

Bonus Section C

SENATE, No. 1204

STATE OF NEW JERSEY

INTRODUCED JUNE 6, 1994

By Senators CARDINALE and LIPMAN

1 AN ACT requiring added security measures at automated teller
2 machine locations.

3

4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. As used in this act:

7 "Access area" means any paved walkway or sidewalk which is
8 within 50 feet of an automated teller machine or the entrance of
9 an automated teller machine facility and is used by the public to
10 access the machine or facility. The term does not include
11 publicly maintained sidewalks or roads.

12 "Access device" means a card, code, or other means of access
13 to a customer's credit or deposit account, or any combination
14 thereof, that may be used by the customer for the purpose of
15 initiating electronic fund transfers.

16 "Automated teller machine" means any electronic information
17 processing device located in the State of New Jersey which
18 accepts or dispenses cash in connection with a credit or deposit
19 account. The term does not include tellers' stations staffed by a
20 person or other manned facilities.

21 "Automated teller machine facility" means an enclosed area,
22 the principal purpose of which is the housing of one or more
23 operating automated teller machines to which customers have
24 access to conduct transactions with respect to a credit or deposit
25 account.

26 "Candlefoot power" means the light intensity of candles on a
27 horizontal plane at 36 inches above ground level and five feet in
28 front of the area to be measured.

29 "Control" of an access area or defined parking area means the
30 present authority to determine how, when, and by whom any such
31 area is to be used, and how it is to be maintained, lighted, and
32 landscaped.

33 "Customer" means a natural person to whom an access device
34 has been issued for personal, family, or household use.

35 "Defined parking area" means that portion of any parking area
36 open for customer parking which is (1) contiguous to an access
37 area; (2) regularly, principally, and lawfully used for parking by
38 users of an automated teller machine or automated teller
39 machine facility while conducting automated teller machine
40 transactions during hours of darkness; and (3) owned or leased by
41 the operator of an automated teller machine or owned or
42 controlled by the party leasing an automated teller machine or
43 automated teller machine facility site to the operator. The term
44 does not include any parking area which is not open or regularly
45 used for parking by users who are conducting automated teller

1 machine transactions during hours of darkness. A parking area is
2 not open if it is physically closed to access or if conspicuous signs
3 indicate that it is closed. If a multiple level parking area
4 satisfies the conditions of this definition of "defined parking
5 area" and would therefore otherwise be a defined parking area,
6 only the single parking level deemed by the operator of an
7 automated teller machine or automated teller machine facility to
8 be the most directly accessible to users shall be a defined parking
9 area.

10 "Hours of darkness" means the period that commences 30
11 minutes after sunset and ends 30 minutes before sunrise.

12 "Operator" means any State or federally chartered bank,
13 savings bank, savings and loan association, credit union, or other
14 entity, which operates an automated teller machine.

15 "User" means any person to whom an access device has been
16 issued.

17 "Video camera" includes any image recording device which is
18 capable of recording a clear image of the required areas of
19 coverage as provided in section 3 of this act.

20 2. a. Operators of all automated teller machines in operation
21 after the effective date of this act shall evaluate the safety of
22 automated teller machines. This evaluation shall include
23 consideration of:

24 (1) The extent to which the lighting for the automated teller
25 machine or automated teller machine facility complies with the
26 standards required by section 4 of this act.]*

27 (2) The presence of landscaping, vegetation, or structures in
28 the area of an automated teller machine or automated teller
29 machine facility, the access area, or a defined parking area which
30 might obstruct views so as to adversely affect the safety of users.]*

31 b. It is not the intent of the Legislature in enacting this
32 section to impose a duty to close, relocate or modify automated
33 teller machines or automated teller machine facilities upon the
34 occurrence of any particular events or circumstances, but rather
35 to establish a standard of good faith for the evaluation thereof.

36 3. Every automated teller machine facility shall contain a
37 video camera which at least shall view and record all persons
38 entering the facility or all persons who effect a transaction.]*

39 4. Each operator and any person or entity controlling an access
40 area or defined parking area in operation after the effective date
41 of this act shall provide:

42 a. A minimum of 10 candlefoot power at the face of an
43 unenclosed automated teller machine and extending in an
44 unobstructed direction outward five feet.

45 b. A minimum of two candlefoot power within 50 feet in all
46 unobstructed directions from the face of the automated teller
47 machine or the entrance of an automated teller machine facility.
48 In the event any such automated teller machine or automated
49 teller machine facility is located within 10 feet of the corner of
50 the building in which it is located and the automated teller
51 machine or automated teller machine facility is generally
52 accessible from the adjacent side of such building, there shall be
53 a minimum of two candlefoot power along the first 40
54 unobstructed feet of the adjacent side of the building, measured

1 from the corner.

