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SENATE BILL NO. 394

Offered January 8, 2020
Prefiled January 6, 2020

A BILL to amend and reenact § 59.1-296 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 59.1-296.2:2, relating to Virginia Health Club Act; automated external defibrillators required in health clubs.

Patron—McPike

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-296 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 59.1-296.2:2 as follows:

§ 59.1-296. Definitions.

As used in this chapter, *unless the context requires a different meaning*:

"Automated external defibrillator" means a device that combines a heart monitor and defibrillator and (i) has been approved by the U.S. Food and Drug Administration; (ii) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia; (iii) is capable of determining, without intervention by an operator, whether defibrillation should be performed; and (iv) automatically charges and requests delivery of an electrical impulse to an individual's heart upon determining that defibrillation should be performed.

"Business day" means any day except a Sunday or a legal holiday.

"Buyer" means a natural person who enters into a health club contract.

"Commissioner" means the Commissioner of Agriculture and Consumer Services, or a member of his staff to whom he may delegate his duties under this chapter.

"Comparable alternate facility" means a health club facility that is reasonably of like kind, in nature and quality, to the health club facility originally contracted, whether such facility is in the same location but owned or operated by a different health club or is at another location of the same health club.

"Contract price" means the sum of the initiation fee, if any, and all monthly fees except interest required by the health club contract.

"Facility" means a location where health club services are offered as designated in a health club contract.

"Health club" means any person, firm, corporation, organization, club or association whose primary purpose is to engage in the sale of memberships in a program consisting primarily of physical exercise with exercise machines or devices, or whose primary purpose is to engage in the sale of the right or privilege to use exercise machines or devices. The term "health club" shall not include the following: (i) bona fide nonprofit organizations, including, but not limited to, the Young Men's Christian Association, Young Women's Christian Association, or similar organizations whose functions as health clubs are only incidental to their overall functions and purposes; (ii) any private club owned and operated by its members; (iii) any organization primarily operated for the purpose of teaching a particular form of self-defense such as judo or karate; (iv) any facility owned or operated by the United States; (v) any facility owned or operated by the Commonwealth of Virginia or any of its political subdivisions; (vi) any nonprofit public or private school or institution of higher education; (vii) any club providing tennis or swimming facilities located in a residential planned community or subdivision, developed in conjunction with the development of such community or subdivision, and deriving at least 80 percent of its membership from residents of such community or subdivision; and (viii) any facility owned and operated by a private employer exclusively for the benefit of its employees, retirees, and family members and which facility is only incidental to the overall functions and purposes of the employer's business and is operated on a nonprofit basis.

"Health club contract" means an agreement whereby the buyer of health club services purchases, or becomes obligated to purchase, health club services.

"Health club services" means and includes services, privileges, or rights offered for sale or provided by a health club.

"Initiation fee" means a nonrecurring fee charged at or near the beginning of a health club membership, and includes all fees or charges not part of the monthly fee.

"Monthly fee" means the total consideration, including but not limited to, equipment or locker rental, credit check, finance, medical and dietary evaluation, class and training fees, and all other similar fees or charges and interest, but excluding any initiation fee, to be paid by a buyer, divided by the total

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number of months of health club service use allowed by the buyer's contract, including months or time periods called "free" or "bonus" months or time periods and such months or time periods that are described in any other terms suggesting that they are provided free of charge, which months or time periods are given or contemplated when the contract is initially executed.

"Out of business" means the status of a facility that is permanently closed and for which there is no comparable alternate facility.

"Prepayment" means payment of any consideration for services or the use of facilities made prior to the day on which the services or facilities of the health club are fully open and available for regular use by the members.

"Relocation" means the provision of health club services by the health club that entered into the membership contract at a location other than that designated in the member's contract.

§ 59.1-296.2:2. Automated external defibrillator required.

Each health club location shall have a working automated external defibrillator.