ASSEMBLY, No. 1009

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblywoman JOANN DOWNEY
District 11 (Monmouth)
Assemblyman ERIC HOUGHTALING
District 11 (Monmouth)
Assemblywoman GABRIELA M. MOSQUERA
District 4 (Camden and Gloucester)

Co-Sponsored by:
Assemblyman Holley, Assemblywoman Murphy, Assemblymen Bramnick and Conaway

SYNOPSIS

"Michael Anthony Fornicola's law"; requires hotels to have automated external defibrillators in certain areas.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning the use of automated external defibrillators in hotels, designated "Michael Anthony Fornicola's law," and supplementing P.L.1999, c.34 (C.2A:62A-23 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Legislature finds and declares that:

a. Due to the recognized health benefits provided by increased access to automated external defibrillators (AED), the Legislature has enacted several laws to require AEDs to be maintained in an accessible on-site location at various types of facilities including health clubs, public and non-public schools, nursing homes, and assisted living facilities;

b. The survival rate for a cardiac event can be as high as 90 percent when defibrillation is provided in the first minute after cardiac arrest, but the chances of surviving the event decrease by seven to 10 percent with each minute that passes without defibrillation;

c. In order to ensure that a person suffering a cardiac event while on-site at a hotel will receive timely emergency medical treatment and have the highest chance of survival, it is in the best interests of the residents of this State to require all hotels to place AEDs throughout the hotel in a manner that ensures they are readily accessible in the event they are needed to respond to a sudden cardiac event.

2. As used in this act:

Automated external defibrillator" or "defibrillator" means a medical device heart monitor and defibrillator as described in section 2 of P.L.1999, c.34 (C.2A:62A-24).

"Bed and breakfast" means a facility providing sleeping or dwelling accommodations to transient guests which:

(1) is comprised of a structure originally constructed as a private residence or a bed and breakfast;

(2) includes individual sleeping accommodations for 50 or fewer guests;

(3) has, at all times when the facility is being used for the lodging of guests, an owner of the facility, or an agent of the owner, who occupies a residence at the facility or resides at a location that is no more than 15 minutes away from the facility by car;

(4) maintains common areas for the exclusive use of guests of the facility, which areas may include, but shall not be limited to parlors, dining rooms, libraries, porches, verandas, and solariums;

(5) prohibits cooking and smoking in guest rooms;

(6) provides a meal to the guests in the forenoon of each day but does not operate as a restaurant open to the general public;

(7) is not a "rooming house" or "boarding house" as defined in section 3 of P.L.1979, c.496 (C.55:13B-3); and

(8) does not allow more than 15 percent of the guests to remain more than 30 successive days or more than 30 days of any period of 60 successive days; and does not allow any guest to remain more than 60 successive days or more than 60 days of any period of 90 days

"Hotel" means any building, including, but not limited to any related structure, accessory building, and land appurtenant thereto, and any part thereof, which contains 10 or more units of dwelling space or has sleeping facilities for 25 or more persons and is kept, used, maintained, advertised as, or held out to be, a place where sleeping or dwelling accommodations are available to transient or permanent guests, as defined in P.L.1967, c.76 (C.55:13A-1 et seq.). The term shall include any hotel, motor hotel, inn, established guesthouse, motel, or bed and breakfast that is commonly regarded as a hotel, motor hotel, inn, established guesthouse, motel, or bed and breakfast, as applicable, in the community in which it is located; provided that the term shall not be construed to include any building or structure defined as a multiple dwelling pursuant to P.L.1967, c.76 (C.55:13A-1 et seq.), registered as a multiple dwelling with the Commissioner of Community Affairs, and occupied or intended to be occupied as such; nor shall the term be construed to include a rooming house or a boarding house as defined in the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) or, except as otherwise set forth in P.L.1987, c.270 (C.55:13A-12.1 et al.), any retreat lodging facility .

3. a. No later than one year after the effective date of this act, the owner or operator of each hotel shall:

(1) (a) In the case of a hotel that is not a bed and breakfast, acquire, and maintain on-site at the hotel, at least one automated external defibrillator in each lobby, meeting room, banquet hall, and fitness center, as well as on every other residential floor, which defibrillator shall remain accessible at all times; and

(b) In the case of a hotel that is a bed and breakfast, acquire, and maintain on-site in each separate building or structure on the premises of the bed and breakfast that is used by, or is accessible to, guests, at least one automated external defibrillator, which shall remain accessible at all times;

(2) store and maintain each defibrillator in a central, unlocked location that is known and accessible to employees;

(3) ensure that each defibrillator is tested and maintained in accordance with the manufacturer's operational guidelines;

(4) provide notification to the appropriate first aid, ambulance, or rescue squad, or other appropriate emergency medical services

provider, regarding the acquisition of the defibrillators, the type, and the locations within the hotel;

(5) mark the location of each defibrillator with a prominent sign;

(6) arrange and pay for the training of employees and volunteers in cardio-pulmonary resuscitation and the use of a defibrillator;

(7) ensure, during the hours when a public or private event or activity is taking place at the hotel, that at least one employee or volunteer who has current certifications from the American Red Cross, American Heart Association, or other training program recognized by the Department of Health, in cardio-pulmonary resuscitation and the use of a defibrillator, is on-site and available to respond to any cardiac event; and

(8) ensure that an employee requests emergency medical assistance from the appropriate first aid, ambulance, or rescue squad as soon as practicable after a defibrillator is used in response to a cardiac event.

b. The owner or operator of each hotel shall develop and implement a cardiac event response protocol, which identifies: (1) the primary and contingency procedures to be used by employees in responding to a sudden cardiac event at the hotel; and (2) the particular employees, or types of employees, who will be responsible for retrieving and using the defibrillator, starting cardio-pulmonary resuscitation, calling 911, and assisting emergency responders in reaching the individual who is experiencing the sudden cardiac event.

