

# Legislative Analysis

---



## HEALTH CLUBS: REQUIRE CPR, AED, AND EMERGENCY PLANS

Mitchell Bean, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**Senate Bill 310 as passed by the Senate**  
**Sponsor: Sen. Gilda Z. Jacobs**  
**House Committee: Health Policy**  
**Senate Committee: Health Policy**

### First Analysis (1-30-06)

**BRIEF SUMMARY:** The bill would create a civil penalty for a health club that did not have an AED on the premises; employ an individual trained in basic first aid, CPR, and use of an AED; and develop and implement an emergency plan to address emergency services.

**FISCAL IMPACT:** Depending on how the bill affected the numbers of people held responsible for state civil infractions and the payment of associated fines and costs, the bill could increase revenues for the state and local units of government. Each state civil infraction is subject to court-ordered "minimum state costs" of \$10, which is deposited into the Justice System Fund and supports various costs under the Judiciary and Department of State Police Budgets. Civil fines imposed and collected for state civil infractions go to local libraries.

### **THE APPARENT PROBLEM:**

In recent years, health clubs have gained popularity as the importance of exercise to general health and fitness has been emphasized. These facilities cater to a wide range of people of all ages and fitness levels. While the physical activity engaged in at health clubs is generally beneficial to a person's health, overexertion or exercising improperly can lead to injury (i.e., sprains, strains, or fractures) or emergency medical situations, such as heart attacks, that require immediate care.

According to the American Heart Association, about 250,000 Americans die each year of sudden cardiac arrest and 95 percent of cardiac arrest victims die before they reach the hospital. The Heart Association has identified four steps that can increase the chances that a victim will make it to the hospital alive. Each step makes up a link in the "chain of survival," which includes early access to medical care (calling 9-1-1); early cardiopulmonary resuscitation (CPR); early defibrillation; and early advanced medical care.

Though statistics on how many incidents of cardiac arrest or injuries occur at health clubs in the state on an annual basis is unavailable, it is reasonable to assume that there is a greater potential for problems to occur at a health club due to the exertion expended and use of exercise equipment while exercising than in other public venues. Therefore, some people believe that, in order to be prepared for medical emergencies, health clubs should be required to implement an emergency services plan, employ at least one staff member

certified in first-aid and CPR training, and have an automated external defibrillator (AED) on-site.

### ***THE CONTENT OF THE BILL:***

The bill would create a new act to require that a health club have on the premises an automated external defibrillator (AED), employ at least one person who was certified in first aid and CPR, and develop and implement an emergency plan, or face civil penalties. However, the bill would specify that a person, including, but not limited to, a health club owner, operator, or employee, would not have a duty to render an emergency service to an individual using an AED that a health club had on the premises. Furthermore, the bill would not limit the applicability of Public Act 17 of 1963, which limits the civil liability of certain persons rendering emergency services.

The bill would define “health club” as “an establishment that provides, as its primary purpose, services or facilities that are purported to assist patrons in physical exercise, in weight control, or in figure development, including, but not limited to, a fitness center, studio, salon, or club”. A health club would not include a hotel or motel providing physical fitness equipment or activities, an organization solely offering training or facilities for an individual sport, or an establishment that provided as its primary purpose assistance in weight reduction.

Beginning one year after the bill’s effective date, a health club’s owner or operator would have to do all of the following:

- Employ at least one individual who had satisfactorily completed a course or courses in basic first aid, basic CPR, and AED use taught by the American Red Cross, the American Health Association, or an equivalent organization approved by the Department of Community Health.
- Have an AED available on the premises and deployed in a manner that provides obvious and ready accessibility to staff, members, and guests.
- Develop and implement an emergency plan to address emergency services, when needed, during operational hours at the health club.

A violation of the bill would be a state civil infraction punishable by a maximum civil fine of \$250 for a first offense, \$500 for a second offense, or \$1,000 for a third or subsequent offense.

### ***BACKGROUND INFORMATION:***

The bill is similar to Senate Bill 50 of the 2003-2004 legislative session, which passed the Senate but failed to see action on the House floor, and also House Bill 4141 of the 2001-2002 legislative session, which was passed by the House of Representatives but died in the Senate.

## **ARGUMENTS:**

### **For:**

Being prepared to address an emergency situation can give a person or organization the tools necessary to respond properly in the event of a heart attack or other injury, in virtually any forum. In a health club, overexertion can be risky for people who are trying to become physically fit or even those who are already active and seemingly in good health. Indeed, in June 2000, a Huntington Woods man who was physically fit and appeared to be in good health collapsed and died at a health club. Reportedly, the health club did not have a plan for dealing with such emergencies and none of the staff was trained in CPR.

According to the American Heart Association, the window of opportunity to save a cardiac arrest victim is about seven to ten minutes, and a person's chance of survival decreases about 10 percent for every minute without defibrillation. Unless the "chain of survival" is followed, death likely will occur in a matter of minutes. Calling 9-1-1 provides an initial and immediate link to the emergency medical care system. Properly administering CPR can add a few minutes to the time available for survival because it can maintain blood flow to the heart and brain, even during cardiac arrest. Defibrillation is critical in treating cardiac arrest victims early because the electric shock stops the abnormal rhythm of the heart and allows a coordinated rhythm and normal pumping action to resume.

