

FIRST REGULAR SESSION

# HOUSE BILL NO. 442

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES ROORDA (Sponsor), CASEY, SCHIEFFER,  
FRAME AND MEADOWS (Co-sponsors).

0309L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 190.060, 190.092, and 190.528, RSMo, and to enact in lieu thereof three new sections relating to use of automated external defibrillators.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 190.060, 190.092, and 190.528, RSMo, are repealed and three new  
2 sections enacted in lieu thereof, to be known as sections 190.060, 190.092, and 190.528, to read  
3 as follows:

190.060. 1. An ambulance district shall have the following governmental powers, and  
2 all other powers incidental, necessary, convenient or desirable to carry out and effectuate the  
3 express powers:

4 (1) To establish and maintain an ambulance service within its corporate limits, and to  
5 acquire for, develop, expand, extend and improve such service;

6 (2) To acquire land in fee simple, rights in land and easements upon, over or across land  
7 and leasehold interests in land and tangible and intangible personal property used or useful for  
8 the location, establishment, maintenance, development, expansion, extension or improvement  
9 of an ambulance service. The acquisition may be by dedication, purchase, gift, agreement, lease,  
10 use or adverse possession;

11 (3) To operate, maintain and manage the ambulance service, and to make and enter into  
12 contracts for the use, operation or management of and to provide rules and regulations for the  
13 operation, management or use of the ambulance service;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14           (4) To fix, charge and collect reasonable fees and compensation for the use of the  
15 ambulance service according to the rules and regulations prescribed by the board from time to  
16 time;

17           (5) To borrow money and to issue bonds, notes, certificates, or other evidences of  
18 indebtedness for the purpose of accomplishing any of its corporate purposes, subject to  
19 compliance with any condition or limitation set forth in sections 190.001 to 190.090 or otherwise  
20 provided by the Constitution of the state of Missouri;

21           (6) To employ or enter into contracts for the employment of any person, firm, or  
22 corporation, and for professional services, necessary or desirable for the accomplishment of the  
23 objects of the district or the proper administration, management, protection or control of its  
24 property;

25           (7) To maintain the ambulance service for the benefit of the inhabitants of the area  
26 comprising the district regardless of race, creed or color, and to adopt such reasonable rules and  
27 regulations as may be necessary to render the highest quality of emergency medical care; to  
28 exclude from the use of the ambulance service all persons who willfully disregard any of the  
29 rules and regulations so established; to extend the privileges and use of the ambulance service  
30 to persons residing outside the area of the district upon such terms and conditions as the board  
31 of directors prescribes by its rules and regulations;

32           (8) To provide for health, accident, disability and pension benefits for the salaried  
33 members of its organized ambulance district and such other benefits for the members' spouses  
34 and minor children, through either, or both, a contributory or noncontributory plan. The type and  
35 amount of such benefits shall be determined by the board of directors of the ambulance district  
36 within the level of available revenue of the pension program and other available revenue of the  
37 district. If an employee contributory plan is adopted, then at least one voting member of the  
38 board of trustees shall be a member of the ambulance district elected by the contributing  
39 members. The board of trustees shall not be the same as the board of directors;

40           (9) To purchase insurance indemnifying the district and its employees, officers,  
41 volunteers and directors against liability in rendering services incidental to the furnishing of  
42 ambulance services. Purchase of insurance pursuant to this section is not intended to waive  
43 sovereign immunity, official immunity or the Missouri public duty doctrine defenses; and

44           (10) To provide for life insurance, accident, sickness, health, disability, annuity, length  
45 of service, pension, retirement and other employee-type fringe benefits, subject to the provisions  
46 of section 70.615, RSMo, for the volunteer members of any organized ambulance district and  
47 such other benefits for their spouses and eligible unemancipated children, either through a  
48 contributory or noncontributory plan, or both. For purposes of this section, "eligible  
49 unemancipated child" means a natural or adopted child of an insured, or a stepchild of an insured

50 who is domiciled with the insured, who is less than twenty-three years of age, who is not  
51 married, not employed on a full-time basis, not maintaining a separate residence except for  
52 full-time students in an accredited school or institution of higher learning, and who is dependent  
53 on parents or guardians for at least fifty percent of his or her support. The type and amount of  
54 such benefits shall be determined by the board of directors of the ambulance district within  
55 available revenues of the district, including the pension program of the district. The provision  
56 and receipt of such benefits shall not make the recipient an employee of the district. Directors  
57 who are also volunteer members may receive such benefits while serving as a director of the  
58 district.

