
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1906 Session of
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INTRODUCED BY ROONEY, M. COHEN, LUCYK, BOSCOLA, LAUGHLIN,
BELARDI, BELFANTI, CORPORA, WALKO, ORIE, MELIO, JOSEPHS,
STABACK, McNAUGHTON, BROWNE, KIRKLAND, YOUNGBLOOD AND RAMOS,
OCTOBER 9, 1997

REFERRED TO COMMITTEE ON COMMERCE AND ECONOMIC DEVELOPMENT,
OCTOBER 9, 1997

AN ACT

1 Requiring banking institutions to implement safety measures for
2 the protection of persons using teller machines.

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5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Automated
9 Teller Machine Safety Act.

10 Section 2. Legislative findings.

11 The General Assembly finds and declares as follows:

12 (1) There are thousands of automated teller machines
13 throughout this Commonwealth that are operated and maintained
14 by banking institutions.

15 (2) Automated teller machines are an integral part of
16 consumers' lives and are used by thousands of citizens in
17 this Commonwealth on a daily basis for numerous banking
18 transactions.

19 (3) Citizens who use automated teller machines should be
20 able to safely conduct banking transactions at the machines
21 without risk of injury to their persons or property by
22 persons with criminal intentions.

23 (4) Safety measures at automated teller machines vary,
24 and there is a need for reasonable and uniform safety
25 measures throughout this Commonwealth.

26 (5) It is in the interest of public safety to require
27 banking institutions to adopt uniform safety measures for the
28 use of automated teller machines.

29 Section 3. Definitions.

30 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Access device." A card, code or other means of access to a
4 consumer's account, or any combination, that may be used by the
5 consumer for the purpose of initiating electronic fund
6 transfers.

7 "Adequate lighting." With respect to an automated teller
8 machine facility located within the interior of a building,
9 lighting on a 24-hour basis which permits a person entering the
10 facility to readily and easily see all persons occupying the
11 facility and which permits a person inside the facility to
12 readily and easily see all persons at the entry door of the
13 facility. The term also means, with respect to an open and
14 operating automated teller machine facility open to the outdoor
15 air and any defined parking area, lighting during nighttime
16 hours according to the following standards:

17 (1) A minimum illuminance of ten candlefoot power is
18 maintained on a horizontal plane at a point five feet outward
19 from and five feet above the ground surface from the
20 automated teller machine.

21 (2) A minimum illuminance of two candlefoot power is
22 maintained on a horizontal plane at a point 50 feet in all
23 unobstructed directions from the automated teller machine,
24 measured at a point five feet above the ground surface.

25 (3) If an outdoor automated teller machine is located
26 within ten feet of the corner of a building and the automated
27 teller machine facility is generally accessible from the
28 adjacent side, there is a minimum illuminance of two
29 candlefoot power along the first 40 unobstructed feet of the
30 adjacent side of the building. The term also means, with

1 respect to a defined parking area, a minimum of two
2 candlefoot power in that portion of the parking area within
3 60 feet of the automated teller machine facility.

4 "Automated teller machine." A device which is linked to the
5 accounts and records of a banking institution and which enables
6 consumers to carry out banking transactions, including, but not
7 limited to, account transfers, deposits, cash withdrawals,
8 balance inquiries and loan payments.

9 "Automated teller machine facility." An area within the
10 dominion and control of a banking institution comprised of one
11 or more automated teller machines and any adjacent space which
12 is made available to banking customers after regular banking
13 hours.

14 "Banking institution." Any Federally or State-chartered
15 bank, trust company, savings bank, savings and loan association
16 or credit union, whether headquartered within or outside this
17 Commonwealth that operates one or more automated teller machine
18 facilities within this Commonwealth.

19 "Candlefoot power." The light intensity of candles measured
20 on a horizontal plane 30 inches above ground level and five feet
21 in front of the area to be measured.

22 "Defined parking area." The portion of any parking area open
23 for and accessible to customers of a banking institution which
24 is:

25 (1) Contiguous to any paved walkway or sidewalk within
26 50 feet of an automated teller machine facility.

27 (2) Regularly, principally and lawfully used for parking
28 by users of the automated teller machine facility while
29 conducting transactions at such automated teller machine
30 facility.

(3) Owned or leased by the operator of the automated teller machine facility or owned or otherwise controlled by the party leasing the automated teller machine facility site to the banking institution.

