

SB

160

Alaska State Legislature

Out of Session:
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Golovin, Alaska 99762
(907) 443-5599

In Session:
State Capitol, Suite 510
Juneau, Alaska 99801-1182
(800) 597-3707
(907) 465-3707
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SENATOR DONALD C. OLSON

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Anaktuvuk Pass
Atkasuk
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Brevig Mission
Browerville
Buckland
Chevak
Deering
Diomede
Elim
Emmonak
Eggen
Golovin
Hooper Bay
Kaktovik
Kiana
Kivalina
Kobuk
Kotlik
Kotzebue
Koyuk
Mountain Village
Noatak
Nome
Noorvik
Nuiqsut
Nunam Iqua
Pilot Station
Pitka's Point
Point Hope
Point Lay
Savoonga
Scammon Bay
Selawik
Shaktolik
Shishmaref
Shungnak
St. Mary's
St. Michael
Stebbins
Teller
Unalakleet
Wainwright
Wales
White Mountain

April 14, 2003

MEMORANDUM

To: Senator Ralph Seekins
Senate Judiciary Committee

From: Senator Donald Olson 

Re: Schedule hearing for SB 160, Civil Liability for Defibrillator Use

I respectfully request a Senate Judiciary Committee hearing of SB 160 at your earliest convenience. I have attached my sponsor statement and support documentation. Please contact me if you need additional information.

Thank you for your attention to this request.

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SPONSOR STATEMENT SB 160, Civil Liability for Defibrillator Use

I introduced Senate Bill 160 to save Alaskan lives. This legislation would provide faster treatment to Alaskans who suffer a cardiac arrest by increasing the availability of automated external defibrillators (AEDs).

Each year, 250,000 people die in the United States as a result of sudden cardiac arrest. The most important treatment for more than half of these patients is immediate defibrillation; an electrical shock intended to restore a more normal cardiac rhythm. For each minute a person remains in cardiac arrest, their chances of survival decrease by approximately 7% to 10%.

AEDs have evolved significantly over the past years and the current generation of devices is much safer and easier to use. These new devices have the ability to discern between shockable and nonshockable rhythm; for that reason, it is literally impossible to shock a person who does not require it.

Businesses and municipalities are interested in making AEDs more accessible in the workplace and in locations where large groups gather for the life safety of their employees and the public.

Currently, the Good Samaritan provision in Alaska law (AS 09.65.090) gives immunity from civil liability for any trained individual who uses an AED. However, this immunity does not apply to those individuals and organizations that make the devices accessible in the workplace. As a result, these devices have not been made readily available for emergency use. SB 160 removes this impediment by extending the Good Samaritan immunity to owners and operators of public and private facilities.

With Senate Bill 160, I am encouraging the proliferation of this life saving technology in Alaska.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 160
(S) Publish Date: 4/14/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "An Act relating to civil liability for use or attempted use of an automated external defibrillator; . . ." BRU Civil Division
Sponsor Senator Olson Component Special Litigation
Requester Senate HESS Committee Component No. 2213

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| FUND SOURCE | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

| Full-time | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 |
|-----------|---------|---------|---------|---------|---------|---------|
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)
This bill would protect from civil liability persons who use automated external defibrillators (AED), and persons who provide the AED for use, so long as certain specified responsibilities are fulfilled.

Passage of this legislation is not anticipated to have a fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division: Attorney General's Office Date/Time 4/9/03 1:13 PM
Approved by: Kathryn Daughhetee for Gregg D. Renkes, Attorney General Date 4/9/2003
Agency: Department of Law

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Sectional Analysis SB 160, Civil Liability for Defibrillator Use

Section 1

Generally, Section 1 established a new section in regard to civil liability. This section replaces the current civil liability immunity deleted in Section 2.

AS 09.65.087(a)

This subsection broadens the civil liability immunity for those who use or attempt to use an automated external defibrillator (AED) device in a perceived medical emergency. However, this immunity requires that an appropriate emergency medical services agency is immediately notified.

AS 09.65.087(b)

This subsection also extends immunity to those who acquire or provide the AED under certain conditions.

These conditions are as follows:

- (1) Notification of the local emergency medical response authority within 30 days following placement of the device.
- (2) Proper maintenance and testing of the device.
- (3) Provision of a means of notifying the local emergency medical response authority that an emergency exists.
- (4) Provision of appropriate training to the employee or agent who used the device in a perceived medical emergency.

Further conditions A, B, C, and D in subsection 4 address other situations where the immunity is maintained.

AS 09.65.087(c)

This subsection maintains the current definition of "appropriate training" as having completed an AED training course from the American Heart Association, the American Red Cross, or another AED training course approved by the Department of Health and Social Services.

