

By Mr. Joyce, a petition (accompanied by bill, Senate, No. 8) of Brian A. Joyce, Philip Travis, Michael W. Morrissey, Andrea F. Nuciforo, Jr., William R. Keating, District Attorney for the Norfolk District, and A. Stephen Tobin for legislation to provide for public safeguards and protections for users of automated teller machines. Banks and Banking.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Nine.

AN ACT PROVIDING FOR PUBLIC SAFEGUARDS AND PROTECTIONS FOR USERS OF AUTOMATED TELLER MACHINES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of Chapter 167B of the General Laws,
2 as appearing in the 1994 Official Edition, is hereby amended by
3 adding after the word "agreement" in line 20 the following: —

4 "Adequate lighting" with respect to an open and operating
5 teller machine facility located on an exterior wall of a building
6 open to the outdoor air, and any defined parking area, means
7 lighting during nighttime hours according to the following stan-
8 dards:

9 (i) a minimum of ten candlefoot power at the face of the auto-
10 mated teller machine and extending in an unobstructed direction
11 outward five feet;

12 (ii) a minimum of two candlefoot Power within fifty feet from
13 all unobstructed directions from the face of the automated teller
14 machine. If such machine is located within ten feet of the corner
15 of the building and the automated teller machine facility is gener-
16 ally accessible from the adjacent side, there shall be a minimum
17 of two candlefoot power along the first forty unobstructed feet of
18 the adjacent side of the building.

19 With respect to defined parking areas, "adequate lighting"
20 means a minimum of two candlefoot power in that portion of the
21 parking area within sixty feet of the automated teller machine
22 facility.

23 With respect to an automated teller machine facility located
24 within the interior of a building, “adequate lighting” means
25 lighting, on a twenty-four hour basis, which permits a person
26 entering the facility to readily and easily see all persons occu-
27 pying such facility, and which permits a person inside the facility
28 to readily and easily see all persons at the entry door of such
29 facility.

30 “Automated teller machine facility” means the area comprised
31 of one or more automated teller machines, and any adjacent space
32 which is made available to banking customers after regular
33 banking hours.

1 SECTION 2. Section 1 of Chapter 167B of the General Laws,
2 as so appearing, is hereby further amended by adding after the
3 word “functions” in line 24 the following:—

4 “Candlefoot power” means the light intensity of candles on a
5 horizontal plane at thirty-six inches above ground level and five
6 feet in front of the area to be measured.

1 SECTION 3. Section 1 of Chapter 167B of the General Laws,
2 as so appearing, is hereby further amended by adding after the
3 word “function” in line 34 the following:

4 “Defined parking area” means that portion of any parking area
5 open for bank customer parking which is (i) contiguous to any
6 paved walkway or sidewalk within fifty feet of an automated teller
7 machine facility; (ii) regularly, principally and lawfully used for
8 parking by users of the automated teller machine facility during
9 nighttime hours; and (iii) owned or leased by the operator of the
10 automated teller machine facility, or owned or otherwise con-
11 trolled by the party leasing the automated teller site to the oper-
12 ator. The term does not include any parking area which is not
13 open or regularly used for parking by the users of the automated
14 teller machine who are conducting automated transactions during
15 nighttime hours. A parking area is not open if it is physically
16 closed to access or if conspicuous signs indicate that it is closed.

1 SECTION 4. Section 1 of Chapter 167B of the General Laws,
2 as so appearing, is hereby further amended by adding after the
3 word “services” in line 109 the following:—

4 “Nighttime hours” means the period of time beginning at sunset
5 and ending at sunrise.

1 SECTION 5. Section 1 of Chapter 167B of the General Laws,
2 as so appearing, is hereby further amended by adding after the
3 word “intervals” in line 139 the following:—

4 “Regular banking hours” means the period of time during each
5 weekday, Monday through Friday, commencing at nine
6 o’clock a.m. and ending at three o’clock p.m.

