

By: Thompson of Harris

H.B. No. 350

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a registry for and requiring the registration of certain unmanned teller machines; imposing a fee; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle Z, Title 3, Finance Code, is amended by adding Chapter 282 to read as follows:

CHAPTER 282. REGISTRATION OF UNMANNED TELLER MACHINES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 282.001. DEFINITIONS. In this chapter:

(1) "Department" means the Texas Department of Banking.

(2) "Finance commission" means the Finance Commission of Texas.

(3) "Financial institution" has the meaning assigned by Section 201.101.

(4) "Occupant," with respect to an unmanned teller machine, means a person that permits the public to access and use the machine on the premises of a business establishment or facility owned or operated by the person.

(5) "Operator," with respect to an unmanned teller machine, means a person that owns, leases, operates, or maintains the machine for public use on the premises of a business establishment or facility owned or occupied by that person or

1 another person.

2 (6) "Registration sticker" means the sticker issued
3 under Section 282.055(b) that is required to be placed on an
4 unmanned teller machine as proof of the machine's registration
5 under this chapter.

6 (7) "Unmanned teller machine" has the meaning assigned
7 by Section 59.301.

8 Sec. 282.002. INAPPLICABILITY OF CHAPTER TO CERTAIN
9 UNMANNED TELLER MACHINES. This chapter does not apply to an
10 unmanned teller machine that is:

11 (1) installed, maintained, owned, leased, or operated
12 by, or at the direction of, a financial institution or an affiliate
13 of a financial institution;

14 (2) located or operated in another state; or

15 (3) not available for public use.

16 Sec. 282.003. RULES. The finance commission shall adopt
17 rules necessary to administer, implement, and enforce this chapter.

18 SUBCHAPTER B. REGISTRATION OF UNMANNED TELLER MACHINES; REGISTRY

19 Sec. 282.051. UNMANNED TELLER MACHINE REGISTRY. (a) The
20 department shall establish and maintain on the department's
21 Internet website an online registry of unmanned teller machines
22 required to be registered under this chapter.

23 (b) The department shall update the registry at least
24 quarterly.

25 Sec. 282.052. REGISTRATION OF CERTAIN UNMANNED TELLER
26 MACHINES REQUIRED. Before operating an unmanned teller machine in
27 this state, the operator of the machine must:

1 (1) register the machine; and

2 (2) place a valid registration sticker on the machine.

3 Sec. 282.053. APPLICATION FOR REGISTRATION. (a) To
4 register an unmanned teller machine, the operator of the machine
5 must file an application with the department in accordance with
6 this chapter.

7 (b) An operator may apply to register one or more unmanned
8 teller machines in the same application.

9 (c) The registration application must:

10 (1) be in writing and notarized;

11 (2) be completed by the operator of the machine;

12 (3) include for each unmanned teller machine the
13 operator is applying to register:

14 (A) the name, address, and telephone number of
15 the facility or place of business where the unmanned teller machine
16 will be located;

17 (B) the name, address, and telephone number of
18 the occupant;

19 (C) the name, address, and telephone number of
20 the operator;

21 (D) the unmanned teller machine equipment
22 information, including the quantity, equipment make, equipment
23 model, and machine identification or serial number;

24 (E) a copy of each agreement used or intended to
25 be used by the operator relating to the operation of the unmanned
26 teller machine; and

27 (F) any other relevant information that may be

1 required by the department; and

2 (4) except as provided by Subsection (d), be
3 accompanied by the application fee under Section 282.054.

4 (d) The department may not charge an application fee for the
5 filing of a new application for an unmanned teller machine
6 following a material change in the registration described by
7 Section 282.058(a)(1)(B) or (C).

8 Sec. 282.054. APPLICATION FEE. (a) The finance commission
9 by rule shall impose a fee for filing a registration application
10 under Section 282.053.