4. a. An owner or operator of a hotel who violates the provisions of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be liable to a civil penalty of not less than $1,000 for the first violation, not less than $2,000 for the second violation, and not less than $4,000 for the third and each subsequent violation.

b. In addition to the penalties set forth in subsection a. of this section, an owner or operator of a hotel shall be liable to a civil penalty of $1,000 for each defibrillator that is not maintained in accordance with the manufacturer's operational guidelines.

c. The penalties provided by this section shall be collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before the municipal court having jurisdiction. An official authorized by statute or ordinance to enforce the State or local health codes, or a law enforcement officer having enforcement authority in the municipality, may issue a summons for a violation of the provisions of section 3 of this act, and may serve and execute all process with respect to the enforcement of this section, consistent with the Rules of Court.

d. A penalty recovered under the provisions of this section shall be recovered by and in the name of the State by the local

health agency. The penalty shall be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

5. a. As provided by section 5 of P.L.1999, c.34 (C.2A:62A-27), a hotel, its owner and operator, and its employees and volunteers shall be immune from civil liability in association with the acquisition and use of a defibrillator in compliance with P.L. , c. (C.) (pending before the Legislature as this bill).

b. In addition to the immunity described in subsection a. of this section, a hotel, its owner and operator, and its employees and volunteers shall be immune from civil or criminal liability resulting from the malfunctioning of a defibrillator, if the defibrillator has been maintained and tested in accordance with the manufacturer's operational guidelines.

6. The Commissioner of Health shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to implement the provisions of this act.

7. This act shall take effect on the first day of the third month next following enactment, except that the commissioner may take any anticipatory administrative action in advance thereof as may be necessary for the implementation of this act.

STATEMENT

This bill would require every hotel in the State that is not a bed and breakfast to provide an automated external defibrillator (AED) in each lobby, meeting room, banquet hall, and fitness center, as well as on every other residential floor. Bed and breakfasts will be required to provide an AED in each separate building or structure on the premises of the bed and breakfast that is used by, or accessible to, guests.

The bill defines hotel as a building or related structure that contains 10 or more units of dwelling space or has sleeping facilities for 25 or more people that is held out to be a hotel, motor hotel, inn, motel, or established guesthouse that is commonly regarded as such in the community where it is located. The term will not include multiple dwellings or rooming or boarding houses.

In addition to acquiring and maintaining AEDs in the required locations, described above, the hotel will be required to:

– store and maintain each defibrillator in a central, unlocked location that is known and accessible to employees;

– ensure that the defibrillator is tested and maintained in accordance with the manufacturer's operational guidelines;

– provide notification to the appropriate first aid, ambulance, or rescue squad, or other appropriate emergency medical services provider, regarding the acquisition of the defibrillator's, the type, and the locations within the hotel;

– mark the location of each defibrillator with a prominent sign;

– arrange and pay for the training of employees and volunteers in cardio-pulmonary resuscitation and defibrillator use;

ensure, during the hours when a public or private event or activity is taking place at the hotel, that at least one employee or volunteer who has current certifications from the American Red Cross, American Heart Association, or other training program recognized by the Department of Health, in cardio-pulmonary resuscitation and the use of a defibrillator, is on-site and available to respond to any cardiac event; and

– ensure that an employee requests emergency medical assistance from the appropriate first aid, ambulance, or rescue squad as soon as practicable after a defibrillator is used in response to a cardiac event.

Hotels will be required to meet these requirements within one year after the effective date of the bill.

An owner or operator of a hotel that violates the provisions of the bill will be liable to a civil penalty of $1,000 for a first violation, $2,000 for a second violation, and $4,000 for a third or subsequent violation. A hotel owner or operator will also be liable to an additional civil penalty of $1,000 for each defibrillator that is not maintained in accordance with the manufacturer's operational guidelines.

The bill provides that the owner or operator of a hotel and its employees and volunteers are immune from civil liability in association with the acquisition and use of a defibrillator. The owner or operator of a hotel and its employees and volunteers are also immune from civil or criminal liability resulting from the malfunctioning of a defibrillator, if it has been maintained and tested in accordance with the manufacturer's operational guidelines.

In order to ensure that a person suffering a cardiac event while on-site at a hotel will receive timely emergency medical treatment and have the highest chance of survival, it is in the best interests of the residents of this State to require all hotels to provide a defibrillator in each lobby, meeting room, banquet hall, and fitness center.