Section 2

Deletes AS 09.65.090(e) and (f)

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Every year more than three million volunteers contribute their time and talents to help our organization defeat heart and blood vessel disease- and save lives.

American Heart Association



Fighting Heart Disease and Stroke

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Your American Heart Association Supports Senate Bill 160

The American Heart Association supports Senator Olson and Senator Therriault's Senate Bill 160, a bill that would amend Alaska's Good Samaritan Law to reduce the liability risk associated with both using and providing automated external defibrillators (known as "AEDs").

Each year, 250,000 people die in this country from sudden cardiac arrest. Cardiac arrest is the stopping of the regular heart rhythms, usually because of interference with the electrical signal that regulates the heartbeat. When cardiac arrest occurs, the heart starts to beat chaotically and cannot pump blood. Brain death and permanent death start to occur in just four to six minutes after someone experiences cardiac arrest. This means that when a person goes into cardiac arrest, every second counts. To increase the odds of a victim's survival, the American Heart Association has outlined a four-step plan called the "chain of survival."

Defibrillators play a critical part in this chain of survival. The four links in the chain are (1) early access, which means recognizing that a cardiovascular emergency exists and immediately calling Emergency Medical Services; (2) early CPR, which means giving CPR promptly and properly when necessary; (3) early defibrillation, which means having immediate access to a properly working AED, and; (4) early advanced care, which means having qualified paramedics with up-to-date Advanced Cardiac Life Support Training.

While all four links in the chain are important, early defibrillation is often called the critical link in the chain of survival because it is the only way to successfully treat most cardiac arrests. In fact, for every minute without defibrillation, the odds of survival drop seven to ten percent. A cardiac arrest victim who is not defibrillated within eight to ten minutes has virtually no chance of survival.

Senate Bill 160 will improve the chain of survival in Alaska in several ways. First, by eliminating the threat of civil liability for people and businesses that acquire or provide an AED, the bill will help increase strategic AED placement around Alaska. Because every second counts after a victim suffers cardiac arrest, the more AEDs that are placed in strategic areas in the community, the stronger the chain of survival.

Additionally, by requiring that a person who acquires or provides the AED follow some common sense safety requirements, the bill ensures the responsible placement of AEDs. These requirements include (1) the acquirer or provider of the AED notify the local emergency response agency of the location of the device; (2) that the device

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be properly maintained and tested – just as one would test, for example, a smoke or carbon monoxide detector; (3) that there is a way to notify local EMS within a reasonable proximity to the AED – for example, making sure that there is a phone reasonably close to the device, and; (4) that the acquirer or provider of the AED provide appropriate training for its employees, because trained rescuers can deliver the treatment more quickly than those who are totally unfamiliar with the device.

The bill also eliminates the threat of civil liability for individuals who use or attempt to use the AED on a victim in an emergency. The bill recognizes that while AED training is important, AEDs are easy to use, and the machine discerns between shockable and nonshockable heart rhythms. Because it is virtually impossible to shock a person that does not need it, the bill omits the current requirement that all users of the device be properly trained before they use or attempt to use the device in an emergency situation.

This proposed bill strengthens the American Heart Association's chain of survival by removing liability barriers to AED placement and use, and by ensuring that those persons who provide AEDs have followed basic, common sense protections. The American Heart Association commends these laudable goals, and fully supports Senate Bill 160.



**National Center for
Early Defibrillation**
Community Resources to Help Save Lives



*Because so many
more can survive...*

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New Virginia law strengthens immunity for AED users and purchasers

April 3, 2003

Virginia has joined a handful of states that specifically provide legal liability protection to purchasers of automated external defibrillators (AEDs) and untrained persons who use AEDs in good faith. The bill also encourages laypersons to seek formal training in cardiopulmonary resuscitation (CPR) and AED use. HB 1860, introduced by John M. O'Bannon, R-Henrico, received unanimous support from the Virginia General Assembly and was signed by Governor Mark Warner. On April 2, the Assembly supported the Governor's recommendation to confirm the law. It will take effect on July 1.

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All states now have Good Samaritan legislation designed to encourage use of AEDs by the public, and the federal Cardiac Arrest Survival Act provides additional protection, but Virginia's legislation provides an added measure of encouragement by specifically addressing immunity for those who have not received training. Other states with similar legislation include Pennsylvania and Rhode Island.

The Virginia law is designed to reduce barriers to bystander intervention in sudden cardiac emergencies. Sudden cardiac arrest is the leading cause of death among adults in the U.S. Of the 1,000 people who suffer SCA each day, fewer than 10% survive. With more rapid intervention, including the use of AEDs by untrained bystanders, many more lives could be saved.

