

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 2260 (Rodriguez)
Version: June 8, 2022
Hearing Date: June 14, 2022
Fiscal: Yes
Urgency: No
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SUBJECT

Emergency response: trauma kits

DIGEST

This bill requires certain public and private buildings to maintain a trauma kit on the building's premises. The bill provides specified immunity to persons supplying trauma kits, training others on their use, and using them in emergency situations.

EXECUTIVE SUMMARY

According to the Stop the Bleed campaign: "Uncontrolled bleeding is a major cause of preventable deaths. Approximately 40 [percent] of trauma-related deaths worldwide are due to bleeding or its consequences, establishing hemorrhage as the most common cause of preventable death in trauma." The Stop the Bleed Coalition seeks to raise awareness of this threat and how proper training and materials can prevent bleeding deaths in the wake of a trauma event.

This bill carries out this purpose by requiring "trauma kits," first aid response kits that contain certain materials, including tourniquets, pressure dressings, chest seals, and instructional documents to be placed in specified public and private buildings. The bill immunizes those placing the kits, as specified. In order to incentivize proper training and use of these kits, the bill extends existing immunity laws to those providing training and certification on using kits and to those actually using the kits to render emergency care at the scene of an emergency.

This bill is author sponsored. It is supported by the American College of Surgeons and the California Emergency Nurses Association. There is no known opposition. The bill passed out of the Senate Health Committee on a 9 to 0 vote.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides that no person who, in good faith, and not for compensation, renders emergency medical or nonmedical care at the scene of an emergency shall be liable for any civil damages resulting from any act or omission. The scene of an emergency shall not include emergency departments and other places where medical care is usually offered. This applies only to medical, law enforcement, and emergency personnel, as specified. (Health & Saf. Code § 1799.102(a).)
- 2) Extends to all other persons not covered by the above who are rendering medical or nonmedical care or other assistance in such situations immunity from civil damages resulting from any act or omission other than acts or omissions constituting gross negligence or willful or wanton misconduct. (Health & Saf. Code § 1799.102(b).)
- 3) Provides that, in order to encourage local agencies and other organizations to train people in emergency medical services, no local agency, entity of state or local government, private business, or nonprofit organization included on the statewide registry that voluntarily and without expectation and receipt of compensation donates services, goods, labor, equipment, resources, or dispensaries or other facilities, in compliance with Section 8588.2 of the Government Code, or other public or private organization which sponsors, authorizes, supports, finances, or supervises the training of people, or certifies those people, excluding physicians and surgeons, registered nurses, and licensed vocational nurses, as defined, in emergency medical services, shall be liable for any civil damages alleged to result from those training programs. (Health & Saf. Code § 1799.100.)
- 4) Provides that any person who, in good faith and not for compensation, renders emergency care or treatment by the use of an automated external defibrillator (AED) at the scene of an emergency is not liable for any civil damages resulting from any acts or omissions in rendering the emergency care. (Civ. Code § 1714.21(b).) A person or entity who provides CPR and AED training to a person who renders such emergency care is not liable for any civil damages resulting from any acts or omissions of the person rendering the emergency care. (Civ. Code § 1714.21(c).)
- 5) Provides that a person or entity that acquires an AED for emergency use, as specified, is not liable for any civil damages resulting from any acts or omissions in the rendering of the emergency care by use of an AED if that person or entity has complied with subdivision (b) of Section 1797.196 of the Health and Safety Code. (Civ. Code § 1714.21(d).)

- 6) Provides that when an AED is placed in a building, the building owner shall do all of the following:
 - a) at least once a year, notify the tenants as to the location of the AED units and provide information to tenants about who they can contact if they want to voluntarily take AED or CPR training;
 - b) at least once a year, offer a demonstration to at least one person associated with the building so that the person can be walked through how to use an AED properly in an emergency. The building owner may arrange for the demonstration or partner with a nonprofit organization to do so; and
 - c) next to the AED, post instructions, in no less than 14-point type, on how to use the AED. (Health & Saf. Code § 1797.196(b)(2).)

This bill:

- 1) Establishes the Tactical Response to Traumatic Injuries Act.
- 2) Defines “trauma kit” to mean a first aid response kit that contains at least all of the following:
 - a) two tourniquets;
 - b) two pressure dressings that are inspected for replacement no less than every three years;
 - c) four chest seals that are inspected for replacement no less than every three years; and
 - d) instructional documents developed by the First Care Provider program, the Committee for Tactical Emergency Casualty Care, or the federal Stop the Bleed campaign.
- 3) Requires the person or entity responsible for managing the building, facility, and tenants of specified structures do all of the following:
 - a) acquire and place a trauma kit on the premises of the building or facility;
 - b) inspect all trauma kits acquired and placed on the premises of a building or structure every three years from the date of installation to ensure that all materials, supplies, and equipment contained in the trauma kit are not expired, and replace any expired materials, supplies, and equipment as necessary;
 - c) if a property managing entity or person is aware, or reasonably should be aware, that a trauma kit has been used, restock the trauma kit after each use and replace any materials, supplies, and equipment as necessary to ensure that all materials, supplies, and equipment required to be contained in the trauma kit are contained in the trauma kit; and
 - d) at least once per year, notify tenants of the building or structure of the location of the trauma kit and provide information to tenants regarding contact information for training in the use of the trauma kit.

