**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “CHOKING PREVENTION ACT”; BY ADDING SECTION 44‑1‑147 SO AS TO REQUIRE RETAIL FOOD ESTABLISHMENTS TO MAINTAIN A MANUALLY OPERATED SUCTION‑BASED ANTICHOKING DEVICE ON THEIR PREMISES FOR USE IN A CHOKING EMERGENCY AND TO PROVIDE IMMUNITY FROM LIABILITY FOR RENDERING SUCH EMERGENCY ASSISTANCE; BY ADDING SECTION 44‑61‑85 SO AS TO REQUIRE EMERGENCY MEDICAL SERVICES PERSONNEL TO MAINTAIN AS PART OF THEIR EQUIPMENT A MANUALLY OPERATED SUCTION‑BASED ANTICHOKING DEVICE FOR USE IN APPROPRIATE CIRCUMSTANCES; AND FOR OTHER PURPOSES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be known and cited as the “Choking Prevention Act”.

SECTION 2. Chapter 1, Title 44 of the 1976 Code is amended by adding:

“Section 44‑1‑147. (A) A retail food establishment must maintain on its premises for use in a choking emergency an unexpired, working, manually operated antichoking device that utilizes suction to clear or dislodge an obstruction from a person’s airway. The retail food establishment must ensure, whenever food is being served, the presence of at least one employee who has received current choking protocol training and training on the proper use of the manually operated suction‑based antichoking device, the latter of which is designed for use if current choking protocol has been followed without success.

(B) An employee of a retail food establishment, who in good faith gratuitously attempts to clear or dislodge an obstruction from a person’s airway by using a manually operated suction‑based antichoking device as provided in this section, and the retail food establishment, are immune from liability for any civil damages for any personal injury as a result of any act or omission in rendering the emergency care or as a result of any act or failure to act to provide or arrange for further medical treatment or care for the injured person, except acts or omissions amounting to gross negligence or wilful or wanton misconduct.

(C) For purposes of this section:

(1) ‘Current choking protocol’ means current choking protocol developed by the American Red Cross or other similar emergency preparedness organization.

(2) ‘Retail food establishment’ means an operation that prepares, serves, or otherwise provides food for human consumption on the establishment’s premises, regardless of whether there is a charge for the food, and includes, but is not limited to, a restaurant, delicatessen, snack bar, catering operation, ice cream parlor, school cafeteria, independent living food service operation, licensed health care facility, grocery store, or mobile food establishment.”

SECTION 3. Article 1, Chapter 61, Title 44 of the 1976 Code is amended by adding:

“Section 44‑61‑85. Any emergency medical technician, ambulance attendant, ambulance attendant‑driver, or other emergency medical personnel legally authorized to provide emergency medical services pursuant to this article shall maintain as part of the required equipment an unexpired, working, manually operated suction‑based antichoking device for use in a choking emergency if current choking protocol has been followed without success. The department shall promulgate regulations necessary to implement the provisions of this section, including required training on current choking protocol and proper use of the manually operated suction‑based antichoking device. For purposes of this section, ‘current choking protocol’ means current choking protocol developed by the American Red Cross or other similar emergency preparedness organization.”

SECTION 4. This act takes effect upon approval by the Governor.

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