For more information, click [here](#).

For a copy of the legislation, click [here](#).

For information on liability issues related to AED programs, click [here](#) and [here](#).



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Middle school staff member saved by school's AED

March 15, 2003

When Dexter Grady, a janitor at East Hampton (Long Island) Middle School, volunteered to get trained to use the school's new Automated External Defibrillator (AED), he never imagined that he would be the recipient of the machine's life-saving capabilities.

<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

On his dinner break yesterday, Dexter, 37, joined some local men who regularly gather in the school gym for pick-up basketball games. Shortly after playing, Grady collapsed in sudden cardiac arrest. Thanks to the quick action of bystanders who called for help and used the AED to defibrillate his heart, Grady is expected to be released from the hospital sometime next week.

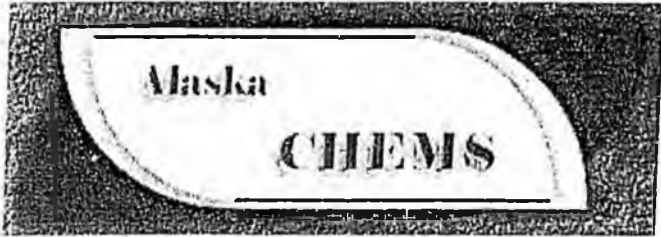
The legislation that prompted the middle school to have an AED on site was inspired by the efforts of Karen and John Acompora, of nearby Northport, parents of Louis Acompora, who died from sudden cardiac arrest three years ago, almost to the day. Louis, then 15, had been hit in the chest by a ball during a lacrosse game and an AED was not immediately available.. To prevent other such tragedies, Governor George Pataki signed "Louis's Law" last year, which mandates the placement of AEDs in New York schools.

Judging from Grady's experience, the law seems to be working.

For more information, click [here](#).



Text Links List || Health Social Services > Public Health > Community Health Emergency Medical Services



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Emergency Medical Services Programs

Automated External Defibrillators in Alaska

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Revised 02/25/2003

Automated external defibrillators (AEDs) are an essential tool in the treatment of out-of-hospital cardiac arrest. Over the years, the devices have become safer, more reliable and more maintenance free. The new technologies used in these devices make them suitable for use by anyone who has had basic training in their use.

AEDs are most effective when implemented as part of an overall strategy which considers each link in the "Chain of Survival:"

- Early access to the emergency medical system (EMS and 9-1-1 system)
- Early cardiopulmonary resuscitation (CPR)
- Early defibrillation when indicated
- Early advanced emergency treatment

In 1998 legislation was passed that redefined the use of an automated external defibrillator as a basic life support skill and provided, through the Good Samaritan Law, some immunity from civil liability to properly trained personnel who use AEDs in a resuscitation attempt and who activate the EMS system. The text of the statute is available below.

Files of interest (click to download):

- [Civil Liability for Emergency Aid \(AS 09.65.090\)](#)
- [Regulations for Approving AED Training Programs \(7 AAC 26.585\)](#)
- [Federal Register - AED Requirements for Federal Buildings](#)
- [Answers to Frequently Asked Questions about the AEDs in Alaska](#)

Approved Training Programs

In Alaska's Good Samaritan Law (AS 09.65.090) "properly trained" to use an AED means " that the individual has completed an automated external defibrillator training course from the American Heart Association, the American Red Cross, or another automated external defibrillator training course approved by the Department

of Health and Social Services."

The following programs have been approved by the Department of Health and Social Services in accordance with 7 AAC 26.588

- BLS for Health Care Providers-American Heart Association
- CPR for the Professional Rescuer-American Red Cross
- The CPR component of Medic First Aid-Advanced
- Basic Life Support for Professionals (BLSPRO)-EMP America
- CPR for the Professional Rescuer-American Safety & Health Institute
- Respond Systems AED/CPR

AED Placement

It is important for emergency medical dispatchers to know the locations of AEDs so they can direct rescuers to the device when emergency medical services personnel are en route. The Section of Community Health and EMS has developed a simple form that can be completed and faxed to the Section at 465-4101. The Section will fax copies of the form to the appropriate Regional EMS Office, Emergency Medical Dispatch center, and the nearest emergency medical services agency.

[Model AED Placement Notification. pdf](#)

Rural AED Act Grant Program

On July 15th, the Section of Community Health and EMS submitted an application to the Health Resources and Services Administration for over \$2,100,000 in automated external defibrillators and related training. The grant was written and submitted in response to the announcement in the May 23rd Federal Register that 12.5 million dollars were available nationwide in federal fiscal year 2002 under the Rural Access to Emergency Devices Grant Program.