The term does not include any parking area which is not open or regularly used for parking by the users of the automated teller machine facility or the conduct of transactions during nighttime hours. For this purpose, the parking area is not open if it is physically closed to access or if conspicuous signs indicate that it is closed.

"Department." The Department of Banking of the Commonwealth.

"Nighttime hours." The period of time beginning 30 minutes after sunset and ending 30 minutes before sunrise.

"Secretary." The Secretary of Banking of the Commonwealth.

Section 4. Security measures.

(a) General rule.--A banking institution shall maintain the following security measures with respect to each of the automated teller machine facilities within its dominion and control:

(1) A surveillance camera or cameras shall view and record all persons entering an automated teller machine facility located within the interior of a building or shall view and record all activity occurring within a minimum of three feet in front of an automated teller machine located outside a building and open to the outdoor air. The camera or cameras shall not be required to record banking transactions made at the automated teller machines. The recordings made by cameras shall be preserved by the banking institution for at least 30 days.

(2) Adequate lighting.

1 (3) An indoor automated teller machine facility shall
2 have:

3 (i) Entry doors equipped with locking devices which
4 permit entry to the facility only to persons using a
5 magnetic-strip plastic card or similar access device.

6 (ii) To the extent practicable, as determined by an
7 expert with competence in such matters and as permitted
8 by local building codes, at least one exterior wall which
9 provides an unobstructed view of the interior of the
10 automated teller machine facility.

11 (iii) A reflective mirror or mirrors, as necessary,
12 placed in such a manner as to permit a person entering an
13 indoor automated teller machine facility to view areas
14 within the facility that are otherwise concealed to plain
15 view.

16 (b) Signs required.--An automated teller machine facility
17 shall display a clearly visible sign which, at a minimum,
18 provides the following information:

19 (1) The activity of the automated teller machine
20 facility is being recorded by a surveillance camera or
21 cameras.

22 (2) Customers should close the entry door completely
23 upon entering and exiting.

24 (3) Customers should not permit any unknown persons to
25 enter after regular banking hours.

26 (4) Customers should place withdrawn cash securely upon
27 their persons before exiting the automated teller machine
28 facility.

29 (5) Complaints concerning security in the automated
30 teller machine facility should be directed to the banking

1 institution's security department or the Department of
2 Banking, together with telephone numbers for any complaints
3 and that the nearest available public telephone should be
4 used to call the police if emergency assistance is needed.

5 Section 5. List of facilities.

6 A banking institution which operates an automated teller
7 machine facility shall file a list of such facilities with the
8 department, including the street addresses, intersecting
9 streets, hours of operation and the telephone number of the
10 banking institution's security department. The information shall
11 also be filed with the department with respect to each
12 additional automated teller machine facility within a reasonable
13 time, as specified by the secretary from the date upon which the
14 facility begins operation. The department shall make the list
15 available on request of local law enforcement agencies and other
16 local governmental entities.

17 Section 6. Consumer safety information.

18 Upon the original issuance or reissuance of an automated
19 teller machine facility access device, the issuing banking
20 institution shall provide its customers with written information
21 concerning safety precautions to be employed while using an
22 automated teller machine facility. The written information shall
23 include, at a minimum, the information described in section
24 4(b).

25 Section 7. Statistics.

26 Statistics of crimes associated with the use of automated
27 teller machine facilities compiled and maintained by any law
28 enforcement agency shall be made available upon the request of
29 any banking institution or the department.

30 Section 8. Report of compliance.

1 Within one year after the effective date of this act, and
2 each year thereafter, each banking institution which has an
3 automated teller machine facility in operation on that date and
4 on that date every year thereafter shall submit a written report
5 to the department on a form prescribed by the secretary,
6 certifying that the automated teller machine facility is in
7 compliance with this act or any variance or exemption that has
8 been granted or, if the facility is not in compliance with such
9 provisions, the report shall state the manner in which the
10 facility fails to meet the requirements, the reasons for
11 noncompliance and a plan to remedy any noncompliance.

12 Section 9. Compliance with local building code and all other
13 applicable provisions of law.

14 Unless otherwise provided in this act, nothing contained in
15 this act shall be construed to exempt or relieve any banking
16 institution from complying with all relevant provisions of the
17 local building code and all other applicable provisions of law.

