

By: Senator(s) Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2460

1 AN ACT TO AMEND SECTIONS 41-60-31 THROUGH 41-60-35, AND TO  
2 CODIFY SECTION 41-60-37, MISSISSIPPI CODE OF 1972, TO DEFINE WHO  
3 CAN AUTHORIZE USE OF AUTOMATED EXTERNAL DEFIBRILLATORS (AED), TO  
4 PROVIDE FOR NOTIFICATION OF ACQUISITION AND USE OF AEDS, TO  
5 REQUIRE AED RESPONSE PLAN FOR NON-HEALTH CARE FACILITIES OR  
6 ENTITIES THAT USE AEDS, AND TO PROVIDE LIMITED IMMUNITY FROM CIVIL  
7 LIABILITY FOR THE GOOD FAITH USE OF AN AED TO PROVIDE EMERGENCY  
8 CARE; AND FOR RELATED PURPOSES

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1.** Section 41-60-31, Mississippi Code of 1972, is  
11 amended as follows:

12 41-60-31. As used in Sections 41-60-31 through 41-60-35 and  
13 Section 73-25-37:

14 (a) "AED" means an automated external defibrillator,  
15 which is a device, heart monitor and defibrillator that:

16 (i) Has received approval of its premarket  
17 notification filed under 21 USCS, Section 360(k) from the United  
18 States Food and Drug Administration;

19 (ii) Is capable of recognizing the presence or  
20 absence of ventricular fibrillation, which is an abnormal heart  
21 rhythm that causes the ventricles of the heart to quiver and  
22 renders the heart unable to pump blood, or rapid ventricular  
23 tachycardia, which is a rapid heartbeat in the ventricles and is  
24 capable of determining, without intervention by an operator,  
25 whether defibrillation should be performed; and

26 (iii) Upon determining that defibrillation should  
27 be performed, automatically charges and advises the operator to  
28 deliver hands-free external electrical shock to patients or  
29 automatically delivers hands-free external electrical shock to

30 patients to terminate ventricular fibrillation or ventricular  
31 tachycardia when the heart rate exceeds a preset value.

32 (b) "Emergency medical services (EMS) notification"  
33 means activation of the 911 emergency response system or the  
34 equivalent.

35 (c) "Authorizing health care professional" means a  
36 Mississippi licensed physician, licensed physician assistant,  
37 advanced practice registered nurse, or other licensed health care  
38 professional, who is legally authorized to prescribe use of AEDs.

39 **SECTION 2.** Section 41-60-33, Mississippi Code of 1972, is  
40 amended as follows:

41 41-60-33. Any person may use an automated external  
42 defibrillator for the purpose of saving the life of another person  
43 in sudden cardiac death, subject to the following requirements:

44 (a) AEDs are classified as medical devices by the U.S.  
45 Food and Drug Administration and therefore a health care  
46 professional who is legally authorized, must prescribe the  
47 acquisition of AEDs and be involved in the possessor's program to  
48 ensure compliance with requirements for initial and ongoing  
49 training, emergency medical services (EMS) notification and  
50 maintenance;

51 (b) The person using the AED must have received  
52 appropriate training in cardiopulmonary resuscitation (CPR) and in  
53 the use of an AED by the American Heart Association, American Red  
54 Cross, National Safety Council or other nationally recognized  
55 course in CPR and AED use;

56 (c) The AED must not operate in a manual mode except  
57 when access control devices are in place or when appropriately  
58 licensed individuals such as registered nurses, physicians or  
59 emergency medical technician-paramedics utilize the AED; \* \* \*

60 (d) Any person who renders emergency care or treatment  
61 on a person in sudden cardiac death by using an AED must activate  
62 the EMS system as soon as possible \* \* \*;

63           (e) After each clinical use of the AED, the user or  
64 owners/managers of the facility where the AED was used must report  
65 the event to the authorizing health care professional and the  
66 local licensed emergency medical service provider. They must also  
67 comply with reporting and transferring of data from the AED if  
68 requested by the local licensed emergency medical service provider  
69 and/or the hospital that receives the patient on which the AED was  
70 applied;