59         2. The use of any ambulance service of a district shall be subject to the reasonable  
60 regulation and control of the district and upon such reasonable terms and conditions as shall be  
61 established by its board of directors.

62         3. A regulatory ordinance of a district adopted pursuant to any provision of this section  
63 may provide for a suspension or revocation of any rights or privileges within the control of the  
64 district for a violation of any regulatory ordinance.

65         4. Nothing in this section or in other provisions of sections 190.001 to 190.245 shall be  
66 construed to authorize the district or board to establish or enforce any regulation or rule in  
67 respect to the operation or maintenance of the ambulance service within its jurisdiction which  
68 is in conflict with any federal or state law or regulation applicable to the same subject matter.

69         5. After August 28, 1998, the board of directors of an ambulance district that proposes  
70 to contract for the total management and operation of the ambulance service, when that  
71 ambulance district has not previously contracted out for said service, shall hold a public hearing  
72 within a thirty-day period and shall make a finding that the proposed contract to manage and  
73 operate the ambulance service will:

74             (1) Provide benefits to the public health that outweigh the associated costs;

75             (2) Maintain or enhance public access to ambulance service;

76             (3) Maintain or improve the public health and promote the continued development of  
77 the regional emergency medical services system.

78         6. (1) Upon a satisfactory finding following the public hearing in subsection 5 of this  
79 section and after a sixty-day period, the ambulance district may enter into the proposed contract,  
80 however said contract shall not be implemented for at least thirty days.

81             (2) The provisions of subsection 5 of this section shall not apply to contracts which were  
82 executed prior to August 28, 1998, or to the renewal or modification of such contracts or to the  
83 signing of a new contract with an ambulance service provider for services that were previously  
84 contracted out.

85           **7. All ambulance districts authorized to adopt laws, ordinances, or regulations**  
86 **regarding basic life support ambulances shall require such ambulances to be equipped**  
87 **with an automated external defibrillator and be staffed by at least one individual trained**  
88 **in the use of an automated external defibrillator.**

190.092. 1. A person or entity who acquires an automated external defibrillator shall  
2 ensure that:

3           (1) Expected defibrillator users receive training by the American Red Cross or American  
4 Heart Association in cardiopulmonary resuscitation and the use of automated external  
5 defibrillators, or an equivalent nationally recognized course in defibrillator use and  
6 cardiopulmonary resuscitation;

7           (2) The defibrillator is maintained and tested according to the manufacturer's operational  
8 guidelines;

9           (3) Any person who renders emergency care or treatment on a person in cardiac arrest  
10 by using an automated external defibrillator activates the emergency medical services system as  
11 soon as possible; and

12           (4) Any person or entity that owns an automated external defibrillator that is for use  
13 outside of a health care facility shall have a physician review and approve the clinical protocol  
14 for the use of the defibrillator, review and advise regarding the training and skill maintenance  
15 of the intended users of the defibrillator and assure proper review of all situations when the  
16 defibrillator is used to render emergency care.

17           2. Any person or entity who acquires an automated external defibrillator shall notify the  
18 emergency communications district or the ambulance dispatch center of the primary provider of  
19 emergency medical services where the automated external defibrillator is to be located.

20           3. Any person who has had appropriate training, including a course in cardiopulmonary  
21 resuscitation, has demonstrated a proficiency in the use of an automated external defibrillator,  
22 and who gratuitously and in good faith renders emergency care when medically appropriate by  
23 use of or provision of an automated external defibrillator, without objection of the injured victim  
24 or victims thereof, shall not be held liable for any civil damages as a result of such care or  
25 treatment, where the person acts as an ordinarily reasonable, prudent person would have acted  
26 under the same or similar circumstances. The person or entity who provides appropriate training  
27 to the person using an automated external defibrillator, the person or entity responsible for the  
28 site where the automated external defibrillator is located, and the licensed physician who reviews  
29 and approves the clinical protocol shall likewise not be held liable for civil damages resulting  
30 from the use of an automated external defibrillator, provided that all other requirements of this  
31 section have been met. Nothing in this section shall affect any claims brought pursuant to  
32 chapter 537 or 538, RSMo.

