

HOUSE No. 782

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce J. Ayers

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 establishing uniform safeguards and public protections for consumers conducting bank transactions at automated teller machines.

PETITION OF:

NAME:

Bruce J. Ayers

Thomas M. Stanley

DISTRICT/ADDRESS:

1st Norfolk

9th Middlesex

HOUSE No. 782

By Mr. Ayers of Quincy, a petition (accompanied by bill, House, No. 782) of Bruce J. Ayers and Thomas M. Stanley for legislation to establish safeguards and public protections for consumers conducting bank transactions at automated teller machines. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

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 10 feet;

8 (ii) a minimum of 2 candlefoot power within 75 feet from all unobstructed directions
9 from the face of the automated teller machine. If such machine is located within 15 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 \$2,500. Each violation of any provision of
120 subdivision I of this section with respect to a particular automated teller machine facility shall be
121 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 \$2000 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 \$10,000 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.