

# STATE OF NEW YORK

9026

## IN SENATE

June 14, 2018

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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;

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

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

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

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

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

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

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

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

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

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

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

31 § 5. The department may acquire directly from the head of any agency  
32 or instrumentality of the executive branch of the government, available  
33 information which the department considers useful in the discharge of  
34 its duties. All agencies and instrumentalities of the executive branch  
35 of the government shall cooperate with the department with respect to  
36 such information and shall furnish all information requested by the  
37 department to the extent permitted by law.

38 § 6. This act shall take effect immediately.