2 c. A minimum of two candlefoot power in that portion of the
3 defined parking area within 60 feet of an automated teller
4 machine or the entrance to an automated teller machine facility.

5 d. With respect to the interior of an automated teller machine
6 facility, sufficient lighting to permit a sighted person entering
7 the facility to readily and easily see all persons occupying the
8 facility, and to permit a sighted person inside the facility to
9 readily and easily see all persons entering the facility.

10 5. a. Each customer receiving an access device shall be
11 furnished by the respective issuer thereof with written notice of
12 basic safety precautions to be employed while using an automated
13 teller machine. This information shall be furnished by personally
14 delivering or by mailing the information to each customer whose
15 mailing address as to the account to which the access device
16 relates is in the State of New Jersey. This information shall be
17 furnished to each customer who has an access device on the day
18 prior to the effective date of this act, within 60 days after the
19 effective date of this act and to each customer provided with an
20 access device on or after the effective date of this act, at the
21 same time the customer is provided with the access device. Only
22 one notice need be furnished per household; and if an access
23 device is furnished to more than one customer for a single
24 account or set of accounts or on the basis of a single application
25 or other request for more than one access device, only a single
26 notice need be furnished in satisfaction of the notification
27 responsibilities as to all such customers. The information may be
28 included with other disclosures related to the access device
29 furnished to the customer, such as with any initial or periodic
30 disclosure statement or notice furnished pursuant to the federal
31 "Electronic Fund Transfer Act," 15 U.S.C. §1693 et seq., and
32 shall be furnished annually thereafter.

33 b. An issuer of an access device shall be deemed to be in
34 compliance with the requirement of subsection a. of this section
35 to provide a customer with basic safety precaution information if
36 the notice advises customers of the following:

- 37 (1) To be alert to their surroundings and to defer transactions
38 if circumstances cause them to be apprehensive for their safety;
39 (2) To close the entry door of any automated teller machine
40 facility equipped with a door;
41 (3) To place withdrawn cash securely upon the person before
42 exiting any automated teller machine facility;
43 (4) To direct complaints concerning automated teller machine
44 security to an appropriate department of the operator or to the
45 Department of Banking; and
46 (5) The telephone number of the operator and the Department
47 of Banking.

48 c. Operators shall maintain, in the vicinity of an automated
49 teller machine, and in any automated teller machine facility, a
50 clearly visible sign, which shall be deemed to comply with the
51 requirements of this section if it includes the information
52 contained in paragraphs (1) through (5) of subsection b. of this
53 section.

54 6. a. The Department of Banking shall enforce the provisions

1 of this act.

2 b. Any party responsible hereunder found to be in violation of
3 any provision of this act shall correct the violation within five
4 business days after such finding. Failure to correct the violation
5 within five business days after such finding may subject the party
6 to a civil penalty of not more than \$250 which may be collected
7 by summary proceedings instituted by the Commissioner of
8 Banking in accordance with "the penalty enforcement law"
9 (N.J.S.2A:58-1 et seq.).

10 7. Nothing contained in this act shall be construed to exempt
11 or relieve any operator, owner or other person responsible
12 hereunder from complying with all relevant provisions of the
13 State Uniform Construction Code, P.L.1975, c.217 (C.52:27D-119
14 et seq.), and all other applicable provisions of law.

15 8. The provisions of this act shall not apply to any automated
16 teller machine or automated teller machine facility located in
17 any building, structure or space the primary purposes or function
18 of which is: unrelated to the provision of financial services to
19 the general public, including but not limited to office buildings,
20 supermarkets, airports and school buildings; to provide automated
21 teller machine services to persons employed in such building; or
22 installed for a temporary purpose for a period of not more than
23 thirty days.

24 9. This act supersedes and preempts all rules, regulations,
25 codes, or ordinances of any county or municipality with regard to
26 customer safety at automated teller machines or automated
27 teller machine facilities.

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28 10. This act shall become effective on the first day of the
29 seventh month following enactment.

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32 STATEMENT

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34 This bill provides for uniform State-wide regulation for
35 security for persons using automated teller machines (ATMs) and
36 ATM facilities. It provides standards for review of ATM
37 locations, for lighting of ATM areas, for education of ATM users
38 and requires a video camera in every ATM facility.

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43 Requires added security measures at automated teller machine
44 locations.