18 Section 10. Exempt facilities.

19 This act shall not apply to any unenclosed automated teller
20 machine located in any building, structure or space whose
21 primary purpose or function is unrelated to banking activities,
22 including, but not limited to, supermarkets, airports, school
23 buildings and public buildings, provided that the automated
24 teller machine is available for use only during the regular
25 hours of operation of the building, structure or space in which
26 the machine is located.

27 Section 11. Enforcement and civil penalties.

28 (a) Failure to correct safety measures.--Any banking
29 institution found to be in violation of section 4 shall correct
30 the violation within ten business days after such finding. Where

1 a banking institution fails to correct the violation within this
2 time, the secretary may in a proceeding after notice and a
3 hearing require any banking institution to pay a civil penalty
4 in a sum of not more than \$2,500 for each and every offense,
5 provided, however, that the aggregate penalty for all offenses
6 with respect to any one automated teller machine facility in any
7 one proceeding shall not be more than \$10,000. For the purposes
8 of this act, each violation of section 4 shall be considered a
9 separate and distinct violation.

10 (b) Failure to report compliance.--Any banking institution
11 found to be in violation of section 8 shall be liable for a
12 civil penalty of not more than \$1,000 for each automated teller
13 machine facility for which a report has not been filed. Any
14 banking institution which makes a material false statement or
15 material omission in any report filed under section 8 shall be
16 liable for a civil penalty of not more than \$5,000 for each
17 report.

18 Section 12. Preemption.

19 (a) General rule.--Except as provided in subsection (b),
20 this act shall supersede and preempt all rules, regulations,
21 codes, statutes or ordinances of all cities, counties,
22 municipalities and local agencies regarding customer safety at
23 automated teller machine facilities.

24 (b) Preexisting measures in certain cities.--To the extent
25 that security measures are inconsistent with or in addition to
26 the provisions of section 4, in any city having a population of
27 1,000,000 or more, pursuant to any rules, regulations, codes,
28 statutes or ordinances regarding customer safety at automated
29 teller machine facilities and were duly enacted by the city on
30 or before the effective date of this act, those security

1 measures shall continue to be required within that city,
2 provided, however, that the enforcement of any of those security
3 measures shall be enforced by the secretary.

4 Section 13. Variances and exemptions.

5 (a) General rule.--Except in a city having a population of
6 1,000,000 or more, the secretary, pursuant to rules and
7 regulations promulgated by the secretary and upon written
8 request of a banking institution, may approve variances which
9 provide substitute security measures that are substantially as
10 safe as the requirements of any of the security measures
11 contained in this act or exemptions from such measures.

12 (b) Required documentation.--In no event, however, shall the
13 secretary vary or exempt any measures unless the secretary has
14 received the following items in form and substance satisfactory
15 to the secretary:

16 (1) A resolution or declaration of the governing body of
17 the municipality in which such automated teller machine
18 facility is located consenting to any such variance or
19 exemption.

20 (2) Written certification from the banking institution's
21 security officer, appointed in accordance with Federal law,
22 that in the officer's professional judgment, either the
23 variance will provide security measures which are
24 substantially as safe as those which are otherwise required
25 by this act or the exemption is warranted, as applicable.

26 (3) In the event the request for any variance or
27 exemption is premised upon the impracticability or burdensome
28 expense that would result from compliance with the security
29 provisions contained in this act, and the impracticability or
30 expense is attributable to the manner in which the building

1 in which such automated teller machine facility is or is to
2 be located, constructed, configured or otherwise situated,
3 written certification to that effect from an expert with
4 competence in the areas of renovation or design or both, as
5 may be appropriate.

6 (4) Other evidence or information the secretary deems
7 appropriate or necessary.

8 Section 14. Rules and regulations.

9 The secretary shall promulgate such rules and regulations to
10 enforce this act.

11 Section 15. Severability.

12 If any word, phrase, clause, sentence, paragraph, section or
13 part of this act is adjudged by any court of competent
14 jurisdiction to be invalid, that judgment shall not affect,
15 impair or invalidate the remainder of this act, but shall be
16 confined in its operation to the word, phrase, clause, sentence,
17 paragraph, section or part of this act directly involved in the
18 controversy in which judgment shall be rendered.

19 Section 16. Effective date.

20 This act shall take effect in 60 days.