

HOUSE No. 76

By Mr. Ayers of Quincy, petition of Bruce J. Ayers relative to safety precautions for user of automatic teller machines. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

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,
2 as appearing in the 2004 Official Edition, is hereby amended by
3 inserting after the word “agreement” in the following new para-
4 graph:—

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

10 (i) a minimum of 10 candlefoot power at the face of the auto-
11 mated teller machine and extending in an unobstructed direction
12 outward 5 feet;

13 (ii) a minimum of 2 candlefoot power within 50 feet from all
14 unobstructed directions from the face of the automated teller
15 machine. If such machine is located within 10 feet of the corner of
16 the building and the automated teller facility is generally acces-
17 sible from the adjacent side, there shall be a minimum of 2 can-
18 dlefoot power along the first 40 unobstructed feet of the adjacent
19 side of the building.

20 With respect to defined parking areas, “adequate lighting”
21 means a minimum of 2 candlefoot power in that portion of the
22 parking area within 60 feet of the automated teller machine
23 facility.

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

30 “Automated teller machine facility” means the area comprised
31 of 1 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 appearing in the 2004 Official Edition, is hereby further
3 amended by inserting after the word “functions”, in line 24, the
4 following words:—

5 “Candlefoot power” means the light intensity of candles on a
6 horizontal plane at 36 inches above the ground level and 5 feet in
7 front of the area to be measured.

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

5 “Defined parking area” means that portion of any parking area
6 open for bank customer parking which is (i) contiguous to any
7 paved walkway or sidewalk within 50 feet of an automated teller
8 machine facility; (ii) regularly, principally and lawfully used for
9 parking by consumers accessing the automated teller machine
10 facility during nighttime hours; and (iii) owned or leased by the
11 operator of the automated teller machine facility, or owned or oth-
12 erwise controlled by the party leasing the automated teller site to
13 the operator. The term does not include any parking area which is
14 not open, not regularly used or not designated for parking by the
15 users of the automated teller machine who are conducting auto-
16 mated transactions during nighttime hours. A parking area is not
17 open if it is physically closed to access or if conspicuous signs
18 indicate it is closed or if such area falls outside the boundaries of
19 the designated parking area for such automated teller machine as
20 indicated by an appropriate amount of signage indicating the
21 proper parking area.

1 SECTION 4. Section 1 of Chapter 167B of the General Laws,
2 as appearing in the 2004 Official Edition, is hereby further
3 amended by inserting after the word “services”, in line 109, the
4 following words:—

5 “Nighttime hours” means the period of time beginning at sunset
6 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 inserting 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 9:00 a.m. and
6 ending at 5:00 p.m.

1 SECTION 6. Chapter 167B is hereby further amended by
2 inserting 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 3 feet in front of an automated teller machine located on
11 an exterior wall of a building open to the outdoor air. Such camera
12 or cameras need not view and record banking transactions made at
13 the automated teller machine. The recordings made by such cam-
14 eras shall be preserved by the bank for at least 30days;

15 (b) Within 6 months after the submission of the report of the
16 temporary task force required by the subdivision of this section,
17 entry doors equipped with locking devices which permit entry to
18 such facility only to persons using an automated teller machine
19 card or access code issued by a bank for that purpose. Provided,
20 however, that any automated teller machine facility located within
21 the interior of a building that is not equipped with such entry
22 locking devices within 6 months after the submission of such
23 report shall thereafter have at least one security guard stationed
24 therein during the period of time after regular banking that such
25 automated teller machine facility is available to banking cus-
26 tomers;

- 27 (c) entry doors equipped with fire exit bolts;
- 28 (d) adequate lighting;
- 29 (e) at least 1 exterior wall made substantially of untinted glass
30 or other untinted transparent material which provides an unob-
31 structed view of the automated teller machine or machines within
32 the automated teller machine facility;
- 33 (f) reflective mirrors or surfaces at each automated teller
34 machine which provide the user a rear view;
- 35 (g) a reflective mirror or mirrors placed in a manner that per-
36 mits a person present in the automated teller machine facility to
37 view areas within such facility which are otherwise concealed
38 from plain view;
- 39 (h) a clearly visible sign which at minimum, states:
- 40 (1) the activity within the automated teller machine facility is
41 being recorded by surveillance camera;
- 42 (2) customers should close the entry door completely upon
43 entering if the automated teller machine facility is located within
44 the interior of a building;
- 45 (3) customers should not permit entrance to any unknown
46 person at any time after regular banking hours if an automated
47 teller machine facility located within the interior of a building is
48 available to banking customers;
- 49 (4) customers should place withdrawn cash securely upon their
50 person before exiting the automated teller machine facility;
- 51 (5) complaints regarding security in the automated teller
52 machine facility should be directed to the bank's security depart-
53 ment or to the director of the office of the commissioner of banks,
54 together with the contact address and telephone number for said
55 parties;
- 56 (6) Where the nearest emergency assistance agency is located
57 that is responsible for addressing criminal activity or medical
58 emergencies;
- 59 (i) the bank should create a 20 foot radius where no vehicles are
60 allowed to park or stand, enforced jointly by the bank and the
61 local police authority with jurisdiction;
- 62 (j) All banks operating in the Commonwealth which provide
63 outside and enclosed automated teller machines shall provide a
64 telephone which provides a direct, emergency 911 call to the
65 police department with jurisdiction at that location. The commis-

