
By: Delegate Curran

Requested: November 7, 1996

Introduced and read first time: January 8, 1997

Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Financial Institutions - Automated Teller Machines - Fee Disclosures**

3 FOR the purpose of requiring the operator of an automated teller machine to disclose, at
4 the time a customer initiates a transaction, all fees to be charged by the operator to
5 the customer for using the automated teller machine; making the provisions of this
6 Act severable; and generally relating to the disclosure of fees that a customer will be
7 charged by an operator for using an automated teller machine.

8 BY repealing and reenacting, with amendments,
9 Article - Financial Institutions
10 Section 1-207
11 Annotated Code of Maryland
12 (1992 Replacement Volume and 1996 Supplement)

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

15 **Article - Financial Institutions**

16 1-207.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) (i) "Access area" means any paved walkway or sidewalk which is
19 within 50 feet of an automated teller machine.

20 (ii) "Access area" does not include any publicly maintained street or
21 highway or any adjacent sidewalk.

22 (3) "Access device" has the meaning stated in Federal Reserve Board
23 Regulation E, 12 C.F.R. Part 205.

24 (4) (i) "Automated teller machine" means any electronic information
25 processing device located in this State which accepts or dispenses cash in connection with
26 a credit, deposit, or convenience account.

27 (ii) "Automated teller machine" does not include devices used:

28 1. Solely to facilitate check guarantees or check authorizations;

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1 2. In connection with the acceptance or dispensing of cash on a
2 person-to-person basis, including by a store cashier; or

3 3. For the payment of goods or services.

4 (5) "Candlefoot power" means the light intensity of candles on a horizontal
5 plane at 36 inches above ground level and 5 feet in front of the area to be measured.

6 (6) "Control" of an access area or defined parking area means to have the
7 present authority to determine how, when, and by whom such area is to be used,
8 maintained, lighted, and landscaped.

9 (7) "Customer" means an individual to whom an access device has been
10 issued for personal, family, or household use.

11 (8) (i) "Defined parking area" means that portion of a parking area open
12 for customer parking which is:

13 1. Contiguous to an access area with respect to an automated
14 teller machine;

15 2. Regularly, principally, and lawfully used for parking by users
16 of the automated teller machine while conducting automated teller machine transactions
17 during the hours of darkness; and

18 3. Owned or controlled by the operator of the automated teller
19 machine or by the party leasing the automated teller machine site to the operator.

20 (ii) "Defined parking area" includes only the single parking level of a
21 multiple level parking area deemed by the operator of the automated teller machine to be
22 the most directly accessible to users of the automated teller machine if the parking area
23 otherwise satisfies the conditions contained in item (i) of this paragraph.

24 (iii) "Defined parking area" does not include a parking area which:

25 1. Is not regularly used for parking by users of the automated
26 teller machine who are conducting automated teller machine transactions during the
27 hours of darkness; or

28 2. Is physically closed to access or is marked by conspicuous
29 signs indicating that it is closed.

30 (9) "Financial institution" has the meaning stated in § 1-101 of this title.

31 (10) "Hours of darkness" means the period that begins 30 minutes after
32 sunset and ends 30 minutes before sunrise.

33 (11) "Operator" means a financial institution or other person that operates
34 an automated teller machine.

35 (b) (1) (i) [This section does] SUBSECTIONS (C), (D), AND (E) OF THIS
36 SECTION DO not apply to any person:

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1 1. Whose primary function is to provide for the exchange,
2 transfer, or dissemination of electronic fund transfer data; and

3 2. That is not otherwise an operator or person who controls an
4 access area or designated parking area.

5 (ii) A person described in item (i) of this paragraph shall have no
6 liability to a customer or user of an automated teller machine for any claim relating to:

7 1. Any provision of SUBSECTION (C), (D), OR (E) OF this
8 section; or

9 2. The use or attempted use of an automated teller machine.

10 (2) [This section does] SUBSECTION (C), (D), OR (E) OF THIS SECTION DO
11 not apply to an automated teller machine which:

12 (i) Is located inside a building:

13 1. Unless the building is a freestanding installation which exists
14 solely to provide an enclosure for the automated teller machine; or

15 2. Except to the extent that a transaction can be conducted
16 from outside the building; or

17 (ii) Is located in any area, including any access area, building, enclosed
18 space, or parking area, which is not controlled by the operator.

19 (c) (1) An operator of an automated teller machine shall adopt procedures for
20 evaluating the safety of the location of the automated teller machine before it is installed.

21 (2) The procedures shall include a consideration of:

22 (i) The extent to which the lighting for the automated teller machine
23 complies or will comply with the standards described in this section; and

24 (ii) The presence of landscaping, vegetation, or other obstructions in
25 the area of the automated teller machine, the access area, and the defined parking area.

26 (3) (i) The operator of an automated teller machine installed prior to
27 January 1, 1995 shall adopt procedures for evaluating the safety of the location of the
28 existing automated teller machine.

29 (ii) The procedures adopted under subparagraph (i) of this paragraph
30 shall include a consideration of the facts identified in paragraph (2) of this subsection to
31 the extent appropriate to existing locations.