11 (b) The application fee must be in an amount:

12 (1) that is at least \$5 but not more than \$25 for each
13 unmanned teller machine being registered;

14 (2) not to exceed a total of \$200, regardless of the
15 number of unmanned teller machines being registered; and

16 (3) sufficient to cover the costs of the department in
17 carrying out the department's duties under this chapter.

18 Sec. 282.055. APPROVAL OR DENIAL OF REGISTRATION;
19 REGISTRATION STICKER. (a) Not later than the 90th day after the
20 date an application for registration is filed under Section
21 282.053, the department shall make a determination regarding
22 whether to approve or deny the application. The department shall
23 approve the application if the application is accurate, complete,
24 and complies with Section 282.053.

25 (b) If the department approves the application, the
26 department shall notify the applicant of the approval and issue the
27 applicant a registration sticker for each unmanned teller machine

1 the applicant is applying to register. If the department
2 determines that the application is incomplete, inaccurate, or does
3 not comply with Section 282.053, the department shall deny the
4 application and notify the applicant of the reasons for denial.

5 (c) An application for registration that is accurate,
6 complete, and complies with Section 282.053 and has not been
7 approved or denied before the 91st day after the date the department
8 receives the application is considered approved for purposes of
9 this chapter. An operator's proof of submission of an application
10 described by this subsection satisfies the requirement of this
11 chapter to display a registration sticker for each unmanned teller
12 machine included in the application until the date on which the
13 operator is issued a registration sticker for the machine.

14 (d) An operator that has submitted an application
15 considered approved under Subsection (c) because of the
16 department's failure to approve or deny the application within the
17 period prescribed by that subsection may install and operate each
18 of the machines listed for registration until the date on which the
19 department denies the application, if ever, or the operator fails
20 to comply with the requirements of Section 282.058.

21 (e) If an application for registration considered approved
22 under Subsection (c) is denied at any time by the department, the
23 operator must uninstall and cease the operation of each unmanned
24 teller machine operating under that approval until the date an
25 application for registration of the unmanned teller machine
26 receives the department's approval, if ever.

27 (f) The department has the sole discretion to determine

1 whether a submitted application is accurate and complete for
2 purposes of this section.

3 Sec. 282.056. FORM AND CONTENTS OF REGISTRATION STICKER.

4 (a) The finance commission by rule shall determine the size,
5 design, display location, and technology used for a registration
6 sticker.

7 (b) The registration sticker, at a minimum, must include:

8 (1) the unmanned teller machine's identification or
9 serial number;

10 (2) the name, address, and telephone number of the
11 facility or place of business where the unmanned teller machine is
12 located;

13 (3) the name, address, and telephone number of the
14 occupant;

15 (4) the name, address, and telephone number of the
16 operator; and

17 (5) the date of issuance of the registration.

18 (c) An operator shall display the registration sticker
19 issued for each unmanned teller machine in the manner prescribed by
20 finance commission rule. The rules of the finance commission must
21 ensure that the registration sticker be displayed in a manner that
22 is plainly visible and readable by the public.

23 Sec. 282.057. REGISTRATION; VALIDITY. The registration of
24 an unmanned teller machine remains valid unless a material change
25 in the information disclosed in the registration of the machine as
26 described by Section 282.058 occurs and the operator of the machine
27 fails to comply with the requirements of that section.

1 Sec. 282.058. RELOCATION OF REGISTERED MACHINE; CHANGE IN
2 OPERATOR OR OCCUPANT. (a) Not later than the 30th day before the
3 scheduled or effective date of the applicable change described by
4 Subdivision (1), the operator of an unmanned teller machine
5 registered under this chapter shall notify the department in
6 writing of:

7 (1) a material change in the information disclosed in
8 the registration of the machine because of:

9 (A) the relocation of the machine to another
10 place of business or facility if a change of ownership has not
11 occurred;

12 (B) a new occupant or operator of the machine; or

13 (C) a new lessee or lessor of the machine; and

14 (2) the scheduled or effective date of the applicable
15 change described by Subdivision (1).

