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HEALTH CLUBS; MEDICAL EMERGENCIES

House Bill 4141 as introduced First Analysis (10-29-01)

Sponsor: Rep. Gilda Z. Jacobs
Committee: Regulatory Reform

THE APPARENT PROBLEM:

Increasingly, membership in, and use of, health clubs and exercise facilities by older people are on the rise. This means that a significant percent of a health club's patronage could be at a higher risk for exercise-related injuries or health emergencies such as heart attacks. However, it has come to light recently that staff at health clubs may not be trained in life saving measures such as first aid or cardiopulmonary resuscitation (CPR). Many do not even have a plan or procedure for staff to follow if a patron suffers a life-threatening event.

This problem was underscored by an incident in a Southfield fitness facility last year. According to testimony submitted at a House hearing, an elderly man collapsed while exercising on a treadmill. A patron on a nearby treadmill was the first to reach the gentleman, and began administering CPR though, by his own admission, it had been awhile since he had received CPR training. Reportedly, though the staff at the fitness center had been trained in CPR, at no time did any of the staff offer assistance or provide safety equipment such as an inflatable device to assist in administering oxygen while the patron (or someone else) did the chest compressions, an automated external defibrillator (AED) to deliver an electric shock to the heart, or safety equipment to prevent contact with body fluids when doing the mouth-to-mouth resuscitation.

With an increasingly older population utilizing services at fitness centers and health clubs, some feel it is important that such facilities have an emergency plan for staff to follow, and that at least one staff member trained in first aid and CPR be on duty during operating hours.

THE CONTENT OF THE BILL:

The bill would create a new act to regulate health clubs with respect to medical emergencies. The bill's provisions would pertain to an establishment that provides, as its primary purpose, services or facilities

that purport to assist patrons in physical exercise, in weight control, or in figure development. This would include, but not be limited to, a fitness center, studio, salon, or club. A hotel or motel that provided physical fitness equipment or activities, an organization solely offering training or facilities for an individual sport, or a weight reduction center would be excluded from regulation under the bill.

The bill would require the owner or operator of a health club to both of the following:

- During the times the health club is open to the public, have at least one employee present who has been trained in basic first aid and basic cardiopulmonary resuscitation taught by the American Red Cross, American Heart Association, or an equivalent organization approved by the Department of Community Health.
- Develop and implement an emergency plan to address emergency services, when needed, during operational hours at the health club.

A violation of the bill's provisions would be a civil infraction punishable by a civil fine not to exceed \$250 for a first offense, \$500 for a second offense, or \$1,000 for a third or subsequent offense.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the overall fiscal impact of the bill is likely to be negligible. (10-26-01)

ARGUMENTS:

For:

Since heart attacks can be brought on by physical exertion, it is reasonable to assume that such events could increase as the number of senior citizens utilizing services at fitness centers and health clubs increases. Further, people of all ages sustain injuries

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at fitness centers and health clubs ranging from minor cuts to serious lacerations and broken bones. Though the nature of these businesses mean that the likelihood of illness or injury to a patron is higher than for a library, for instance, many do not have a plan or procedure for employees to follow in case a patron sustains an injury or has a health crisis. Further, many fitness centers and health clubs do not require staff to be trained in basic first aid or CPR, even though research indicates that immediate intervention for heart attacks and stroke can greatly increase the survival rate. Even if a call is placed to 911 within moments of an incident, the typical response time averages about five minutes on the low end to up to 20 minutes. However, the survival rate decreases significantly by each minute that a person is in cardiac arrest. After five minutes, the chance for survival is almost nil. Therefore, it is important that fitness centers and health clubs adequately train staff to meet possible emergency situations, and that there be a clear procedure for staff to follow in the event of an emergency at the facility.

Against:

Heart attacks can happen anywhere. It doesn't seem fair to target a specific industry, as it seems this bill would do. Further, the bill could inadvertently increase a business's liability by establishing a duty to provide certain life-saving equipment and trained staff. What is next, requiring each place where people exercise to have a paramedic on duty?

Response:

It could be argued that a duty exists already by virtue of the fact that physical exertion, such as in exercise, is known to increase the likelihood of heart attacks and other illnesses and injuries. 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. 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. 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.

Against:

If health clubs were required to purchase automated external defibrillators (AED), this could be a burden on small businesses.

Response:

The bill merely requires businesses whose primary purpose is to provide exercise services and equipment

to have a plan or procedure in place so that if an emergency occurs, the staff will know the most effective way to respond. For example, rather than hoping that another patron is trained in CPR, an emergency plan could require that the employee on duty who was properly trained under the bill would relieve a patron who had begun CPR while another employee quickly called 911. The bill would not require facilities to purchase an AED. However, at approximately \$3,000 or less, it would not be a hardship for them to do so. Recent legislation provided immunity from lawsuits under the "Good Samaritan" laws to encourage businesses to have AEDs available and for employees and patrons to use them if needed. Many places, such as airports and sports arenas where a large number of people are in attendance, have placed AEDs in easy to reach locations around their facilities.

Against:

The definition of "health club" in the bill may not be adequate. It would appear to exclude clubs offering racquet sports, such as tennis, as long as only tennis was offered. However, if a racquet club also offered a weight room and aerobics classes, then it could be subject to the bill's requirements. But, a city recreation program that offered aerobics classes would not be subject under the bill to have staff trained in CPR. In addition, it isn't clear how high school weight rooms or university intra-mural facilities would be affected. On one hand, a school or college's primary purpose is not physical exercise or weight control; but, the purpose of a college IM is to encourage physical exercise on the part of students and faculty. Further, if the primary argument is that physical exercise can increase the likelihood for medical emergencies, then perhaps the bill should apply to all situations in which exercise equipment is supplied or exercise classes are taught. (The exception to hotels providing a fitness room does seem fitting, as many offer pools without lifeguards and such facilities are usually identified as "use at your own risk.")

POSITIONS:

The Michigan College of Emergency Physicians supports the bill. (10-26-01)

The YMCAs of Michigan support the bill. (10-26-01)

The American Red Cross supports the bill. (10-26-01)

The American Heart Association supports the bill.
(10-26-01)

Analyst: S. Stutzky

■ 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.