

By: Senator(s) White

To: Judiciary, Division A

SENATE BILL NO. 2234
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 73-25-37, MISSISSIPPI CODE OF 1972,
2 TO EXTEND IMMUNITY FOR THE GOOD FAITH USE OF AN AUTOMATED EXTERNAL
3 DEFIBRILLATOR BY A PERSON UNTRAINED IN ITS USE; TO AMEND SECTION
4 73-25-38, MISSISSIPPI CODE OF 1972, TO PROVIDE IMMUNITY TO CERTAIN
5 HEALTH CARE PRACTITIONERS IN AN EMERGENCY; AND FOR RELATED
6 PURPOSES.

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

8 **SECTION 1.** Section 73-25-37, Mississippi Code of 1972, is
9 amended as follows:

10 73-25-37. (1) No duly licensed, practicing physician,
11 physician assistant, dentist, registered nurse, licensed practical
12 nurse, certified registered emergency medical technician, or any
13 other person who, in good faith and in the exercise of reasonable
14 care, renders emergency care to any injured person at the scene of
15 an emergency, or in transporting the injured person to a point
16 where medical assistance can be reasonably expected, shall be
17 liable for any civil damages to the injured person as a result of
18 any acts committed in good faith and in the exercise of reasonable
19 care or omissions in good faith and in the exercise of reasonable
20 care by such persons in rendering the emergency care to the
21 injured person.

22 (2) (a) Any person who in good faith, with or without
23 compensation, renders emergency care or treatment by the use of an
24 automated external defibrillator (AED) in accordance with the
25 provisions of Sections 41-60-31 through 41-60-35, as well as the
26 person responsible for the site where the AED is located if the
27 person has provided for compliance with the provisions of Sections
28 41-60-31 through 41-60-35, shall be immune from civil liability
29 for any personal injury as a result of that care or treatment, or

30 as a result of any act, or failure to act, in providing or
31 arranging further medical treatment, where the person acts as an
32 ordinary, reasonably prudent person would have acted under the
33 same or similar circumstances and the person's actions or failure
34 to act does not amount to willful or wanton misconduct or gross
35 negligence.

36 (b) A person who has not complied with the provisions
37 of Sections 41-60-31 through 41-60-35, but who has access to an
38 AED and uses it in good faith in an emergency as an ordinary
39 prudent person would have done in the same or similar
40 circumstances, shall be immune from civil liability for any
41 personal injury as a result of an act or omission related to the
42 operation of or failure to operate an AED if the person's actions
43 or failure to act do not amount to willful or wanton misconduct or
44 gross negligence.

45 (3) The immunity from civil liability for any personal
46 injury under subsection (2) * * * of this section includes the
47 licensed physician who authorizes, directs or supervises the
48 installation or provision of AED equipment in or on any premises
49 or conveyance other than a medical facility, the owner of the
50 premises where an AED is used, the purchaser of the AED, a person
51 who uses an AED during an emergency for the purpose of attempting
52 to save the life of another person who is or who appears to be in
53 cardiac arrest, and the person who provides the CPR and AED
54 training.

55 (4) The immunity from civil liability under subsection
56 (2) * * * of this section does not apply if the personal injury
57 results from the gross negligence or willful or wanton misconduct
58 of the person rendering the emergency care.

59 **SECTION 2.** Section 73-25-38, Mississippi Code of 1972, is
60 amended as follows:

61 73-25-38. (1) Any licensed physician, physician assistant
62 or certified nurse practitioner who voluntarily provides needed

63 medical or health services to any person without the expectation
64 of payment due to the inability of such person to pay for said
65 services shall be immune from liability for any civil action
66 arising out of the provision of such medical or health services
67 provided in good faith on a charitable basis. This section shall
68 not extend immunity to acts of willful or gross negligence.
69 Except in cases of rendering emergency care wherein the provisions
70 of Section 73-25-37 apply, immunity under this section shall be
71 extended only if the physician, physician assistant or certified
72 nurse practitioner and patient execute a written waiver in advance
73 of the rendering of such medical services specifying that such
74 services are provided without the expectation of payment and that
75 the licensed physician or certified nurse practitioner shall be
76 immune as provided in this subsection. The immunity from
77 liability granted by this subsection also shall extend to actions
78 arising from a church-operated outpatient medical clinic that
79 exists solely for the purpose of providing charitable medical
80 services to persons who are unable to pay for such services,
81 provided that the outpatient clinic receives less than Forty
82 Thousand Dollars (\$40,000.00) annually in patient payments.

83 (2) Any licensed physician, physician assistant or certified
84 nurse practitioner assisting with emergency management, emergency
85 operations or hazard mitigation in response to any emergency,
86 man-made or natural disaster, who voluntarily provides needed
87 medical or health services to any person without fee or other
88 compensation, shall not be liable for civil damages on the basis
89 of any act or omission if the physician, physician assistant or
90 nurse practitioner was acting in good faith and within the scope
91 of their license, education and training and the acts or omissions
92 were not caused from gross, willful or wanton acts of negligence.

93 (3) Any physician who voluntarily renders any medical
94 service under a special volunteer medical license authorized under
95 Section 73-25-18 without any payment or compensation or the

96 expectation or promise of any payment or compensation shall be
97 immune from liability for any civil action arising out of any act
98 or omission resulting from the rendering of the medical service
99 unless the act or omission was the result of the physician's gross
100 negligence or willful misconduct. In order for the immunity under
101 this subsection to apply, there must be a written or oral
102 agreement for the physician to provide a voluntary noncompensated
103 medical service before the rendering of the service by the
104 physician.

105 (4) Any physician who is retired from active practice, and
106 who has been previously issued an unrestricted license to practice
107 medicine in any state of the United States or who has been issued
108 a special volunteer medical license under Section 73-25-18, shall
109 be immune from liability for any civil action arising out of any
110 medical care or treatment provided while voluntarily serving as
111 "doctor of the day" for members of the Mississippi State
112 Legislature, legislative or other state employees, or any visitors
113 to the State Capitol on the date of such service. This subsection
114 shall not extend immunity to acts of willful or gross negligence
115 or misconduct.

116 **SECTION 3.** This act shall take effect and be in force from
117 and after July 1, 2007.