

**HOUSE . . . . . No. 2194**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act establishing uniform safeguards and public protections for consumers conducting bank transactions at 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 2004  
2 Official Edition, is hereby amended by inserting after the word “agreement” in the following  
3 new paragraph:—“Adequate lighting” with respect to an open and operating teller machine  
4 facility located on an exterior wall of a building open to the outdoor air, and any defined parking  
5 areas means lighting during nighttime hours according to the following standards:

6           a minimum of 10 candlefoot power at the face of the automated teller machine and  
7 extending in an unobstructed direction outward 5 feet;

8           (ii) a minimum of 2 candlefoot power within 50 feet from all unobstructed directions  
9 from the face of the automated teller machine. If such machine is located within 10 feet of the  
10 corner of the building and the automated teller facility is generally accessible from the adjacent  
11 side, there shall be a minimum of 2 candlefoot power along the first 40 unobstructed feet of the  
12 adjacent side of the building.

13           With respect to defined parking areas, “adequate lighting” means a minimum of 2  
14 candlefoot power in that portion of the parking area within 60 feet of the automated teller  
15 machine facility

16           With respect to an automated teller machine facility located within the interior of a  
17 building, “adequate lighting” means lighting, on a 24 hour basis, which permits a person entering  
18 the facility to readily and easily see all persons occupying such facility, and which permits a  
19 person inside the facility to readily and easily see all persons at the entry door of such  
20 facility. “Automated teller machine facility” means the area comprised of 1 or more automated  
21 teller machines, and any adjacent space which is made available to banking customers after  
22 regular banking hours.

23           SECTION 2. Section 1 of Chapter 167B of the General Laws, as appearing in the 2004  
24 Official Edition, is hereby further amended by inserting after the word “functions”, in line 24, the  
25 following words:—“Candlefoot power” means the light intensity of candles on a horizontal plane  
26 at 36 inches above the ground level and 5 feet in front of the area to be measured.

27           SECTION 3. Section 1 of Chapter 167B of the General Laws, as appearing in the 2004  
28 Official Edition, is hereby further amended by inserting after the word “function” in line 34 the  
29 following paragraph:—

30           “Defined parking area” means that portion of any parking area open for bank customer  
31 parking which is (i) contiguous to any paved walkway or sidewalk within 50 feet of an  
32 automated teller machine facility; (ii) regularly, principally and lawfully used for parking by  
33 consumers accessing the automated teller machine facility during nighttime hours; and (iii)  
34 owned or leased by the operator of the automated teller machine facility, or owned or otherwise

35 controlled by the party leasing the automated teller site to the operator. The term does not  
36 include any parking area which is not open, not regularly used or not designated for parking by  
37 the users of the automated teller machine who are conducting automated transactions during  
38 nighttime hours. A parking area is not open if it is physically closed to access or if conspicuous  
39 signs indicate it is closed or if such area falls outside the boundaries of the designated parking  
40 area for such automated teller machine as indicated by an appropriate amount of signage  
41 indicating the proper parking area.

42 SECTION 4. Section 1 of Chapter 167B of the General Laws, as appearing in the 2004  
43 Official Edition, is hereby further amended by inserting after the word “services”, in line 109, the  
44 following words:— “Nighttime hours” means the period of time beginning at sunset and ending  
45 at sunrise.

46 SECTION 5. Section 1 of Chapter 167B of the General Laws, as so appearing, is hereby  
47 further amended by inserting after the word “intervals” in line 139 the following:—n “Regular  
48 banking hours” means the period of time during each weekday, Monday through Friday,  
49 commencing at 9:00 a.m. and ending at 5:00 p.m.

50 SECTION 6. Chapter 167B is hereby further amended by inserting at the end thereof the  
51 following new sections:—

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

54 (a) A surveillance camera or cameras, which shall view and record all persons entering,  
55 exiting, and moving within or about an automated teller machine facility located within the  
56 interior of a building, or which shall view and record all activity within a minimum 3 feet in

57 front of an automated teller machine located on an exterior wall of a building open to the outdoor  
58 air. Such camera or cameras need not view and record banking transactions made at the  
59 automated teller machine. The recordings made by such cameras shall be preserved by the bank  
60 for at least 30days;(b) Within 6 months after the submission of the report of the temporary task  
61 force required by the subdivision of this section, entry doors equipped with locking devices  
62 which permit entry to such facility only to persons using an automated teller machine card or  
63 access code issued by a bank for that purpose. Provided, however, that any automated teller  
64 machine facility located within the interior of a building that is not equipped with such entry  
65 locking devices within 6 months after the submission of such report shall thereafter have at least  
66 one security guard stationed therein during the period of time after regular banking that such  
67 automated teller machine facility is available to banking customers;

68 (c) entry doors equipped with fire exit bolts;

69 (d) adequate lighting

70 (e) at least 1 exterior wall made substantially of untinted glass or other untinted  
71 transparent material which provides an unobstructed view of the automated teller machine or  
72 machines within the automated teller machine facility;