Following the program's announcement, the Section of Community Health and EMS notified all emergency medical services agencies and other agencies known to be interested, including the Alaska Department of Public Safety and the Alaska Department of Transportation and Public Facilities, that it would be submitting a statewide application on behalf of eligible agencies statewide. Twenty-one "Community Partnerships" encompassing 77 communities and over 175 agencies responded with information about AED needs and provided letters of commitment. The total number of AEDs requested was 637.

In October, the Section of Community Health and EMS received word from the Health Resources and Services Administration (HRSA) that Alaska had been awarded \$237,703 to implement the Rural Automated External Defibrillator (AED) Grant program.

The Section will solicit updated applications for funding from community partnerships included within the funded grant application and will distribute the available funds based on expert reviews of the applications.




Rural AED List Server

The Section of Community Health and Emergency Medical Services has developed an internet list server to facilitate communications regarding this important issue

[Join Alaska Rural AED List Server](#)

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Virginia Out To Widen Use Of Life-Saving Devices

By Shirley Adams, Special to Stateline.org

March 31, 2003



About 1,000 Americans die every day from sudden cardiac arrest; they could survive if they immediately received a jolt of electricity from a machine called a defibrillator, to reset their heart.

Special automated defibrillators, designed for use by laypeople with minimal training, have been available since the early 1980s. Over the years, the units have improved to the point where good Samaritans with minimal training at all, have used them successfully to save lives.

Virginia is at the forefront of states that are accelerating efforts to take advantage of technological advances. The national movement envisions that widespread availability of automated external defibrillators, or AEDs, can do for sudden cardiac arrests what fire extinguishers do for fires.

Delegate John M. O'Bannon, R-Henrico, sponsored legislation this year to remove barriers to widespread access to AEDs. His bill will give legal protection to untrained people who use AEDs in good faith.

The legislation earned the unanimous support of the General Assembly and Gov. Warner has signed it. Warner asked lawmakers to make it effective immediately and the Assembly will consider his request when it reconvenes in Richmond on Wednesday in a one-day "veto session."

Without an emergency clause, the legislation would take effect July 1.

"Widespread access to AEDs will be a step in the right direction," said O'Bannon. "Thousands of deaths a day from ventricular fibrillation are way too many. I think we'll go down."

Unlike heart "attacks," which occur when something blocks adequate blood flow to the heart muscle, sudden cardiac arrests are almost always an electrical problem.

Normal pumping is regulated by electrical signals that stimulate each part of the heart at the right time. When those signals suddenly become chaotic (a condition called ventricular fibrillation), the heart quivers unproductively, and no blood is pumped. With little time, a person loses consciousness and stops breathing; death follows in minutes.

In the October 2002 issue of The New England Journal of Medicine, a team of researchers underscored the scope of the challenge: "Though highly reversible with the rapid use of a defibrillator, ventricular fibrillation is otherwise fatal within minutes, even when cardiopulmonary resuscitation (CPR) is provided immediately."

AEDs are different in many ways from traditional full-function defibrillators -- the kind used in medical dramas on television and used in real life by highly trained emergency

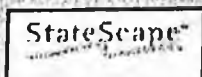
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full-function defibrillators are complicated and can kill if administered improperly.

Currently, state law tightly restricts access to both full-function defibrillators and a bill will lift the restrictions on AEDs, which are specifically designed for public-access

"Widespread access to AEDs will be a step in the right direction"
Virginia Del John M. O'Bannon (R)

Anyone who can find the big green "ON" button, and follow a few simple instructions can use a public-access AED. A recording in the machines begins providing clear verbal instructions as the power is turned on. They actually sound quite bossy, but the authoritative tone helps rescuers stay focused.

Instead of using bulky paddles, AEDs have self-adhesive, palm-size pads that are connected to the unit by an electrical cord. The person attempting the rescue places the pads on the patient. After the pads are on, the operator does not need to touch the patient unless the machine tells them to do so.

Several scientific studies have tested the safety and effectiveness of AEDs.

A 1999 research project, for example, trained and evaluated two groups -- sixth-graders with no prior training, and emergency medical professionals -- as they used AEDs in simulated emergencies. All of the children understood and followed the instructions successfully.

When the study was published in *Circulation*, a medical journal for heart specialists, researchers made the following conclusion: "During mock cardiac arrest, the speed of untrained children is only modestly slower than that of professionals."

Many people compare modern public-access AEDs to fire extinguishers, which are used to save lives that they are found in almost every public place. In some ways, AEDs are more dangerous than fire extinguishers.

