

**SENATE . . . . . No. 477**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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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  
2 Official Edition, is hereby amended by adding after the word "agreement" in line 20 the  
3 following: —

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

7 (i) a minimum of ten candlefoot power at the face of the automated teller machine and  
8 extending in an unobstructed direction outward five feet;

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

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

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

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

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

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

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

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

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

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

45 "Regular banking hours" means the period of time during each weekday, Monday  
46 through Friday, commencing at nine o'clock a.m. and ending at three o'clock p.m.

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

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

51 (a) A surveillance camera or cameras, which shall view and record all persons entering,  
52 exiting, and moving within or about an automated teller machine facility located within the  
53 interior of a building, or which shall view and record all activity within a minimum three feet in  
54 front of an automated teller machine located on an exterior wall of a building open to the outdoor  
55 air. Such camera or cameras need not view and record banking transactions made at the

56 automated teller machine. The recordings made by such cameras shall be preserved by the bank  
57 for at least thirty days;

58 (b) Within six months after the submission of the report of the temporary task force  
59 required by the subdivision of this section, entry doors equipped with locking devices which  
60 permit entry to such facility only to persons using an automated teller machine card or access  
61 code issued by a bank for that purpose. Provided, however, that any automated teller machine  
62 facility located within the interior of a building that is not equipped with such entry locking  
63 devices within six months after the submission of such report shall thereafter have at least one  
64 security guard stationed therein during the period of time after regular banking hours such  
65 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,  
69 transparent material, which provides an unobstructed view of the automated teller machine or  
70 machines within the automated teller machine facility;

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

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

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

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

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

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

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

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

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

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

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

100 (II) Special commission. There is hereby established a special commission to study the  
101 technological feasibility of the limited access entry door requirements of paragraph (b) of  
102 subdivision I of this section. Such task force shall be comprised of fifteen members, two of  
103 whom shall be representatives of federally chartered banks, two of whom shall be representatives  
104 of state chartered banks, and two of whom shall be representatives of savings and loans  
105 associates. The Governor and the Senate President shall each appoint seven members: the chair  
106 of the temporary task force shall be jointly appointed by the Governor and the Senate President.  
107 Not later than twelve months after the appointment of the last member of the special  
108 commission, the task force shall submit a report containing its conclusions to the Governor and  
109 the Senate President.

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

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

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

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

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

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

142 indicating that entrance to an automated teller machine facility located within the interior of a  
143 building may be obtained by persons who are not authorized to use the automated teller machine  
144 facility.

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

153 (VII) Enforcement statistics.

154 (a) The Division of Banks and Loan Agencies 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 department of public safety shall be made available upon the request of any  
157 bank or other interested party.

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, airports,  
161 and school buildings, provided that such automated teller machine shall be available for use only  
162 during the regular hours of operation of the building, structure or space in which such machine is  
163 located.