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HOUSE BILL NO. 1988

Offered January 9, 2013

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A BILL to amend and reenact § 8.01-225 of the Code of Virginia, relating to automated external defibrillators; immunity.

Patron—Sickles

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-225 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.

A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance.

2. In the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.

3. In good faith and without compensation, including any emergency medical services technician certified by the Board of Health, administers epinephrine in an emergency to an individual shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if such person has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

4. Provides assistance upon request of any police agency, fire department, rescue or emergency squad, or any governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission or storage of liquefied petroleum gas, liquefied natural gas, hazardous material or hazardous waste as defined in § 10.1-1400 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire or any other place, or while transporting such injured or ill person to, from or between any hospital, medical facility, medical clinic, doctor's office or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation (CPR), cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED), or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident or any other place, or while transporting such person to or from any hospital, clinic, doctor's office or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.

7. Operates an automated external defibrillator AED at the scene of an emergency, trains individuals to be operators of automated external defibrillators AEDs, or orders automated external defibrillators AEDs, shall be immune from civil liability for any personal injury that results from any act or omission in the use of an automated external defibrillator AED in an emergency where the person performing the defibrillation acts as an ordinary, reasonably prudent person would have acted under the same or similar

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59 circumstances, unless such personal injury results from gross negligence or willful or wanton misconduct
60 of the person rendering such emergency care.

61 8. *Acquires an AED located on real property owned or controlled by such person, shall be immune*
62 *from civil liability for any personal injury that results from any act or omission in the use in an*
63 *emergency of an AED located on such property provided that such person (i) maintains and tests the*
64 *AED according to the manufacturer's operational instructions and (ii) notifies the emergency medical*
65 *services agencies serving the jurisdiction where the real property is situated of the current location of*
66 *the AED, unless such personal injury results from gross negligence or willful or wanton misconduct of*
67 *the person who acquired the AED.*

68 8- 9. Is a volunteer in good standing and certified to render emergency care by the National Ski
69 Patrol System, Inc., who, in good faith and without compensation, renders emergency care or assistance
70 to any injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue or
71 any other place or while transporting such injured or ill person to a place accessible for transfer to any
72 available emergency medical system unit, or any resort owner voluntarily providing a ski patroller
73 employed by him to engage in rescue or recovery work at a resort not owned or operated by him, shall
74 not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency
75 care, treatment or assistance, including but not limited to acts or omissions which involve violations of
76 any state regulation or any standard of the National Ski Patrol System, Inc., in the rendering of such
77 emergency care or assistance, unless such act or omission was the result of gross negligence or willful
78 misconduct.

79 9- 10. Is an employee of a school board, authorized by a prescriber and trained in the administration
80 of insulin and glucagon, who, upon the written request of the parents as defined in § 22.1-1, assists with
81 the administration of insulin or administers glucagon to a student diagnosed as having diabetes who
82 requires insulin injections during the school day or for whom glucagon has been prescribed for the
83 emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence
84 in acts or omissions resulting from the rendering of such treatment if the insulin is administered
85 according to the child's medication schedule or such employee has reason to believe that the individual
86 receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any
87 employee of a school board is covered by the immunity granted herein, the school board employing him
88 shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the
89 rendering of such insulin or glucagon treatment.

90 ~~10- 11.~~ Is a school nurse or an employee of a school board, authorized by a prescriber and trained in
91 the administration of epinephrine, who provides, administers, or assists in the administration of
92 epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber
93 of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions
94 resulting from the rendering of such treatment.

95 B. Any licensed physician serving without compensation as the operational medical director for a
96 licensed emergency medical services agency in ~~this~~ the Commonwealth shall not be liable for any civil
97 damages for any act or omission resulting from the rendering of emergency medical services in good
98 faith by the personnel of such licensed agency unless such act or omission was the result of such
99 physician's gross negligence or willful misconduct.

100 Any person serving without compensation as a dispatcher for any licensed public or nonprofit
101 emergency services agency in ~~this~~ the Commonwealth shall not be liable for any civil damages for any
102 act or omission resulting from the rendering of emergency services in good faith by the personnel of
103 such licensed agency unless such act or omission was the result of such dispatcher's gross negligence or
104 willful misconduct.

105 Any individual, certified by the State Office of Emergency Medical Services as an emergency
106 medical services instructor and pursuant to a written agreement with such office, who, in good faith and
107 in the performance of his duties, provides instruction to persons for certification or recertification as a
108 certified basic life support or advanced life support emergency medical services technician shall not be
109 liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf
110 of such office unless such act or omission was the result of such emergency medical services instructor's
111 gross negligence or willful misconduct.