66 sioner of banks shall coordinate the installation of emergency tele-
67 phones with each bank in a timely basis not exceeding 1 year from
68 the effective date of this act, unless granted a waiver for addi-
69 tional time to comply by said commissioner.

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

73 (II) Special commission. There is hereby established a special
74 commission to study the technological feasibility of the limited
75 access entry door requirements of paragraph (b) of subdivision I
76 of this section. Such task force shall be comprised of 15 members,
77 2 of whom shall be representatives of federally-chartered banks, 2
78 of whom shall be representatives of state-chartered banks, 2 of
79 whom shall be representatives of savings and loan associations
80 and 2 of whom shall be representatives of Massachusetts-based
81 credit union associations. The Governor shall appoint 7 members,
82 1 of whom shall be named the chairman of the task force with the
83 approval of the Senate President and House Speaker. Not later
84 than 12 months after the appointment of the last member of the
85 special commission, the task force shall submit a report containing
86 its conclusions to the Governor and the joint committee on banks
87 and banking.

88 (III) Any bank which operates an automated teller machine
89 facility shall file a list of such facilities with the executive office
90 of public safety and the division of banks, including the street
91 addresses, intersecting streets, hours of operation, method of secu-
92 rity, method of surveillance at each facility and the telephone
93 number of the bank's security department. The executive office of
94 public safety shall distribute this list to each local police depart-
95 ment.

96 (IV) Violations and penalties.

97 (a) A bank found to be in violation of any provision of subdivi-
98 sion I of this section shall be subject to a civil penalty of not more
99 than two hundred fifty dollars. Each violation of any provision of
100 subdivision I of this section with respect to a particular automated
101 teller machine facility shall be considered a separate violation
102 thereof.

103 (b) Any bank found to be in violation of any provision of subdivi-
104 sion I of this section shall correct the violation within 3 days

105 after such finding or shall thereafter be subject to a civil penalty
106 of not less than \$500 or more than \$1000 dollars and an additional
107 civil penalty of \$250 per day for such period that said violation
108 remains uncorrected.

109 (c) Any bank found to be in violation of subdivision (VI) of this
110 section shall be liable for a civil penalty of not more than \$1000
111 for each automated teller machine facility for which a report has
112 not been filed. Any bank which makes a material false statement
113 or material omission in any report filed pursuant to subdivision III
114 of this section shall be liable for a civil penalty of not more than
115 \$5000 for each report.

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

122 (V) Consumer safety information. Upon the original issuance or
123 reissuance of an automated teller machine facility access card or
124 code, or any other means or device permitting access to an auto-
125 mated teller facility, the issuing bank shall provide its customer
126 with written information concerning safety precautions to be
127 employed while using an automated teller machine facility. Such
128 written information shall include at a minimum the information
129 described in subparagraphs (i) through (v) of paragraph (h) of sub-
130 division I of this section. In addition, until such time as all facili-
131 ties are required to comply with security measures contained in
132 this section, and for 1 year thereafter, such written information
133 shall also include a statement indicating that entrance to an auto-
134 mated teller machine facility located within the interior of a
135 building may be obtained by persons who are not authorized to
136 use the automated teller machine facility.

137 (VI) Certification of compliance. Within 30 days after the
138 effective date of this section, and each year thereafter every bank
139 which has an automated teller machine facility which is in opera-
140 tion on such date shall submit a written report to the commis-
141 sioner of banks certifying that such automated teller machine
142 facility is in compliance with the provisions of this section, or if
143 such facility is not in compliance with the provisions of this

144 section, such report shall state the manner in which such facility
145 fails to meet the requirements of this section and the reasons for
146 such non-compliance.

147 (VII) Enforcement measures.

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

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

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