

# SENATE NO. 596

## **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 wall  
4 of a building open to the outdoor air, and any defined parking area, means lighting during nighttime hours  
5 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 of the  
9 automated teller machine. If such machine is located within ten feet of the corner of the building and the  
10 automated teller machine facility is generally accessible from the adjacent side, there shall be a minimum of  
11 two candlefoot power along the first forty unobstructed feet of the adjacent side of the building.

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

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

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

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

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

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

26 "Defined parking area" means that portion of any parking area open for bank customer parking which is (i)  
27 contiguous to any paved walkway or sidewalk within fifty feet of an automated teller machine facility; (ii)  
28 regularly, principally and lawfully used for parking by users of the automated teller machine facility during  
29 nighttime hours; and (iii) owned or leased by the operator of the automated teller machine facility, or owned  
30 or otherwise controlled by the party leasing the automated teller site to the operator. The term does not include  
31 any parking area which is not open or regularly used for parking by the users of the automated teller machine  
32 who are conducting automated transactions during nighttime hours. A parking area is not open if it is  
33 physically closed to access or if conspicuous signs indicate that it is closed.

34 SECTION 4. Section 1 of Chapter 167B of the General Laws, as so appearing, is hereby further  
35 amended by adding after the word "services" in line 109 the following:—

36 "Nighttime hours" means the period of time beginning at sunset and ending at sunrise.

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

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

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

45 (a) A surveillance camera or cameras, which shall view and record all persons entering, exiting, and moving  
46 within or about an automated teller machine facility located within the interior of a building, or which shall  
47 view and record all activity within a minimum three feet in front of an automated teller machine located on an  
48 exterior wall of a building open to the outdoor air. Such camera or cameras need not view and record banking  
49 transactions made at the automated teller machine. The recordings made by such cameras shall be preserved  
50 by the bank for at least thirty days;

51 (b) Within six months after the submission of the report of the temporary task force required by the  
52 subdivision of this section, entry doors equipped with locking devices which permit entry to such facility only  
53 to persons using an automated teller machine card or access code issued by a bank for that purpose. Provided,  
54 however, that any automated teller machine facility located within the interior of a building that is not  
55 equipped with such entry locking devices within six months after the submission of such report shall  
56 thereafter have at least one security guard stationed therein during the period of time after regular banking  
57 hours such automated teller machine facility is available to banking customers;

58 (c) entry doors equipped with fire exit bolts

59 (d) adequate lighting

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

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

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

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

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

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

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

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

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

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

80 All banks operating in the Commonwealth which provide outside and enclosed automated teller machines  
81 shall provide an emergency telephone which provides access to a 911 emergency number as a safety outlet for  
82 its customers. The Commissioner of Banks shall coordinate the installation of 911 emergency numbers

83 working closely with each bank in the implementation of this conversion on a timely basis not in excess of  
84 one year for such installation upon the passage of this act.

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

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

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

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

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

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

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

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

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

134 (VII) Enforcement statistics.

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

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

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