By requiring that a health club have an emergency plan in place, as well as having an AED on the premises and employing some staff who are trained in CPR and first aid, the bill would provide an increased opportunity to save the life of a health club patron who suffered from cardiac arrest or to assist injured patrons.

### **Response:**

While it may seem like a good idea for a health club to be equipped to deal with medical emergencies, health clubs are not medical care facilities, but typically are business ventures that must turn a profit in order to remain viable. As such, they should not be legally subject to the proposed requirements. Rather, it should be left up to each individual club to determine what services it should provide in that market. Indeed, it may not be economically feasible for every health club in the state to meet the bill's requirements. For instance, an AED reportedly costs about \$3,000 and many clubs, particularly smaller, independent operations, might not be able to afford one.

### **Rebuttal:**

Actually, the cost of an AED has dropped dramatically in recent years. Very reliable models can be purchased for around \$1,500 each. And, rather than viewing the bill's requirements as a burden to health clubs, it would seem a health club that invested in training its employees and equipping its facility to respond to medical emergencies would attract more members, thus enhancing profits.

### **For:**

The bill should not have liability implications for health clubs. The Good Samaritan law provides civil immunity for an individual who has no duty to act but who, in good faith,

voluntarily renders emergency services to another individual using CPR or an AED. In addition, the bill would specify no one would have a duty to render emergency services using the on-site AED.

Furthermore, the intent of Public Act 173 of 1999, which expanded the scope of the Good Samaritan Law to cover AEDs, was to encourage public and private venues to have AEDs available. AEDs have been in use in malls, airports, stadiums, and yes, even in health clubs, for years, and no civil actions have been filed against the facilities in which they are located. However, there do appear to be several lawsuits that have led to judgments and settlements against health facilities that failed to equip the facility with an AED. With the cost coming down per unit, the ease of operation, and the lifesaving benefits of a quick response to a heart attack, it would seem that a facility might increase its liability by not having an AED onsite.

***Against:***

Health clubs should not be singled out as locations in which emergency plans would have to be implemented and AEDs would have to be available. According to the American Heart Association's Internet website, its "Public Access to Defibrillation" (PAD) program advocates that many facilities, such as sports arenas, gated communities, office complexes, medical offices, and shopping malls, be equipped with AEDs. If health clubs were required to purchase and maintain AEDs, perhaps the same should be required of shopping malls and other facilities identified in the PAD program.

***Response:***

Since the primary purpose of such facilities is to encourage patrons to engage in physical exertion, it is reasonable that such places of businesses would experience a higher incidence of heart attacks than at a store, a movie theater, or a library. For example, pools must have lifeguards on duty because there is a significant danger of drowning or injury, and those lifeguards are required to know first aid and CPR. Pools that do not have lifeguards post a "swim at your own risk" warning. The intent of the bill is not to put undue burden on fitness centers and health clubs, but to encourage responsible action on the part of these facilities. Health clubs are in the business of enhancing personal health and fitness. In a sense, they are on the front-line of health care and should be held to a higher standard than businesses like shopping malls.

***Against:***

Other than increasing the number of facilities in the state having an AED on the premises, the bill would do little to increase consumer safety. For example, the bill should require that at least one employee of a health club or facility certified in basic first aid, CPR, and operation of the AED be present during normal hours of operation. As written, the bill's requirement could be satisfied by employing an off-site bookkeeper who also knows CPR. Though bill versions in previous sessions tried to include this requirement, it was removed to appease business owners who claimed it would be expensive and overly burdensome, especially for small businesses or ones with high turnovers in personnel, to always have at least one certified individual on the premises during operating hours. However, many approved training programs are free and only require a commitment of a few hours. Therefore, incorporating certification in CPR and first aid into a new

employee's orientation and training does not appear to be overly burdensome and would ensure that on any shift, there would be a person who could provide assistance to a patron in an emergency.

Also, the bill is unclear as to who would be enforcing the bill's requirements. For instance, who would be monitoring health clubs and facilities to see if they were in compliance? Who would issue a citation for a civil infraction? If the bill is creating a process that is complaint driven, to whom would a consumer direct the complaint? Furthermore, would a facility's emergency plan be available for the public to view?

If all of these concerns cannot be resolved at this point in time, perhaps, at a minimum, members of health clubs and health facilities should be provided with a copy of the facility's emergency plan and notified that employees are not trained or certified to administer first aid or CPR.

***POSITIONS:***

A representative of the Michigan Department of Community Health indicated support for the bill. (1-24-06)

A representative of the American Heart Association indicated support for the bill. (1-24-06)

A representative of the YMCAs of Michigan indicated support for the bill. (1-24-06)

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Marilyn Peterson

---

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.