- 4) Provides civil immunity to those persons or entities that comply with the above in connection with any damages that result from acts or omissions in the rendering of emergency care by use of a trauma kit. A property managing entity is also civilly immune from damages resulting from the failure, improper operation, or malfunction of equipment or materials within a properly stocked trauma kit.
- 5) Requires a person or entity that supplies a trauma kit to provide the person or entity that acquires the trauma kit with all information governing the use and maintenance of the trauma kit.
- 6) Applies the immunities of the "Good Samaritan" law codified in Section 1799.102 to persons who, in good faith and not for compensation, render emergency care or treatment by the use of a trauma kit at the scene of an emergency.
- 7) Provides that a person who renders emergency care or treatment by the use of a trauma kit at the scene of an emergency and who receives compensation as a result of their employment by a property managing entity, a tenant of a building, or any other private or public employer, but is not compensated to provide emergency medical care, is not providing emergency medical care "for compensation" for purposes of Section 1799.102 of the Health and Safety Code.
- 8) Applies the immunities of Section 1799.100 to a person or entity that voluntarily, and without expectation or receipt of compensation, does the following:
 - a) provides training in the use of trauma kits, as specified; or
 - b) certifies persons, as specified, who are trained in the use of a trauma kit to provide emergency medical treatment to victims of trauma.
- 9) Clarifies that a property manager or person employed by a property managing entity is not required to respond to an emergency with the use of trauma kits.

COMMENTS

1. Civil liability and immunity

As a general rule, California law provides that persons are responsible, not only for the result of their willful acts, but also for an injury occasioned to another by their want of ordinary care or skill in the management of their property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon themselves. (Civ. Code § 1714(a).) Liability has the primary effect of ensuring that some measure of recourse exists for those persons injured by the negligent or willful acts of others; the risk of that liability has the primary effect of ensuring parties act reasonably to avoid harm to those to whom they owe a duty.

Conversely, immunity from liability disincentivizes careful planning and acting on the part of individuals and entities. When one enjoys immunity from civil liability, it is relieved of the responsibility to act with due regard and an appropriate level of care in the conduct of its activities. Immunity provisions are also disfavored because they, by their nature, preclude parties from recovering when they are injured, and force injured parties to absorb losses for which they are not responsible. Liability acts not only to allow a victim to be made whole, but to encourage appropriate compliance with legal requirements.

Although immunity provisions are rarely preferable, the Legislature has in limited scenarios approved measured immunity from liability (as opposed to blanket immunities) to promote other policy goals that could benefit the public. Immunities are generally afforded when needed to ensure the willingness of individuals to continue taking on certain roles that may involve some risk and to incentivize certain conduct, such as the provision of life-saving or other critical services. Examples include protections for use of CPR (Civ. Code § 1714.2); use of an automated external defibrillator (Civ. Code § 1714.21); use of opiate overdose treatment (Civ. Code § 1714.22); providing emergency care at the scene of an emergency (Health & Saf. Code §§ 1799.102, 1799.106); and performing emergency rescue services (Health & Saf. Code § 1799.107). However, as indicated above, rarely is immunity absolute, and these immunities generally do not cover grossly negligent conduct or intentional misconduct.

2. Incentivizing the deployment and proper use of trauma kits

In order to maximize the life-saving capabilities of trauma kits, this bill requires placement of trauma kits in specified buildings. To ensure safety, it further requires periodic inspections, restocking, as provided, and tenant notifications and instructions. The bill immunizes those responsible for managing these facilities and buildings from civil damages arising from acts or omissions in rendering emergency care by use of these trauma kits if they comply with the provisions of the bill. These provisions track with similar laws governing the placement of automated external defibrillators (AED) and the attached immunity. (Civ. Code § 1714.21; Health & Saf. Code § 1797.196.) In addition the bill provides immunity for those managing the buildings from civil damages resulting from the failure, improper operation, or malfunction of equipment or materials within a properly stocked trauma kit. However, it should be noted that this latter immunity provision is not conditioned on abiding by the various provisions of the bill regarding periodically inspecting trauma kits and restocking them, as provided.

The bill also affords liability protections for persons who, in good faith and not for compensation, render emergency care or treatment through the use of a trauma kit at the scene of an emergency. The bill specifically applies the immunity provisions of Section 1799.102 of the Health and Safety Code, often referred to as the “Good Samaritan Law.” That statute provides immunity for those rendering emergency medical or nonmedical care at the scene of an emergency, as specified. The Good

Samaritan law applies two standards, one solely applies to specified medical, law enforcement, or emergency personnel. Subdivision (b) applies to all other persons and establishes immunity from damages resulting from the same acts or omissions, but specifically excludes those acts or omissions constituting gross negligence or willful or wanton misconduct. The latter standard is the one the bill appropriately applies here.

