the requirements of this Act. A home rule unit may not regulate
9 physical fitness facilities in a manner inconsistent with this
10 Act. This Section is a limitation under subsection (i) of
11 Section 6 of Article VII of the Illinois Constitution on the
12 concurrent exercise by home rule units of powers and functions
13 exercised by the State.

14 Section 85. The State Finance Act is amended by adding
15 Section 5.625 as follows:

16 (30 ILCS 105/5.625 new)

17 Sec. 5.625. The Physical Fitness Facility Medical
18 Emergency Preparedness Fund.

19 Section 90. The State Mandates Act is amended by adding
20 Section 8.28 as follows:

21 (30 ILCS 805/8.28 new)

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

26 Section 95. The Automated External Defibrillator Act is
27 amended by changing Section 30 as follows:

28 (410 ILCS 4/30)

29 Sec. 30. Exemption from civil liability.

1 (a) A physician licensed in Illinois to practice medicine
2 in all its branches who authorizes the purchase of an automated
3 external defibrillator is not liable for civil damages as a
4 result of any act or omission arising out of authorizing the
5 purchase of an automated external defibrillator, except for
6 willful or wanton misconduct, if the requirements of this Act
7 are met.

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

13 (c) A person, unit of State or local government, or school
14 district owning, occupying, or managing the premises where an
15 automated external defibrillator is located is not liable for
16 civil damages as a result of any act or omission involving the
17 use of an automated external defibrillator, except for willful
18 or wanton misconduct, if the requirements of this Act are met.

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

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

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