33           4. **All basic life support ambulances and stretcher vans operated in the state of**  
34 **Missouri shall be equipped with an automated external defibrillator and be staffed by at**  
35 **least one individual trained in the use of an automated external defibrillator.**

36           5. The provisions of this section shall apply in all counties within the state and any city  
37 not within a county.

190.528. 1. No person, either as owner, agent or otherwise, shall furnish, operate,  
2 conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business  
3 or service of the transportation of passengers by stretcher van upon the streets, alleys, or any  
4 public way or place of the state of Missouri unless such person holds a currently valid license  
5 from the department for a stretcher van service issued pursuant to the provisions of sections  
6 190.525 to 190.537 notwithstanding any provisions of chapter 390 or 622, RSMo, to the  
7 contrary.

8           2. Subsection 1 of this section shall not preclude any political subdivision that is  
9 authorized to operate a licensed ambulance service from adopting any law, ordinance or  
10 regulation governing the operation of stretcher vans that is at least as strict as the minimum state  
11 standards, and no such regulations or ordinances shall prohibit stretcher van services that were  
12 legally picking up passengers within a political subdivision prior to January 1, 2002, from  
13 continuing to operate within that political subdivision and no political subdivision which did not  
14 regulate or prohibit stretcher van services as of January 1, 2002, shall implement unreasonable  
15 regulations or ordinances to prevent the establishment and operation of such services.

16           3. In any county with a charter form of government and with more than one million  
17 inhabitants, the governing body of the county shall set reasonable standards for all stretcher van  
18 services which shall comply with subsection 2 of this section. All such stretcher van services  
19 must be licensed by the department. The governing body of such county shall not prohibit a  
20 licensed stretcher van service from operating in the county, as long as the stretcher van service  
21 meets county standards.

22           4. Nothing shall preclude the enforcement of any laws, ordinances or regulations of any  
23 political subdivision authorized to operate a licensed ambulance service that were in effect prior  
24 to August 28, 2001.

25           5. Stretcher van services may transport passengers.

26           6. (1) A stretcher van shall be staffed by at least two individuals when transporting  
27 passengers.

28           (2) **All stretcher vans shall be equipped with an automated external defibrillator**  
29 **and shall be staffed by at least one individual who is trained in the use of an automated**  
30 **external defibrillator.**

31           **(3) Any political subdivision that is authorized to operate a licensed ambulance**  
32 **service shall adopt a law, ordinance or regulation for stretcher vans that is at least as strict**  
33 **as the minimum requirements in subdivision (2) of this subsection regarding automated**  
34 **external defibrillators.**

35           7. The crew of the stretcher van is required to immediately contact the appropriate  
36 ground ambulance service if a passenger's condition deteriorates.

37           8. Stretcher van services shall not transport patients, persons currently admitted to a  
38 hospital or persons being transported to a hospital for admission or emergency treatment.

39           9. The department of health and senior services shall promulgate regulations, including  
40 but not limited to adequate insurance, on-board equipment, vehicle staffing, vehicle maintenance,  
41 vehicle specifications, vehicle communications, passenger safety and records and reports.

42           10. The department of health and senior services shall issue service licenses for a period  
43 of no more than five years for each service meeting the established rules.

44           11. Application for a stretcher van license shall be made upon such forms as prescribed  
45 by the department in rules adopted pursuant to sections 190.525 to 190.537. The application  
46 form shall contain such information as the department deems necessary to make a determination  
47 as to whether the stretcher van agency meets all the requirements of sections 190.525 to 190.537  
48 and rules promulgated pursuant to sections 190.525 to 190.537. The department shall conduct  
49 an inspection of the stretcher van service to verify compliance with the licensure standards of  
50 sections 190.525 to 190.537.

51           12. Upon the sale or transfer of any stretcher van service ownership, the owner of the  
52 stretcher van service shall notify the department of the change in ownership within thirty days  
53 prior to the sale or transfer. The department shall conduct an inspection of the stretcher van  
54 service to verify compliance with the licensure standards of sections 190.525 to 190.537.

55           13. Ambulance services licensed pursuant to this chapter or any rules promulgated by  
56 the department of health and senior services pursuant to this chapter may provide stretcher van  
57 and wheelchair transportation services pursuant to sections 190.525 to 190.537.

58           14. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that  
59 is created under the authority delegated in this section shall become effective only if it complies  
60 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section  
61 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers  
62 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the  
63 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the  
64 grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be  
65 invalid and void.

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