

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Joyce, Brian (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act providing for public safeguards and protections for users of automated teller machines.

PETITION OF:

NAME:

Joyce, Brian (SEN)

DISTRICT/ADDRESS:

Norfolk, Bristol and Plymouth

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S00596 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and 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, as appearing in the 2002 Official
2 Edition, is hereby amended by adding after the word "agreement" in line 20 the following: —
3 "Adequate lighting" with respect to an open and operating teller machine facility located on an exterior
4 wall of a building open to the outdoor air, and any defined parking area, means lighting during nighttime
5 hours according to the following standards:
6 (i) a minimum of ten candlefoot power at the face of the automated teller machine and extending in an
7 unobstructed direction outward five feet;
8 (ii) a minimum of two candlefoot Power within fifty feet from all unobstructed directions from the face
9 of the automated teller machine. If such machine is located within ten feet of the corner of the building
10 and the automated teller machine facility is generally accessible from the adjacent side, there shall be a

11 minimum of two candlefoot power along the first forty unobstructed feet of the adjacent side of the
12 building.

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

15 With respect to an automated teller machine facility located within the interior of a building, "adequate
16 lighting" means lighting, on a twenty-four hour basis, which permits a person entering the facility to
17 readily and easily see all persons occupying such facility, and which permits a person inside the facility
18 to readily and easily see all persons at the entry door of such facility.

19 "Automated teller machine facility" means the area comprised of one or more automated teller
20 machines, and any adjacent space which is made available to banking customers after regular banking
21 hours.

22

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

25 "Candlefoot power" means the light intensity of candles on a horizontal plane at thirty-six inches above
26 ground level and five feet in front of the area to be measured.

27

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

30 "Defined parking area" means that portion of any parking area open for bank customer parking which is
31 (i) contiguous to any paved walkway or sidewalk within fifty feet of an automated teller machine
32 facility; (ii) regularly, principally and lawfully used for parking by users of the automated teller machine
33 facility during nighttime hours; and (iii) owned or leased by the operator of the automated teller machine

34 facility, or owned or otherwise controlled by the party leasing the automated teller site to the operator.
35 The term does not include any parking area which is not open or regularly used for parking by the users
36 of the automated teller machine who are conducting automated transactions during nighttime hours. A
37 parking area is not open if it is physically closed to access or if conspicuous signs indicate that it is
38 closed.

39
40 SECTION 4. Section 1 of Chapter 167B of the General Laws, as so appearing, is hereby
41 further amended by adding after the word "services" in line 109 the following:—
42 "Nighttime hours" means the period of time beginning at sunset and ending at sunrise.

43
44 SECTION 5. Section 1 of Chapter 167B of the General Laws, as so appearing, is hereby
45 further amended by adding after the word "intervals" in line 139 the following:—
46 "Regular banking hours" means the period of time during each weekday, Monday through Friday,
47 commencing at nine o'clock a.m. and ending at three o'clock p.m.

48
49 SECTION 6. Chapter 167B is hereby further amended by adding at the end thereof the
50 following new sections:—
51 Section 25. (I) Security Measures — A bank shall maintain the following security measures with respect
52 to each of its automated teller machine facilities:
53 (a) A surveillance camera or cameras, which shall view and record all persons entering, exiting, and
54 moving within or about an automated teller machine facility located within the interior of a building, or
55 which shall view and record all activity within a minimum three feet in front of an automated teller
56 machine located on an exterior wall of a building open to the outdoor air. Such camera or cameras need

57 not view and record banking transactions made at the automated teller machine. The recordings made by
58 such cameras shall be preserved by the bank for at least thirty days;

59 (b) Within six months after the submission of the report of the temporary task force required by the
60 subdivision of this section, entry doors equipped with locking devices which permit entry to such facility
61 only to persons using an automated teller machine card or access code issued by a bank for that purpose.