112 Any licensed physician serving without compensation as a medical advisor to an E-911 system in
113 ~~this~~ the Commonwealth shall not be liable for any civil damages for any act or omission resulting from
114 rendering medical advice in good faith to establish protocols to be used by the personnel of the E-911
115 service, as defined in § 58.1-1730, when answering emergency calls unless such act or omission was the
116 result of such physician's gross negligence or willful misconduct.

117 Any licensed physician who directs the provision of emergency medical services, as authorized by
118 the State Board of Health, through a communications device shall not be liable for any civil damages
119 for any act or omission resulting from the rendering of such emergency medical services unless such act
120 or omission was the result of such physician's gross negligence or willful misconduct.

121 Any licensed physician serving without compensation as a supervisor of an ~~automated external~~
 122 ~~defibrillator AED~~ in ~~this~~ *the* Commonwealth shall not be liable for any civil damages for any act or
 123 omission resulting from rendering medical advice in good faith to the owner of the ~~automated external~~
 124 ~~defibrillator AED~~ relating to personnel training, local emergency medical services coordination, protocol
 125 approval, ~~automated external defibrillator AED~~ deployment strategies, and equipment maintenance plans
 126 and records unless such act or omission was the result of such physician's gross negligence or willful
 127 misconduct.

128 C. Any communications services provider, as defined in § 58.1-647, including mobile service, and
 129 any provider of Voice-over-Internet Protocol service, in ~~this~~ *the* Commonwealth shall not be liable for
 130 any civil damages for any act or omission resulting from rendering such service with or without charge
 131 related to emergency calls unless such act or omission was the result of such service provider's gross
 132 negligence or willful misconduct.

133 Any volunteer engaging in rescue or recovery work at a mine or any mine operator voluntarily
 134 providing personnel to engage in rescue or recovery work at a mine not owned or operated by such
 135 operator, shall not be liable for civil damages for acts or omissions resulting from the rendering of such
 136 rescue or recovery work in good faith unless such act or omission was the result of gross negligence or
 137 willful misconduct. For purposes of this subsection, the term "Voice-over-Internet Protocol service" or
 138 "VoIP service" means any Internet protocol-enabled services utilizing a broadband connection, actually
 139 originating or terminating in Internet Protocol from either or both ends of a channel of communication
 140 offering real time, multidirectional voice functionality, including, but not limited to, services similar to
 141 traditional telephone service.

142 D. Nothing contained in this section shall be construed to provide immunity from liability arising out
 143 of the operation of a motor vehicle.

144 E. [Expired.]

145 F. For the purposes of this section, the term "compensation" shall not be construed to include (i) the
 146 salaries of police, fire or other public officials or personnel who render such emergency assistance, (ii)
 147 the salaries or wages of employees of a coal producer engaging in emergency medical technician service
 148 or first aid service pursuant to the provisions of § 45.1-161.38, 45.1-161.101, 45.1-161.199 or
 149 45.1-161.263, (iii) complimentary lift tickets, food, lodging or other gifts provided as a gratuity to
 150 volunteer members of the National Ski Patrol System, Inc., by any resort, group or agency, (iv) the
 151 salary of any person who (a) owns an ~~automated external defibrillator AED~~ for the use at the scene of
 152 an emergency, (b) trains individuals, in courses approved by the Board of Health, to operate ~~automated~~
 153 ~~external defibrillators AEDs~~ at the scene of emergencies, (c) orders ~~automated external defibrillators~~
 154 ~~AEDs~~ for use at the scene of emergencies, or (d) operates an ~~automated external defibrillator AED~~ at the
 155 scene of an emergency, or (v) expenses reimbursed to any person providing care or assistance pursuant
 156 to this section.

157 For the purposes of this section, an emergency medical care attendant or technician shall be deemed
 158 to include a person licensed or certified as such or its equivalent by any other state when he is
 159 performing services which he is licensed or certified to perform by such other state in caring for a
 160 patient in transit in ~~this~~ *the* Commonwealth, which care originated in such other state.

161 Further, the public shall be urged to receive training on how to use ~~cardiopulmonary resuscitation~~
 162 ~~(CPR) CPR~~ and an ~~automated external defibrillator (AED) AED~~ in order to acquire the skills and
 163 confidence to respond to emergencies using both CPR and an AED.