

HOUSE BILL 573

11

41r2095
CF 41r2096

By: **Delegates Curran and Alexander**
Introduced and read first time: January 28, 1994
Assigned to: Commerce and Government Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 11, 1994

CHAPTER 0570

MAY 26 '94

1 AN ACT concerning

APPROVED BY THE GOVERNOR

2

Financial Institutions – Automated Teller Machines

3 FOR the purpose of establishing procedures for evaluating the safety of the location of
4 certain automated teller machines; establishing requirements for the lighting of
5 certain automated teller machines at night; establishing requirements for safety
6 information to be provided to customers who use automated teller machines at
7 night; ~~providing that compliance with the requirements of this Act creates a~~
8 ~~rebuttable presumption that an automated teller machine was operated~~
9 ~~appropriately and that adequate measures for the safety of customers were~~
10 ~~provided~~; providing that this Act preempts local law governing customer safety at
11 automated teller machines; defining certain terms; providing for the applicability of
12 this Act; providing for a delayed effective date; and generally relating to the
13 operation of automated teller machines.

14 BY adding to

15 Article – Financial Institutions
16 Section 1-206
17 Annotated Code of Maryland
18 (1992 Replacement Volume and 1993 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Financial Institutions**

22 1-206.

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
24 INDICATED.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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1 (2) (I) "ACCESS AREA" MEANS ANY PAVED WALKWAY OR SIDEWALK
2 WHICH IS WITHIN 50 FEET OF AN AUTOMATED TELLER MACHINE.

3 (II) "ACCESS AREA" DOES NOT INCLUDE ANY PUBLICLY
4 MAINTAINED STREET OR HIGHWAY OR ANY ADJACENT SIDEWALK.

5 (3) "ACCESS DEVICE" HAS THE MEANING STATED IN FEDERAL RESERVE
6 BOARD REGULATION E, 12 C.F.R. PART 205.

7 (4) (I) "AUTOMATED TELLER MACHINE" MEANS ANY ELECTRONIC
8 INFORMATION PROCESSING DEVICE LOCATED IN THIS STATE WHICH ACCEPTS OR
9 DISPENSES CASH IN CONNECTION WITH A CREDIT, DEPOSIT, OR CONVENIENCE
10 ACCOUNT.

11 (II) "AUTOMATED TELLER MACHINE" DOES NOT INCLUDE
12 DEVICES USED:

13 1. SOLELY TO FACILITATE CHECK GUARANTEES OR CHECK
14 AUTHORIZATIONS;

15 2. IN CONNECTION WITH THE ACCEPTANCE OR DISPENSING
16 OF CASH ON A PERSON-TO-PERSON BASIS, INCLUDING BY A STORE CASHIER; OR

17 3. FOR THE PAYMENT OF GOODS OR SERVICES.

18 (5) "CANDLEFOOT POWER" MEANS THE LIGHT INTENSITY OF CANDLES
19 ON A HORIZONTAL PLANE AT 36 INCHES ABOVE GROUND LEVEL AND 5 FEET IN
20 FRONT OF THE AREA TO BE MEASURED.

21 (6) "CONTROL" OF AN ACCESS AREA OR DEFINED PARKING AREA
22 MEANS TO HAVE THE PRESENT AUTHORITY TO DETERMINE HOW, WHEN, AND BY
23 WHOM SUCH AREA IS TO BE USED, MAINTAINED, LIGHTED, AND LANDSCAPED.

24 (7) "CUSTOMER" MEANS AN INDIVIDUAL TO WHOM AN ACCESS DEVICE
25 HAS BEEN ISSUED FOR PERSONAL, FAMILY, OR HOUSEHOLD USE.

26 (8) (I) "DEFINED PARKING AREA" MEANS THAT PORTION OF A
27 PARKING AREA OPEN FOR CUSTOMER PARKING WHICH IS:

28 1. CONTIGUOUS TO AN ACCESS AREA WITH RESPECT TO AN
29 AUTOMATED TELLER MACHINE;

30 2. REGULARLY, PRINCIPALLY, AND LAWFULLY USED FOR
31 PARKING BY USERS OF THE AUTOMATED TELLER MACHINE WHILE CONDUCTING
32 AUTOMATED TELLER MACHINE TRANSACTIONS DURING THE HOURS OF DARKNESS;
33 AND

34 3. OWNED OR CONTROLLED BY THE OPERATOR OF THE
35 AUTOMATED TELLER MACHINE OR BY THE PARTY LEASING THE AUTOMATED
36 TELLER MACHINE SITE TO THE OPERATOR.

37 (II) "DEFINED PARKING AREA" INCLUDES ONLY THE SINGLE
38 PARKING LEVEL OF A MULTIPLE LEVEL PARKING AREA DEEMED BY THE OPERATOR
39 OF THE AUTOMATED TELLER MACHINE TO BE THE MOST DIRECTLY ACCESSIBLE TO

1 USERS OF THE AUTOMATED TELLER MACHINE IF THE PARKING AREA OTHERWISE
2 SATISFIES THE CONDITIONS CONTAINED IN ITEM (I) OF THIS PARAGRAPH.

3 (III) "DEFINED PARKING AREA" DOES NOT INCLUDE A PARKING
4 AREA WHICH:

5 1. IS NOT REGULARLY USED FOR PARKING BY USERS OF
6 THE AUTOMATED TELLER MACHINE WHO ARE CONDUCTING AUTOMATED TELLER
7 MACHINE TRANSACTIONS DURING THE HOURS OF DARKNESS; OR

8 2. IS PHYSICALLY CLOSED TO ACCESS OR IS MARKED BY
9 CONSPICUOUS SIGNS INDICATING THAT IT IS CLOSED.