71           (f) The AED must be maintained and tested according to  
72 the manufacturer's operational guidelines;

73           (g) Any AED placed for use in Mississippi must be  
74 registered with the Mississippi Department of Health, Office of  
75 Emergency Planning and Response (OEPR), within thirty (30) days of  
76 receipt. The OEPR is authorized to promulgate rules and  
77 regulations for the placement and registry of AEDs in the State of  
78 Mississippi, and to require that copies of the registration be  
79 posted at the facility or entity owning or having access to the  
80 operation of the AED. The OEPR will, in turn, notify the local  
81 licensed EMS provider(s) of all AEDs registered in their area of  
82 jurisdiction; and

83           (h) Any business, facility or entity, other than a  
84 health care facility or individual home, that acquires AEDs must  
85 develop a written AED response plan. The AED plan shall include:

86                   (i) Who manages the AED program;

87                   (ii) Medical supervision from appropriate licensed  
88 health care professionals in the oversight of training of the AED;

89                   (iii) Standing orders stating when the AED should  
90 be used, when it should not be used, and training required to use  
91 it;

92                   (iv) How internal responders and the community's  
93 EMS team will be notified;

94                   (v) Types and locations of AEDs and other  
95 equipment (such as gloves, facemasks for CPR, etc.);

- 96                   (vi) AED training and refresher training policy  
97 including CPR;
- 98                   (vii) A process and schedule for checking and  
99 maintaining equipment;
- 100                   (viii) A process to periodically review and update  
101 the policy and procedures;
- 102                   (ix) Any record that must be kept each time an AED  
103 is applied;
- 104                   (x) How to handle data recorded by the AED during  
105 use and transferring that data promptly to the responding local  
106 licensed EMS provider and/or hospital receiving a patient on which  
107 the AED was applied;
- 108                   (xi) Coordination with local licensed EMS  
109 providers regarding the placement and incidents of use of the  
110 devices;
- 111                   (xii) Program quality assurance. This shall  
112 include compliance with quality assurance policies and procedures  
113 imposed by the local licensed EMS provider and/or its medical  
114 director only if they expressly indicate they wish to be involved  
115 in the quality control program.

116           **SECTION 3.** Section 41-60-35, Mississippi Code of 1972, is  
117 amended as follows:

118           41-60-35. An individual may use an AED if all of the  
119 requirements of Section 41-60-33 are met. However, nothing in  
120 Sections 41-60-31 through 41-60-35 and Section 73-25-37 shall  
121 limit the right of an individual to practice a health occupation  
122 that the individual is otherwise authorized to practice under the  
123 laws of Mississippi.

124           **SECTION 4.** Section 41-60-37, Mississippi Code of 1972, is  
125 codified as follows:

126           Any person who in good faith, with or without compensation,  
127 who has had appropriate training, including a course in CPR, has  
128 demonstrated a proficiency in the use of an AED, renders emergency

129 care when medically appropriate by use of or provision of an AED,  
130 without the objection of the ill or injured victim(s) thereof, in  
131 accordance with the provisions of Sections 41-60-31 et seq., shall  
132 be immune from civil liability for any personal injury as a result  
133 of that care or treatment, or as a result of any act, or failure  
134 to act, in providing or arranging further medical treatment, where  
135 the person acts as an ordinary, reasonably prudent person, or with  
136 regard to a health care professional, including the licensed  
137 physician who reviews and approves the clinical usage, as a  
138 reasonably prudent and careful health care provider would have  
139 acted, under the same or similar circumstances and the person's  
140 actions or failure to act does not amount to willful or wanton  
141 misconduct or gross negligence. In addition any authorized health  
142 care professional who prescribes an AED for public or private use,  
143 any person who provided training in CPR and in the use of an AED,  
144 any purchaser or lessee of an AED, any person responsible for the  
145 site where the AED is located and any expected user regularly on  
146 the premises shall not be liable for any civil damages as a result  
147 of any act or omission of acts related to the operation of an AED  
148 that do not amount to willful or wanton misconduct or gross  
149 negligence.

150       **SECTION 5.** This act shall take effect and be in force from  
151 and after July 1, 2004.