1 SECTION 6. Chapter 167B is hereby further amended by
2 adding at the end thereof the following new sections:—

3 Section 25. (I) Security Measures — A bank shall maintain the
4 following security measures with respect to each of its automated
5 teller machine facilities:

6 (a) A surveillance camera or cameras, which shall view and
7 record all persons entering, exiting, and moving within or about
8 an automated teller machine facility located within the interior of
9 a building, or which shall view and record all activity within a
10 minimum three feet in front of an automated teller machine
11 located on an exterior wall of a building open to the outdoor air.
12 Such camera or cameras need not view and record banking trans-
13 actions made at the automated teller machine. The recordings
14 made by such cameras shall be preserved by the bank for at least
15 thirty days;

16 (b) Within six months after the submission of the report of the
17 temporary task force required by the subdivision of this section,
18 entry doors equipped with locking devices which permit entry to
19 such facility only to persons using an automated teller machine
20 card or access code issued by a bank for that purpose. Provided,
21 however, that any automated teller machine facility located within
22 the interior of a building that is not equipped with such entry
23 locking devices within six months after the submission of such
24 report shall thereafter have at least one security guard stationed
25 therein during the period of time after regular banking hours such
26 automated teller machine facility is available to banking cus-
27 tomers;

28 (c) entry doors equipped with fire exit bolts

29 (d) adequate lighting

30 (e) at least one exterior wall made substantially of untinted
31 glass or other untinted, transparent material, which provides an
32 unobstructed view of the automated teller machine or machines
33 within the automated teller machine facility;

34 (f) reflective mirrors or surfaces at each automated teller
35 machine which provide the user a rear view;

36 (g) a reflective mirror or mirrors placed in a manner which per-
37 mits a person present in the automated teller machine facility to
38 view areas within such facility which are otherwise concealed
39 from plain view;

40 (h) a clearly visible sign, which at minimum, states:

41 (i) the activity within the automated teller machine facility is
42 being recorded by surveillance camera;

43 (ii) customers should close the entry door completely upon
44 entering if the automated teller machine facility is located within
45 the interior of a building;

46 (iii) customers should not permit entrance to any unknown
47 person at any time after regular banking hours if an automated
48 teller machine facility located within the interior of a building is
49 available to banking customers;

50 (iv) customers should place withdrawn cash securely upon
51 their person before exiting the automated teller machine facility;

52 (v) complaints concerning security in the automated teller
53 machine facility should be directed to the bank's security depart-
54 ment or to the department of consumer affairs, together with the
55 telephone numbers for such complaints. Where emergency assist-
56 tance is needed due to criminal activity or medical emergency, call
57 911 at the nearest available public telephone.

58 (i) the bank should create a twenty-foot radius where no vehi-
59 cles are allowed to park or stand, enforced by the police and bank
60 authorities

61 All banks operating in the Commonwealth which provide out-
62 side and enclosed automated teller machines shall provide an
63 emergency telephone which provides access to a 911 emergency
64 number as a safety outlet for its customers. The Commissioner of
65 Banks shall coordinate the installation of 911 emergency numbers
66 working closely with each bank in the implementation of this con-
67 version on a timely basis not in excess of one year for such instal-
68 lation upon the passage of this act.

69 Paragraphs (b), (c), (e), and (g) of this subdivision shall not
70 apply to any automated teller machine facility located on an exte-
71 rior wall of a building open to the outdoor air.

72 (II) Special commission. There is hereby established a special
73 commission to study the technological feasibility of the limited
74 access entry door requirements of paragraph (b) of subdivision I
75 of this section. Such task force shall be comprised of fifteen mem-
76 bers, two of whom shall be representatives of federally chartered
77 banks, two of whom shall be representatives of state chartered
78 banks, and two of whom shall be representatives of savings and
79 loans associates. The Governor and the Senate President shall
80 each appoint seven members: the chair of the temporary task force
81 shall be jointly appointed by the Governor and the Senate
82 President. Not later than twelve months after the appointment of
83 the last member of the special commission, the task force shall
84 submit a report containing its conclusions to the Governor and the
85 Senate President.