10 (9) "FINANCIAL INSTITUTION" HAS THE MEANING STATED IN § 1-101 OF
11 THIS TITLE.

12 (10) "HOURS OF DARKNESS" MEANS THE PERIOD THAT BEGINS 30
13 MINUTES AFTER SUNSET AND ENDS 30 MINUTES BEFORE SUNRISE.

14 (11) "OPERATOR" MEANS A FINANCIAL INSTITUTION OR OTHER PERSON
15 THAT OPERATES AN AUTOMATED TELLER MACHINE.

16 (B) (1) (I) THIS SECTION DOES NOT APPLY TO ANY PERSON:

17 1. WHOSE PRIMARY FUNCTION IS TO PROVIDE FOR THE
18 EXCHANGE, TRANSFER, OR DISSEMINATION OF ELECTRONIC FUND TRANSFER
19 DATA; AND

20 2. THAT IS NOT OTHERWISE AN OPERATOR OR PERSON
21 WHO CONTROLS AN ACCESS AREA OR DESIGNATED PARKING AREA.

22 (II) A PERSON DESCRIBED IN ITEM (I) OF THIS PARAGRAPH SHALL
23 HAVE NO LIABILITY TO A CUSTOMER OR USER OF AN AUTOMATED TELLER
24 MACHINE FOR ANY CLAIM RELATING TO:

25 1. ANY PROVISION OF THIS SECTION; OR

26 2. THE USE OR ATTEMPTED USE OF AN AUTOMATED
27 TELLER MACHINE.

28 (2) THIS SECTION DOES NOT APPLY TO AN AUTOMATED TELLER
29 MACHINE WHICH:

30 (I) IS LOCATED INSIDE A BUILDING:

31 1. UNLESS THE BUILDING IS A FREESTANDING
32 INSTALLATION WHICH EXISTS SOLELY TO PROVIDE AN ENCLOSURE FOR THE
33 AUTOMATED TELLER MACHINE; OR

34 2. EXCEPT TO THE EXTENT THAT A TRANSACTION CAN BE
35 CONDUCTED FROM OUTSIDE THE BUILDING; OR

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1 (II) IS LOCATED IN ANY AREA, INCLUDING ANY ACCESS AREA,
2 BUILDING, ENCLOSED SPACE, OR PARKING AREA, WHICH IS NOT CONTROLLED BY
3 THE OPERATOR.

4 (C) (1) AN OPERATOR OF AN AUTOMATED TELLER MACHINE SHALL ADOPT
5 PROCEDURES FOR EVALUATING THE SAFETY OF THE LOCATION OF THE
6 AUTOMATED TELLER MACHINE BEFORE IT IS INSTALLED.

7 (2) THE PROCEDURES SHALL INCLUDE A CONSIDERATION OF:

8 (I) THE EXTENT TO WHICH THE LIGHTING FOR THE AUTOMATED
9 TELLER MACHINE COMPLIES OR WILL COMPLY WITH THE STANDARDS DESCRIBED
10 IN THIS SECTION; AND

11 (II) THE PRESENCE OF LANDSCAPING, VEGETATION, OR OTHER
12 OBSTRUCTIONS IN THE AREA OF THE AUTOMATED TELLER MACHINE, THE ACCESS
13 AREA, AND THE DEFINED PARKING AREA.

14 (3) (I) THE OPERATOR OF AN AUTOMATED TELLER MACHINE
15 INSTALLED PRIOR TO JANUARY 1, 1995 SHALL ADOPT PROCEDURES FOR
16 EVALUATING THE SAFETY OF THE LOCATION OF THE EXISTING AUTOMATED
17 TELLER MACHINE.

18 (II) THE PROCEDURES ADOPTED UNDER SUBPARAGRAPH (I) OF
19 THIS PARAGRAPH SHALL INCLUDE A CONSIDERATION OF THE FACTS IDENTIFIED IN
20 PARAGRAPH (2) OF THIS SUBSECTION TO THE EXTENT APPROPRIATE TO EXISTING
21 LOCATIONS.

22 (III) THIS SUBSECTION DOES NOT IMPOSE A DUTY TO EVALUATE
23 THE SAFETY OF A LOCATION, RELOCATE AN AUTOMATED TELLER MACHINE,
24 MACHINE OR MODIFY THE LANDSCAPING, VEGETATION, OR OTHER OBSTRUCTIONS
25 IN THE AREA OF AN AUTOMATED TELLER MACHINE, ACCESS AREA, OR DEFINED
26 PARKING AREA FOR AN AUTOMATED TELLER MACHINE INSTALLED PRIOR TO
27 JANUARY 1, 1995.

28 (D) (1) AN OPERATOR OF AN AUTOMATED TELLER MACHINE SHALL
29 PROVIDE DURING THE HOURS OF DARKNESS LIGHTING OF AT LEAST 10
30 CANDLEFOOT POWER AT THE FACE OF THE AUTOMATED TELLER MACHINE AND
31 EXTENDING IN AN UNOBSTRUCTED DIRECTION OUTWARD 5 FEET.

32 (2) AN OPERATOR OR, IF DIFFERENT, THE PERSON WHO CONTROLS THE
33 ACCESS AREA OR THE DEFINED PARKING AREA, SHALL PROVIDE DURING THE
34 HOURS OF DARKNESS LIGHTING OF:

35 (I) AT LEAST 2 CANDLEFOOT POWER WITHIN 50 FEET FROM ALL
36 UNOBSTRUCTED DIRECTIONS FROM THE FACE OF THE AUTOMATED TELLER
37 MACHINE;

38 (II) AT LEAST 2 CANDLEFOOT POWER IN THAT PORTION OF THE
39 DEFINED PARKING AREA WITHIN 60 FEET OF THE AUTOMATED TELLER MACHINE;
40 AND