Fire extinguishers are not idiot-proof. If operators point the nozzle at themselves or others, they will be hurt by the blast of chemicals. Fire extinguishers can also be used to cause malicious harm -- by bludgeoning someone, for instance.

AEDs are not idiot-proof, either. Before the unit delivers a shock, it sounds a caution alarm and issues emphatic orders. "Do NOT touch the patient!"

If operators disobey the defibrillator's orders, they can be hurt.

Unlike fire extinguishers, AEDs would be extremely difficult to use to cause malicious harm. The units refuse to even charge up unless their sensors indicate that they are properly used on a person who is not breathing and whose heart is in fibrillation.

In 1997, Florida became the first state to enact a law encouraging broad public access to AEDs by trained non-medical personnel such as police officers and firefighters. Currently, many states have taken similar steps.

What makes Virginia unusual is that its law will expand legal protection for purchasers to untrained AED users acting in good faith. Only a handful of states, such as Pennsylvania and Rhode Island, provide such protection from liability.

This protection will be important as AEDs become more prevalent in public places. In Pennsylvania, defibrillators were recently installed at all service plazas along the Pennsylvania Turnpike. The Illinois Legislature just passed a law requiring golf courses, school gymnasiums, and government-owned physical fitness facilities to have access to at least one AED.

Under current Virginia laws, public-access AEDs (which do not need trained operators)

Every year more than three million volunteers contribute their time and talents to help our organization defeat heart and blood vessel disease- and save lives.

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The American Heart Association supports Senators Olson, Therriault, Wilken, Dyson, Davis, Seekins, Bunde, Cowdery, Green, and Wagoner's Senate Bill 160, a bill that would amend Alaska's Good Samaritan Law to reduce the liability risk associated with both using and providing automated external defibrillators (known as "AEDs").

Each year, 250,000 people die in this country from sudden cardiac arrest. Cardiac arrest is the stopping of the regular heart rhythms, usually because of interference with the electrical signal that regulates the heartbeat. When cardiac arrest occurs, the heart starts to beat chaotically and cannot pump blood. Brain death and permanent death start to occur in just four to six minutes after someone experiences cardiac arrest. This means that when a person goes into cardiac arrest, every second counts. To increase the odds of a victim's survival, the American Heart Association has outlined a four-step plan called the "chain of survival."

Defibrillators play a critical part in this chain of survival. The four links in the chain are (1) early access, which means recognizing that a cardiovascular emergency exists and immediately calling Emergency Medical Services; (2) early CPR, which means giving CPR promptly and properly when necessary; (3) early defibrillation, which means having immediate access to a properly working AED, and; (4) early advanced care, which means having qualified paramedics with up-to-date Advanced Cardiac Life Support Training.

While all four links in the chain are important, early defibrillation is often called the critical link in the chain of survival because it is the only way to successfully treat most cardiac arrests. In fact, for every minute without defibrillation, the odds of survival drop seven to ten percent. A cardiac arrest victim who is not defibrillated within eight to ten minutes has virtually no chance of survival.

Senate Bill 160 will improve the chain of survival in Alaska in several ways. First, by eliminating the threat of civil liability for people and businesses that acquire or provide an AED, the bill will help increase strategic AED placement around Alaska. Because every second counts after a victim suffers cardiac arrest, the more AEDs that are placed in strategic areas in the community, the stronger the chain of survival.

Additionally, by requiring that a person who acquires or provides the AED follow some common sense safety requirements, the bill ensures the responsible placement of AEDs. These requirements include (1) the acquirer or provider of the AED notify



the local emergency response agency of the location of the device; (2) that the device be properly maintained and tested – just as one would test, for example, a smoke or carbon monoxide detector; (3) that there is a way to notify local EMS within a reasonable proximity to the AED – for example, making sure that there is a phone reasonably close to the device, and; (4) that the acquirer or provider of the AED provide appropriate training for its employees, because trained rescuers can deliver the treatment more quickly than those who are totally unfamiliar with the device.

The bill also eliminates the threat of civil liability for individuals who use or attempt to use the AED on a victim in an emergency. The bill recognizes that while AED training is important, AEDs are easy to use, and the machine discerns between shockable and nonshockable heart rhythms. Because it is virtually impossible to shock a person that does not need it, the bill omits the current requirement that all users of the device be properly trained before they use or attempt to use the device in an emergency situation.

This proposed bill strengthens the American Heart Association's chain of survival by removing liability barriers to AED placement and use, and by ensuring that those persons who provide AEDs have followed basic, common sense protections. The American Heart Association commends these laudable goals, and fully supports Senate Bill 160.