In fact, a person who, in good faith and not for compensation, renders emergency care or treatment by the use of a trauma kit at the scene of an emergency is likely already covered by the existing Good Samaritan law. However, this provision will likely incentivize more individuals to take action when needed. The bill also provides that a person who receives compensation as a result of their employment, but is not compensated to provide emergency medical care, is not providing emergency medical care “for compensation” for these purposes. Again, this is already the law that applies, but this language makes the point clear.

The bill also applies the immunities of Section 1799.100 of the Health and Safety Code to a person or entity that voluntarily, and without expectation and receipt of compensation, does either of the following:

- provides training in the use of a trauma kit to provide emergency medical treatment to victims of trauma, including, but not limited to, training in the use of the trauma kit in emergency first care response to an active shooter; or
- certifies persons, other than physicians and surgeons, registered nurses, and licensed vocational nurses, who are trained in the use of a trauma kit to provide emergency medical treatment to victims of trauma.

These provisions incentivize expanded training and certification so that more people are willing to carry these services out, resulting in more individuals capable of skillfully deploying these trauma kits. These provisions are in line with the immunities already provided to persons or entities that train individuals in the use of CPR and AEDs. (Civ. Code § 1714.21.)

According to the author:

AB 2260 ensures certain buildings have trauma kits on the premises to ensure bystanders are equipped with the needed medical supplies to control active bleeding in emergency situations. The bill provides immunity from liability for organizations that provide stop the bleed training thereby encouraging more widespread training. Finally, the bill empowers bystanders to act by clarifying that they are immune from liability if they render emergency medical care. These are recommendations from the Hartford Consensus aimed to improve equip and empower bystanders to act as immediate responders. This bill ensures a victim will survive long enough for medical personnel to treat the patient.

3. Stakeholder positions

Writing in support, a coalition of medical groups and associations, including the California Medical Association and the American College of Surgeons asserts:

As with any injury or medical emergency, immediate treatment provides critical time to stabilize or revive the patient while professional emergency services are on their way. In the event of a traumatic bleeding injury, time is even more crucial as it can take [just] a few minutes for bleeding to cause death. As shown in national studies, prompt access to trauma kits will greatly increase the survival chance of the injured bleeding person.

A traumatic bleeding injury can happen at any moment and in any location. California is especially susceptible to emergency disasters, such as earthquakes, that can result in the need to treat numerous people with severe injuries. In these circumstances excellent pre-hospital emergency care for the injured is critical to provide trauma and emergency centers with the necessary time to prepare for and save the injured. The COVID-19 pandemic has demonstrated the vulnerability of our emergency centers to handle a sudden large influx of patients while still handling normal caseloads. STOP THE BLEED® training and the use of trauma kits will help to provide precious time for severely injured patients and will save lives.

Assembly Bill 2260 will make certain that trauma kits are available in California's buildings and public places when and where they are needed most. The benefits in saving lives by far outweigh the necessary small investment to implement this program.

SUPPORT

American Academy of Otolaryngology-Head and Neck Surgery
American College of Surgeons
American Society for Anesthesiologists
American Society for Dermatologic Surgery Association
American Trauma Society
American Urological Association
California Emergency Nurses Association
California Medical Association
California Society of Anesthesiologists
Committee on Trauma of the American College of Surgeons
National Association of EMS Physicians
Northern California Chapter, American College of Surgeons
San Diego Imperial Chapter, American College of Surgeons

San Francisco Marin Medical Society
Sharp HealthCare
Southern California Chapter, American College of Surgeons
Trauma Center Association of America

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

SB 687 (Hueso, 2021) was substantially similar to this bill. However, it required the person or entity responsible for managing the building, facility, and tenants to comply with all regulations governing the placement of a trauma kit and afforded less immunity to them. This bill died in the Assembly Appropriations Committee.

AB 2053 (Rodriguez, 2020) was substantially similar to this bill. This bill died in the Assembly Appropriations Committee.

AB 1708 (Rodriguez, 2019) was substantially similar to this bill. This bill died in the Assembly Appropriations Committee.

SB 1305 (Glazer, Ch. 900, Stats. 2018) permitted an emergency responder to provide basic first aid, as specified, to a dog or a cat, without being in violation of the Veterinary Medicine Practice Act and ensured existing immunity laws apply.

AB 1766 (Maienschein, Ch. 270, Stats. 2018) provided that every public swimming pool that is required to provide lifeguard services and that charges a direct fee shall provide on its premises an AED that must be readily available during pool operations and applied conditional liability protections to those acquiring or using these AEDs.

PRIOR VOTES:

Senate Health Committee (Ayes 9, Noes 0)

Assembly Floor (Ayes 69, Noes 0)

Assembly Appropriations Committee (Ayes 13, Noes 0)

Assembly Judiciary Committee (Ayes 8, Noes 0)

Assembly Health Committee (Ayes 13, Noes 0)