86 (III) Any bank which operates an automated teller machine
87 facility shall file a list of such facilities with the department of
88 public safety and the division of banks and loan agencies,
89 including the street addresses, intersecting streets, hours of opera-
90 tion, method of security, and method of surveillance at each
91 facility, and the telephone number of the bank's security depart-
92 ment. The department of public safety shall distribute this list to
93 each local police department which are available to banking cus-
94 tomers.

95 (IV) Violations and penalties. (a) A bank found to be in viola-
96 tion of any provision of subdivision I of this section shall be sub-
97 ject to a civil penalty of not more than two hundred fifty dollars.
98 Each violation of any provision of subdivision I of this section
99 with respect to a particular automated teller machine facility shall
100 be considered a separate violation thereof.

101 (b) Any bank found to be in violation of any provision of subdivi-
102 sion I of this section shall correct the violation within three days
103 after such finding shall subject the bank to a civil penalty of not
104 less than five hundred dollars or more than one thousand dollars
105 and an additional civil penalty of two hundred fifty dollars per day
106 such violation continues.

107 (c) Any bank found to be in violation of subdivision (VI) of this
108 section shall be liable for a civil penalty of not more than one
109 thousand dollars for each automated teller machine facility for
110 which a report has not been filed. Any bank which makes a mate-
111 rial false statement or material omission in any report filed pur-
112 suant to subdivision III of this section shall be liable for a civil
113 penalty of not more than five thousand dollars for each report.

114 (d) A proceeding to recover any civil penalty authorized to be
115 imposed pursuant to this section shall be commenced by the
116 service of a notice of violation which shall be returnable to the
117 commissioner of banks and loan agencies. Such commissioner,
118 after due notice and an opportunity for a hearing, shall be autho-
119 rized to impose the civil penalties prescribed by this section.

120 (V) Consumer safety information. Upon the original issuance or
121 reissuance of an automated teller machine facility access card or
122 code, or any other means or device permitting access to an auto-
123 mated teller facility, the issuing bank shall provide its customer
124 with written information concerning safety precautions to be
125 employed while using an automated teller machine facility. Such
126 written information shall include at a minimum the information
127 described in subparagraphs (i) through (v) of paragraph (h) of sub-
128 division I of this section. In addition, until such time as all facili-
129 ties are required to comply with security measures contained in
130 this section, and for one year thereafter, such written information
131 shall also include a statement indicating that entrance to an auto-
132 mated teller machine facility located within the interior of a
133 building may be obtained by persons who are not authorized to
134 use the automated teller machine facility.

135 (VI) Certification of compliance. Within thirty days after the
136 effective date of the this section, and each year thereafter every
137 bank which has an automated teller machine facility which is in
138 operation on such date shall submit a written report to the com-
139 missioner of banks certifying that such automated teller machine
140 facility is in compliance with the provisions of this section, or if
141 such facility is not in compliance with the provisions of this
142 section, such report shall state the manner in which such facility
143 fails to meet the requirements of this section and the reasons for
144 such non-compliance. Each report shall be accompanied by a fee
145 of one hundred dollars.

146 (VII) Enforcement statistics.

147 (a) The Division of Banks and Loan Agencies shall be autho-
148 rized to enforce this section.

149 (b) Statistics of crimes associated with the use of automated
150 teller machines compiled and maintained by the department of
151 public safety shall be made available upon the request of any bank
152 or other interested party.

153 (VIII) Exemptions. The provisions of this section shall not
154 apply to any unenclosed automated teller machine located in any
155 building, structure, or space whose primary purpose or function is
156 unrelated to banking activities, including but not limited to super-
157 markets, airports, and school buildings, provided that such auto-
158 mated teller machine shall be available for use only during the
159 regular hours of operation of the building, structure or space in
160 which such machine is located.

