

By: Senator(s) Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2460
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 41-60-31, MISSISSIPPI CODE OF 1972,
2 TO DEFINE CERTAIN TERMS IN THE LAW REGARDING THE USE OF AN
3 AUTOMATED EXTERNAL DEFIBRILLATOR (AED); TO AMEND SECTION 41-60-33,
4 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN AED MUST BE
5 MAINTAINED AND TESTED ACCORDING TO THE MANUFACTURER'S OPERATIONAL
6 GUIDELINES; TO PROVIDE ANY AED PLACED FOR PLANNED RESPONSE OR
7 PUBLIC ACCESS RESPONSE IN MISSISSIPPI MUST BE REGISTERED WITH THE
8 STATE DEPARTMENT OF HEALTH WITHIN THIRTY DAYS OF RECEIPT; TO
9 CREATE NEW SECTION 41-60-37, MISSISSIPPI CODE OF 1972, TO PROVIDE
10 CIVIL IMMUNITY FOR LAY PERSONS AND TRAINED PERSONNEL WHO USE AN
11 AED UNDER CERTAIN CONDITIONS; AND FOR RELATED PURPOSES.

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

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

15 41-60-31. As used in Sections 41-60-31 through 41-60-37:

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

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

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

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

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

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

37 (c) "Planned response" means any action taken as part
38 of a predetermined emergency plan of action. Those plans may
39 include, but are not limited to, persons dispatched by emergency
40 medical dispatch services or by emergency medical services,
41 procedures and personnel identified as part of a facility's
42 guidelines for emergency action, and other individual(s) acting in
43 an official emergency response capacity.

44 (d) "Public access response" means any action taken by
45 an unanticipated or serendipitous bystander who volunteers to help
46 in an emergency.

47 (e) "Expected user" means any person who, in the
48 execution of his or her job, is designated to respond in an
49 emergency situation.

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

52 41-60-33. (1) Any person may use an automated external
53 defibrillator for the purpose of saving the life of another person
54 in sudden cardiac death, subject to the following requirements:

55 (a) A Mississippi licensed physician must exercise
56 medical control authority over the person using the AED to ensure
57 compliance with requirements for training, emergency medical
58 services (EMS) notification and maintenance;

59 (b) The person using the AED must have received
60 appropriate training in cardiopulmonary resuscitation (CPR) and in
61 the use of an AED by the American Heart Association, American Red
62 Cross, National Safety Council or other nationally recognized
63 course in CPR and AED use;

64 (c) The AED must be maintained and tested according to
65 the manufacturer's operational guidelines, and must not operate in
66 a manual mode except when access control devices are in place or
67 when appropriately licensed individuals such as registered nurses,
68 physicians or emergency medical technician-paramedics utilize the
69 AED; * * *

70 (d) Any person who renders emergency care or treatment
71 on a person in sudden cardiac death by using an AED must activate
72 the EMS system as soon as possible, and report any clinical use of
73 the AED to the licensed physician; and

74 (e) Any AED placed for planned response or public
75 access response, not including AEDs prescribed for private use by
76 an individual by a physician, in Mississippi must be registered
77 with the State Department of Health, Office of Emergency Planning
78 and Response, within thirty (30) days of receipt. The State
79 Department of Health, Office of Emergency Planning and Response,
80 may promulgate rules and regulations for the placement and
81 registry of AEDs in the State of Mississippi.

82 **SECTION 3.** The following shall be codified as Section
83 41-60-37, Mississippi Code of 1972:

84 41-60-37. (1) Any lay person who gratuitously and in good
85 faith renders emergency care when medically appropriate by use of
86 or provision of an AED as part of a public access response,
87 without objection of the injured victim or victims thereof, where
88 the person acts as an ordinarily reasonable, prudent person, shall
89 not be liable for any civil damages as a result of any act or
90 omission of acts related to the operation of an AED that do not
91 amount to willful or wanton misconduct or gross negligence.

92 (2) Any person acting as part of a planned response, who has
93 had appropriate training, including a course in CPR, has
94 demonstrated a proficiency in the use of an AED, and who
95 gratuitously and in good faith renders emergency care when
96 medically appropriate by use of or provision of an AED, with or

97 without compensation, without the objection of the ill or injured
98 victim or victims thereof, in accordance with the provisions of
99 Sections 41-60-31 through 41-60-35, shall be immune from civil
100 liability for any personal injury as a result of that care or
101 treatment, or as a result of any act, or failure to act, in
102 providing or arranging further medical treatment, where the person
103 acts as an ordinary, reasonably prudent person, or with regard to
104 a health care professional, including the licensed physician who
105 reviews and approves the clinical usage, as a reasonably prudent
106 and careful health care provider would have acted, under the same
107 or similar circumstances and the person's actions or failure to
108 act does not amount to willful or wanton misconduct or gross
109 negligence. In addition, any authorized health care professional
110 who prescribes an AED for public or private use, any person who
111 provided training in CPR and in the use of an AED, any purchaser
112 or lessee of an AED, any person responsible for the site where the
113 AED is located and any expected user on the premises shall not be
114 liable for any civil damages as a result of any act or omission of
115 acts related to the operation of an AED that do not amount to
116 willful or wanton misconduct or gross negligence.

117 **SECTION 4.** This act shall take effect and be in force from
118 and after July 1, 2004.