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

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

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

79 (1) the activity within the automated teller machine facility is being recorded by  
80 surveillance camera;

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

83 (3) customers should not permit entrance to any unknown person at any time after regular  
84 banking hours if an automated teller machine facility located within the interior of a building is  
85 available to banking customers;(4) customers should place withdrawn cash securely upon their  
86 person before exiting the automated teller machine facility;

87 (5) complaints regarding security in the automated teller machine facility should be  
88 directed to the bank's security department or to the director of the office of the commissioner of  
89 banks, together with the contact address and telephone number for said parties;

90 (6) Where the nearest emergency assistance agency is located that is responsible for  
91 addressing criminal activity or medical emergencies;

92 (i) the bank should create a 20 foot radius where no vehicles are allowed to park or stand,  
93 enforced jointly by the bank and the local police authority with jurisdiction;

94 (j) All banks operating in the Commonwealth which provide outside and enclosed  
95 automated teller machines shall provide a telephone which provides a direct, emergency 911 call  
96 to the police department with jurisdiction at that location. The commissioner of banks shall  
97 coordinate the installation of emergency telephones with each bank in a timely basis not

98 exceeding 1 year from the effective date of this act, unless granted a waiver for additional time to  
99 comply by said commissioner

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

102 (II) Special commission. There is hereby established a special commission to study the  
103 technological feasibility of the limited access entry door requirements of paragraph (b) of  
104 subdivision I of this section. Such task force shall be comprised of 15 members, 2 of whom shall  
105 be representatives of federally-chartered banks, 2 of whom shall be representatives of state-  
106 chartered banks, 2 of whom shall be representatives of savings and loan associations and 2 of  
107 whom shall be representatives of Massachusetts-based credit union associations. The Governor  
108 shall appoint 7 members, 1 of whom shall be named the chairman of the task force with the  
109 approval of the Senate President and House Speaker. Not later than 12 months after the  
110 appointment of the last member of the special commission, the task force shall submit a report  
111 containing its conclusions to the Governor and the joint committee on banks and banking.

112 (III) Any bank which operates an automated teller machine facility shall file a list of such  
113 facilities with the executive office of public safety and the division of banks, including the street  
114 addresses, intersecting streets, hours of operation, method of security, method of surveillance at  
115 each facility and the telephone number of the bank's security department. The executive office of  
116 public safety shall distribute this list to each local police department.

117 (IV) Violations and penalties.

118 (a) A bank found to be in violation of any provision of subdivision I of this section shall  
119 be subject to a civil penalty of not more than two hundred fifty dollars. Each violation of any

120 provision of subdivision I of this section with respect to a particular automated teller machine  
121 facility shall be considered a separate violation thereof.

122 (b) Any bank found to be in violation of any provision of subdivision I of this section  
123 shall correct the violation within 3 days after such finding or shall thereafter be subject to a civil  
124 penalty of not less than \$500 or more than \$1000 dollars and an additional civil penalty of \$250  
125 per day for such period that said violation remains uncorrected.

126 (c) Any bank found to be in violation of subdivision (VI) of this section shall be liable for  
127 a civil penalty of not more than \$1000 for each automated teller machine facility for which a  
128 report has not been filed. Any bank which makes a material false statement or material omission  
129 in any report filed pursuant to subdivision III of this section shall be liable for a civil penalty of  
130 not more than \$5000 for each report.

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

135 (V) Consumer safety information. Upon the original issuance or reissuance of an  
136 automated teller machine facility access card or code, or any other means or device permitting  
137 access to an automated teller facility, the issuing bank shall provide its customer with written  
138 information concerning safety precautions to be employed while using an automated teller  
139 machine facility. Such written information shall include at a minimum the information described  
140 in subparagraphs (i) through (v) of paragraph (h) of subdivision I of this section. In addition,  
141 until such time as all facilities are required to comply with security measures contained in this

142 section, and for 1 year thereafter, such written information shall also include a statement  
143 indicating that entrance to an automated teller machine facility located within the interior of a  
144 building may be obtained by persons who are not authorized to use the automated teller machine  
145 facility.

146 (VI) Certification of compliance. Within 30 days after the effective date of this section,  
147 and each year thereafter every bank which has an automated teller machine facility which is in  
148 operation on such date shall submit a written report to the commissioner of banks certifying that  
149 such automated teller machine facility is in compliance with the provisions of this section, or if  
150 such facility is not in compliance with the provisions of this section, such report shall state the  
151 manner in which such facility fails to meet the requirements of this section and the reasons for  
152 such non-compliance.

153 (VII) Enforcement measures.

154 (a) The division of banks shall be authorized to enforce this section.

155 (b) Statistics of crimes associated with the use of automated teller machines compiled and  
156 maintained by the executive office of public safety shall be made available to all banks and the  
157 public.

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