

# STATE OF NEW YORK

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10157--A

Cal. No. 849

## IN ASSEMBLY

March 21, 2018

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Introduced by M. of A. PELLEGRINO, WEPRIN, SEAWRIGHT -- read once and referred to the Committee on Banks -- reported and referred to the Committee on Codes -- advanced to a third reading, passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

AN ACT to direct the department of financial services to study consumer protection issues regarding ATMs that accept EVM-enabled chip cards

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative intent. The legislature hereby finds and  
2 declares that the introduction of EVM-enabled chip cards to the general  
3 public has presented a unique public safety, consumer protection and  
4 personal identity protection issue with respect to ATMs that accept such  
5 cards. Due to the unique nature, construction and process sequencing of  
6 ATMs the consumer's card is regularly held fully in the machine until  
7 such time as the money is disbursed and a receipt is printed. In prac-  
8 tice, many consumers have reported that they regularly walk away once  
9 they have received the money and receipt and forget to wait for the card  
10 to be released from the ATM. In the event that people forget to retrieve  
11 their card, a host of negative outcomes may be visited upon consumers,  
12 including, without limitation: the card may be taken by another for the  
13 purposes of theft, larceny, fraud, identity assumption and other unlaw-  
14 ful purposes. The legislature further finds that this is an important  
15 public policy issue that bears study, research and scrutiny, as simple  
16 and viable alternatives may exist that can more proactively protect  
17 consumers, including requiring all newly installed ATMs which are  
18 EVM-chip enabled to release the card before disbursing cash or printing  
19 a receipt.

20 § 2. For purposes of this act:

21 (a) "EVM chip" means a data storage chip that implements the Europay,  
22 Mastercard and Visa technical standard;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 (b) "Chip card" means an automated teller machine card, credit card,  
2 or other form of secure-payment card with an EVM chip inset for the  
3 purposes of customer data storage;

4 (c) "Dipping" means the insertion of a chip card into a card reader to  
5 enable customer data to be read off the EVM chip; and

6 (d) "Department" means the department of financial services.

7 § 3. The department shall study, research and prepare a report on the  
8 issue of ATMs that accept EVM-enabled chip cards to determine which  
9 measures may be necessary and proper to ensure that the cards and corre-  
10 sponding personal data and information of consumers is protected from  
11 falling into the hands of others. Such report shall include but not be  
12 limited to the following issues:

13 (a) The prevalence and incidence of people leaving their cards behind  
14 in ATM machines;

15 (b) The extent to which the general public, including vulnerable popu-  
16 lations such as seniors and low-income individuals, are affected by this  
17 issue;

18 (c) The correlation, if any, between such cards being left behind and  
19 the design of such ATM machines which hold the card within the very body  
20 of the machine until the last step of the transaction;

21 (d) The availability and efficacy of alternative ATM designs that  
22 would release the card earlier in the transaction or allow for dipping  
23 of the cards, such as is available in most major stores and at gas  
24 stations and other businesses, so that the card never leaves the consum-  
25 ers hands; and

26 (e) Any other related issues that the department shall deem advisable  
27 to create the report.

28 § 4. Within one hundred eighty days of the effective date of this act,  
29 the department shall submit a report on its findings, conclusions and  
30 recommendations pursuant to this act to the governor, the temporary  
31 president of the senate, the speaker of the assembly, the chair and  
32 ranking minority members of the senate banks committee, the chair rank-  
33 ing minority members of the senate consumer protection committee, the  
34 chair and ranking minority members of the assembly banks committee and  
35 the chair and ranking minority members of the assembly consumer affairs  
36 and protection committee.

37 § 5. The department may acquire directly from the head of any agency  
38 or instrumentality of the executive branch of the government, available  
39 information which the department considers useful in the discharge of  
40 its duties. All agencies and instrumentalities of the executive branch  
41 of the government shall cooperate with the department with respect to  
42 such information and shall furnish all information requested by the  
43 department to the extent permitted by law.

44 § 6. This act shall take effect immediately.