32 (iii) This subsection does not impose a duty to relocate an automated
33 teller machine or modify the landscaping, vegetation, or other obstructions in the area of
34 an automated teller machine, access area, or defined parking area for an automated teller
35 machine installed prior to January 1, 1995.

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1 (d) (1) An operator of an automated teller machine shall provide during the
2 hours of darkness lighting of at least 10 candlefoot power at the face of the automated
3 teller machine and extending in an unobstructed direction outward 5 feet.

4 (2) An operator or, if different, the person who controls the access area or
5 the defined parking area, shall provide during the hours of darkness lighting of:

6 (i) At least 2 candlefoot power within 50 feet from all unobstructed
7 directions from the face of the automated teller machine;

8 (ii) At least 2 candlefoot power in that portion of the defined parking
9 area within 60 feet of the automated teller machine; and

10 (iii) In the event the automated teller machine is located within 10 feet
11 of a corner of the building and the automated teller machine is generally accessible from
12 the adjacent side, at least 2 candlefoot power along the first 40 unobstructed feet of the
13 adjacent side of the building.

14 (3) The requirements of this subsection apply only to automated teller
15 machines that are open for use by customers during the hours of darkness.

16 (4) For automated teller machines installed before January 1, 1995,
17 compliance with the provisions of this subsection shall be optional until July 1, 1995.

18 (e) (1) At or before the time a customer is furnished with an access device, the
19 issuer of the access device shall furnish to the customer a notice concerning basic safety
20 precautions that customers should employ while using an automated teller machine
21 during hours of darkness.

22 (2) The notice shall be furnished:

23 (i) To each customer whose address for the account to which the
24 access device relates is in this State; and

25 (ii) By personally delivering or mailing the notice to customers at their
26 mailing addresses in this State.

27 (3) (i) Only one notice need be furnished for each mailing address; and

28 (ii) If access devices are furnished to more than one customer for a
29 single account or set of accounts or on the basis of a single application or other request
30 for access devices, only one notice need be furnished to satisfy this subsection's notice
31 requirement as to those customers.

32 (4) The notice required by this subsection may be included with other
33 disclosures related to the access device furnished to a customer, including any initial or
34 periodic disclosure statement furnished under the Federal Electronic Fund Transfer Act.

35 (5) The issuer of an access device shall be deemed to be in compliance with
36 the notice requirement of this subsection if the issuer advises the customer to:

37 (i) Be aware of the customer's surroundings when using an automated
38 teller machine, particularly during the hours of darkness;

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1 (ii) Be accompanied by another person when using an automated
2 teller machine during the hours of darkness;

3 (iii) Refrain from displaying cash, place cash in a pocket as soon as a
4 transaction is completed, and count cash in the safety of a locked enclosure such as a car
5 or home;

6 (iv) Use another automated teller machine or return at a later time if
7 anything suspicious is noticed;

8 (v) Cancel a transaction, place the access device in a pocket, and leave
9 if anything suspicious is noticed when using an automated teller machine; and

10 (vi) Immediately report all crimes to the operator of the automated
11 teller machine and to local law enforcement officials.

12 (6) For an access device issued before January 1, 1995, compliance with the
13 provisions of this subsection shall be optional unless:

14 (i) A customer requests in writing that the notice required by this
15 subsection be provided; or

16 (ii) The access device is reissued, renewed, or replaced on or after
17 January 1, 1995.

18 (F) (1) AT THE TIME A TRANSACTION IS INITIATED, THE OPERATOR OF AN
19 AUTOMATED TELLER MACHINE SHALL PROVIDE THE CUSTOMER WITH NOTICE OF
20 THE FEE TO BE CHARGED BY THE OPERATOR FOR USING THE AUTOMATED TELLER
21 MACHINE BY CUSTOMERS USING ACCESS DEVICES NOT ISSUED BY THE OPERATOR.

22 (2) THE OPERATOR MAY GIVE THE NOTICE REQUIRED UNDER
23 PARAGRAPH (1) OF THIS SUBSECTION BY EITHER:

24 (I) POSTING IN A CONSPICUOUS PLACE ON OR NEAR THE
25 AUTOMATED TELLER MACHINE THE AMOUNT OF THE FEE FOR EACH TYPE OF
26 TRANSACTION; OR

27 (II) LISTING THE AMOUNT OF THE FEE FOR THE TRANSACTION ON
28 THE SCREEN OF THE AUTOMATED TELLER MACHINE AT THE TIME THE CUSTOMER
29 INITIATES THE TRANSACTION.

30 (3) IF THE OPERATOR GIVES THE NOTICE IN THE MANNER PROVIDED
31 BY PARAGRAPH (2)(II) OF THIS SUBSECTION, THE CUSTOMER SHALL BE PROVIDED
32 WITH THE OPPORTUNITY TO CANCEL THE TRANSACTION WITHOUT INCURRING ANY
33 FEE.

34 [(f)] (G) (1) Only the State may enact a law regarding customer safety at
35 automated teller machines.

36 (2) This section shall preempt any local law governing customer safety at
37 automated teller machines.

38 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this Act
39 or the application thereof to any person or circumstance is held invalid for any reason in

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1 a court of competent jurisdiction, the invalidity does not affect other provisions or any
2 other application of this Act which can be given effect without the invalid provision or
3 application, and for this purpose the provisions of this Act are declared severable.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 1997.