

# SENATE . . . . . No. 448

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## The Commonwealth of Massachusetts

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PRESENTED BY:

***Brian A. Joyce***

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*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 adoption of the accompanying bill:

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

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PETITION OF:

NAME:

*Brian A. Joyce*

DISTRICT/ADDRESS:

*Norfolk, Bristol and Plymouth*

# SENATE . . . . . No. 448

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By Mr. Joyce, a petition (accompanied by bill, Senate, No. 448) of Brian A. Joyce for legislation to provide for public safeguards and protections for users of automated teller machines. Financial Services.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 428 OF 2011-2012.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen  
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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 2010  
2   Official Edition, is hereby amended by inserting after the word "agreement", in line 19, the  
3   following definitions:-

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  
8   and extending in an unobstructed direction outward five feet;

9                   (ii) a minimum of two candlefoot power within fifty feet from all unobstructed  
10   directions from the face of the automated teller machine. If such machine is located within ten  
11   feet of the corner of the building and the automated teller machine facility is generally accessible  
12   from the 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 inserting after the word "functions", in line 29, the following definition:-

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 inserting after the word "function", in line 39, the following definition:-

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 inserting after the number "4", in line 109, the following definition:-

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 inserting after the word "intervals", in line 150, the following definition:-

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, as so appearing, is hereby further amended by adding at the  
48 end thereof the following new sections:-

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

51 (1) 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. The camera or cameras need not view and record banking transactions made at the automated  
56 teller machine. The recordings made by such cameras shall be preserved by the bank for at least  
57 thirty days;

58 (2) within six months after the submission of the report of the temporary task force  
59 required by the subsection (b) of this section, entry doors equipped with locking devices shall  
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 (3) entry doors equipped with fire exit bolts;

67 (4) adequate lighting;

68 (5) 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 (6) reflective mirrors or surfaces at each automated teller machine which provide the user  
72 a rear view;

73 (7) 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 (8) 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  
80 automated 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  
82 after regular banking hours if an automated teller machine facility located within the interior of a  
83 building is available to banking customers;

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

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

(9) a twenty-foot radius where no vehicles are allowed to park or stand, enforced by the police and bank authorities;

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

Paragraphs (2), (3), (5), and (7) of this subsection shall not apply to any automated teller machine facility located on an exterior wall of a building open to the outdoor air.

(b) Special commission. There is hereby established a special commission to study the technological feasibility of the limited access entry door requirements of paragraph (2) of subsection (a) of this section. The task force shall be comprised of fifteen members, two of whom shall be representatives of federally chartered banks, two of whom shall be representatives of state chartered banks, and two of whom shall be representatives of savings and loans associates. The Governor and the Senate President shall each appoint seven members: the chair of the temporary task force shall be jointly appointed by the Governor and the Senate President. Not later than twelve months after the appointment of the last member of the special commission, the task force shall submit a report containing its conclusions to the Governor and the Senate President.

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

(d) Violations and penalties.

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

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

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

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

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

(e) Consumer safety information. Upon the original issuance or reissuance of an automated teller machine facility access card or code, or any other means or device permitting access to an automated teller facility, the issuing bank shall provide its customer with written information concerning safety precautions to be employed while using an automated teller machine facility. Such written information shall include at a minimum the information described in subparagraphs (i) through (v) of paragraph (8) of subsection (a) of this section. In addition, until such time as all facilities are required to comply with security measures contained in this section, and for one year thereafter, such written information shall also include a statement indicating that entrance to an automated teller machine facility located within the interior of a building may be obtained by persons who are not authorized to use the automated teller machine facility.

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

(g) Enforcement statistics.

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

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

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