16 (b) Not later than the 60th day after the scheduled or
17 effective date of a material change in the registration of an
18 unmanned teller machine described by Subsection (a)(1), the
19 operator of the machine must:

20 (1) file a new application for registration of the
21 machine under Section 282.053 if the change occurs because of
22 Subsection (a)(1)(B) or (C); or

23 (2) submit a request for written approval of the
24 transfer of the registration under Section 282.059 if the change
25 occurs because of Subsection (a)(1)(A).

26 (c) If the operator required to file a new application or
27 submit a request for transfer approval under Subsection (b) fails

1 to do so within the time prescribed by that subsection, the operator
2 must uninstall and cease operation of the machine, unless the
3 department grants the operator an extension of time.

4 Sec. 282.059. TRANSFER OF REGISTRATION. (a) An unmanned
5 teller machine registration may be transferred following a
6 relocation of the machine described by Section 282.058(a)(1)(A)
7 only with the written approval of the department.

8 (b) The finance commission by rule may prescribe
9 registration transfer procedures and may prescribe forms to be used
10 for issuance of new registration stickers.

11 Sec. 282.060. OPERATION OF MACHINE WITHOUT REGISTRATION
12 STICKER PROHIBITED. (a) Except as otherwise provided by this
13 chapter, an operator of an unmanned teller machine subject to
14 registration violates this chapter if the operator places the
15 machine in operation without a valid registration sticker.

16 (b) Except as otherwise provided by this chapter, an
17 occupant violates this chapter if the occupant permits an unmanned
18 teller machine subject to registration to be placed in the premises
19 of a business establishment or facility owned or operated by the
20 occupant without a valid registration sticker.

21 SUBCHAPTER C. ENFORCEMENT

22 Sec. 282.101. CIVIL PENALTY; INJUNCTIVE RELIEF. (a) A
23 person that violates this chapter or a rule adopted under this
24 chapter is liable to this state for a civil penalty in an amount of
25 not less than \$50 or more than \$500 for each violation. Each day of a
26 continuing violation is a separate violation. The amount of the
27 civil penalty imposed under this subsection may not exceed \$2,000

1 in the aggregate for the violation and all violations of a similar
2 nature.

3 (b) The attorney general may bring an action in the name of
4 this state against a person that violates this chapter or a rule
5 adopted under this chapter for:

6 (1) injunctive relief;

7 (2) recovery of a civil penalty imposed under this
8 section; or

9 (3) both injunctive relief and a civil penalty.

10 (c) An action under this section may be brought in a
11 district court in:

12 (1) Travis County; or

13 (2) a county in which any part of the violation or
14 threatened violation occurs.

15 SECTION 2. (a) Not later than January 1, 2024, the Finance
16 Commission of Texas shall adopt rules to administer and implement
17 Chapter 282, Finance Code, as added by this Act, including rules to
18 establish the unmanned teller machine registry required by Section
19 282.051, Finance Code, as added by this Act.

20 (b) Notwithstanding Chapter 282, Finance Code, as added by
21 this Act, an operator of an unmanned teller machine that is subject
22 to registration under that chapter and that was not in operation on
23 or before the effective date of this Act is not required to file an
24 application to register the unmanned teller machine until January
25 1, 2024.

26 (c) Notwithstanding any other provision of this Act, the
27 operator of an unmanned teller machine that was in operation before

1 the effective date of this Act and is subject to the registration
2 requirements of Chapter 282, Finance Code, as added by this Act,
3 must file an application to register the machine in accordance with
4 that chapter not later than January 1, 2025.

5 SECTION 3. (a) Except as provided by Subsection (b) of this
6 section, this Act takes effect September 1, 2023.

7 (b) Section 282.101, Finance Code, as added by this Act,
8 takes effect January 1, 2025.