62 Provided, however, that any automated teller machine facility located within the interior of a building
63 that is not equipped with such entry locking devices within six months after the submission of such
64 report shall thereafter have at least one security guard stationed therein during the period of time after
65 regular banking hours such automated teller machine facility is available to banking customers;

66 (c) entry doors equipped with fire exit bolts

67 (d) adequate lighting

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

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

72 (g) a reflective mirror or mirrors placed in a manner which permits a person present in the automated
73 teller machine facility to view areas within such facility which are otherwise concealed from plain view;

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

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

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

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

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

83 (v) complaints concerning security in the automated teller machine facility should be directed to the
84 bank's security department or to the department of consumer affairs, together with the telephone
85 numbers for such complaints. Where emergency assistance is needed due to criminal activity or medical
86 emergency, call 911 at the nearest available public telephone.

87 (i) the bank should create a twenty-foot radius where no vehicles are allowed to park or stand, enforced
88 by the police and bank authorities

89 All banks operating in the Commonwealth which provide outside and enclosed automated teller
90 machines shall provide an emergency telephone which provides access to a 911 emergency number as a
91 safety outlet for its customers. The Commissioner of Banks shall coordinate the installation of 911
92 emergency numbers working closely with each bank in the implementation of this conversion on a
93 timely basis not in excess of one year for such installation upon the passage of this act.

94 Paragraphs (b), (c), (e), and (g) of this subdivision shall not apply to any automated teller machine
95 facility located on an exterior wall of a building open to the outdoor air.

96 (II) Special commission. There is hereby established a special commission to study the technological
97 feasibility of the limited access entry door requirements of paragraph (b) of subdivision I of this section.
98 Such task force shall be comprised of fifteen members, two of whom shall be representatives of
99 federally chartered banks, two of whom shall be representatives of state chartered banks, and two of
100 whom shall be representatives of savings and loans associates. The Governor and the Senate President

101 shall each appoint seven members: the chair of the temporary task force shall be jointly appointed by the
102 Governor and the Senate President. Not later than twelve months after the appointment of the last
103 member of the special commission, the task force shall submit a report containing its conclusions to the
104 Governor and the Senate President.

105 (III) Any bank which operates an automated teller machine facility shall file a list of such facilities with
106 the department of public safety and the division of banks and loan agencies, including the street
107 addresses, intersecting streets, hours of operation, method of security, and method of surveillance at
108 each facility, and the telephone number of the bank's security department. The department of public
109 safety shall distribute this list to each local police department which are available to banking customers.

110 (IV) Violations and penalties. (a) A bank found to be in violation of any provision of subdivision I of
111 this section shall be subject to a civil penalty of not more than two hundred fifty dollars. Each violation
112 of any provision of subdivision I of this section with respect to a particular automated teller machine
113 facility shall be considered a separate violation thereof.

114 (b) Any bank found to be in violation of any provision of subdivision I of this section shall correct the
115 violation within three days after such finding shall subject the bank to a civil penalty of not less than five
116 hundred dollars or more than one thousand dollars and an additional civil penalty of two hundred fifty
117 dollars per day such violation continues.

118 (c) Any bank found to be in violation of subdivision (VI) of this section shall be liable for a civil penalty
119 of not more than one thousand dollars for each automated teller machine facility for which a report has
120 not been filed. Any bank which makes a material false statement or material omission in any report filed
121 pursuant to subdivision III of this section shall be liable for a civil penalty of not more than five
122 thousand dollars for each report.

123 (d) A proceeding to recover any civil penalty authorized to be imposed pursuant to this section shall be
124 commenced by the service of a notice of violation which shall be returnable to the commissioner of
125 banks and loan agencies. Such commissioner, after due notice and an opportunity for a hearing, shall be
126 authorized to impose the civil penalties prescribed by this section.

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

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

144 (VII) Enforcement statistics.

145 (a) The Division of Banks and Loan Agencies shall be authorized to enforce this section.

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

149 (VIII) Exemptions. The provisions of this section shall not apply to any unenclosed automated teller
150 machine located in any building, structure, or space whose primary purpose or function is unrelated to
151 banking activities, including but not limited to supermarkets, airports, and school buildings, provided
152 that such automated teller machine shall be available for use only during the regular hours of operation
153 of the building, structure or space in which such machine is located.

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