

**SPONSOR SUBSTITUTE FOR SENATE BILL NO. 212**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY SENATOR ELLIS

Introduced: 2/6/98

Referred: Labor and Commerce, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to automated teller machines and to night deposit facilities; and  
2 providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** LEGISLATIVE FINDINGS AND INTENT. The legislature finds that the fees  
5 charged for using automated teller machines could have a negative effect on the financial  
6 institutions industry and consumers. The legislature intends to ensure that there is an efficient  
7 and competitive automated teller machine market.

8 \* **Sec. 2.** AS 45.45 is amended by adding new sections to read:

9 **Article 8A. Automated Teller Machines and Night Deposit Facilities.**

10 **Sec. 45.45.600. Surcharges for use of automated teller machines.** (a) A  
11 bank may not impose a surcharge on a customer for the use of an automated teller  
12 machine in this state unless the automated teller machine is located in or attached to  
13 a staffed office of that bank with facilities for in-person transactions between  
14 employees of the bank and its customers.

1 (b) If a surcharge is imposed on a customer at an automated teller machine,  
2 the operator of that automated teller machine shall disclose to the customer  
3 electronically on the automated teller machine the total amount of the charge. The  
4 disclosure shall be provided before the customer's entry of an amount, and the  
5 customer shall have an opportunity to cancel the transaction without incurring an  
6 obligation.

7 (c) In this section, "surcharge" means a fee directly imposed on a customer by  
8 the owner or operator of an automated teller machine as a result of the use of that  
9 machine if the fee is not imposed for a similar in-person transaction.

10 **Sec. 45.45.610. Safety evaluation.** An operator of an automated teller  
11 machine or a night deposit facility shall, at least once every year, evaluate the safety  
12 of the installation. The evaluation must include a determination of

13 (1) the extent of violent criminal activity that has taken place in the  
14 immediate neighborhood of the installation and whether the installation should be  
15 moved to a safer location;

16 (2) whether the lighting for the installation complies with AS 45.45.620  
17 and, if not, what changes will bring the lighting into compliance;

18 (3) whether landscaping, vegetation, or other obstructions within 50 feet  
19 of the installation or within the parking area, if any, provided for customers pose a  
20 hazard to the customers and the extent to which those hazards may be minimized by  
21 the owner or operator of the automated teller machine or night deposit facility.

22 **Sec. 45.45.620. Lighting requirements.** (a) The operator of an automated  
23 teller machine or night deposit facility shall provide lighting during the period that  
24 begins 30 minutes after sunset and ends 30 minutes before sunrise for the area within  
25 50 feet of the installation. Lighting at the face of the installation and extending in an  
26 unobstructed direction outward five feet must equal at least 10 candle-foot power.  
27 Lighting beyond that point but within 50 feet of the installation must equal at least two  
28 candle-foot power. In addition, if the installation is located within 10 feet of the  
29 corner of a building and is accessible by traveling along the adjacent side and around  
30 that corner, lighting equal to at least two-candle foot power shall be provided along  
31 the 40 feet of the adjacent side nearest to the corner.

1 (b) This section does not apply to an automated teller machine or night deposit  
2 facility that is located

3 (1) inside a building, other than a freestanding structure that exists for  
4 the sole purpose of providing an enclosure for the automated teller machine or night  
5 deposit facility, except to the extent that a transaction can be conducted from outside  
6 the building; or

7 (2) in an area that is not controlled by the operator.

8 **Sec. 45.45.630. Notice to customers.** A bank or other person who issues a  
9 card, key, or other access device to enable customers to use an automated teller  
10 machine or night deposit facility shall furnish the customer with a notice of basic  
11 safety precautions that the customer should observe while using the installation. The  
12 notice may be included with other information related to the access device furnished  
13 to the customer. If an access device is provided to more than one customer for a  
14 single account or set of accounts or on the basis of a single application or request for  
15 the access device, only a single notice to one of the customers must be provided under  
16 this section.

17 **Sec. 45.45.690. Definitions.** In AS 45.45.600 - 45.45.690,

18 (1) "automated teller machine" means an electronic information  
19 processing device that accepts or dispenses cash in connection with a credit, deposit,  
20 or convenience account, but does not include a device used primarily to facilitate  
21 check guarantees or check authorizations, if the check guarantees or check  
22 authorizations are used in connection with the acceptance or dispensing of cash on a  
23 person-to-person basis such as by store cashier, or used for payment of goods and  
24 services;

25 (2) "bank" has the meaning given in AS 06.05.540;

26 (3) "night deposit facility" means a receptacle that is provided by a  
27 bank for the use of its customers in delivering cash, checks, or other items to the bank;

28 (4) "operator" means a bank or other person who operates an automated  
29 teller machine or night deposit facility.

30 \* **Sec. 3. TRANSITION.** AS 45.45.610 - 45.45.630, enacted in sec. 2 of this Act, do not  
31 apply until July 1, 2000 with respect to an automated teller machine or night deposit facility

1 that is in operation on the effective date of this Act.

2 \* **Sec. 4.** This Act takes effect July 1, 1998.