

HOUSE BILL NO. 2485

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Commerce and Energy

on _____)

(Patron Prior to Substitute--Delegate Shin)

A BILL to amend the Code of Virginia by adding in Title 6.2 a chapter numbered 27, consisting of sections numbered 6.2-2700 through 6.2-2705, relating to operators of automated teller machines and similar electronic terminals; registration required.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 6.2 a chapter numbered 27, consisting of sections numbered 6.2-2700 through 6.2-2705, as follows:

CHAPTER 27.

AUTOMATED TELLER MACHINE OPERATORS.

§ 6.2-2700. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Electronic funds transfer" means (i) the withdrawal of cash from or the deposit of cash or checks into an automated teller machine (ATM), cash-dispensing machine, or similar electronic terminal; (ii) an application for or acceptance of a loan through the use of an ATM, cash-dispensing machine, or similar electronic terminal; (iii) the transfer of funds between accounts through the use of an ATM, cash-dispensing machine, or similar electronic terminal; or (iv) the issuance of a check by an ATM, cash-dispensing machine, or similar electronic terminal. "Electronic funds transfer" does not include the following: (a) banking services such as access to accounts, the application for or acceptance of a loan, or the transfer of funds between accounts when such services are obtained by a person over the Internet through the use of a personal computer, phone, tablet, or similar handheld device or (b) money transmission or the sale of a money order by a person licensed or exempt from licensure under Chapter 19 (§ 6.2-1900 et seq.).

27 "Operator" means any person that owns, leases, manages, or otherwise controls access to the
28 interior of an ATM, cash-dispensing machine, or similar electronic terminal located in the
29 Commonwealth, excluding a personal computer, phone, tablet, or similar handheld device that is able to
30 perform an electronic funds transfer.

31 "Registered operator" means an operator that has registered with the Commonwealth pursuant to
32 this chapter.

33 "Similar electronic terminal" does not include a personal computer, phone, tablet, or similar
34 handheld device.

35 **§ 6.2-2701. Exemptions.**

36 The provisions of this chapter shall not apply to:

37 1. Any financial institution or any wholly owned subsidiary of any financial institution, provided
38 that such wholly owned subsidiary is subject to the general supervision or regulation of, or subject to audit
39 or examination by, a regulatory body or agency of the United States or any state; or

40 2. Any person that owns, leases, manages, or otherwise controls access to the interior of an ATM,
41 cash-dispensing machine, or similar electronic terminal located in a casino or airport, provided that the
42 person does not also act as an operator in connection with an ATM, cash-dispensing machine, or similar
43 electronic terminal located elsewhere in the Commonwealth.

44 **§ 6.2-2702. Registration; authority to transact business.**

45 A. No person shall act as an operator, directly or indirectly, whether or not the person has an office
46 or any other physical presence in the Commonwealth, except in accordance with the provisions of this
47 chapter or without first registering with the Commonwealth pursuant to this section.

48 B. On or before July 1, 2024, every operator (i) shall register with the Commission in accordance
49 with the procedures established by the Commission and (ii) unless such operator is organized under the
50 laws of the Commonwealth or otherwise is not required to obtain authority to transact business in the
51 Commonwealth as a foreign entity, shall obtain authority to transact business in the Commonwealth in
52 accordance with the provisions of Title 13.1.

53 C. Each operator shall pay an initial registration fee of \$1,000 and an annual registration fee of
54 \$500 by September 15 each year thereafter. If the operator fails to pay the annual registration fee by
55 September 15, its registration shall automatically expire by operation of law.

56 D. A registered operator shall comply with all federal laws and regulations applicable to the
57 conduct of its business.

58 **§ 6.2-2703. Restrictions on fees.**

59 A. No registered operator shall impose a fee for the use of its ATM, cash-dispensing machine, or
60 similar electronic terminal unless the imposition of the fee is disclosed at a time and in a manner that
61 allows a customer to terminate or cancel the transaction before incurring the transaction fee. Such fee shall
62 not exceed \$3 per transaction or two percent of the gross amount of the transaction, whichever is greater.

63 B. An agreement to share an ATM, cash-dispensing machine, or similar electronic terminal shall
64 not prohibit, limit, or restrict the right of a registered operator to charge such fees for the use of such
65 machine or terminal as permitted under state or federal law or require a registered operator to limit or
66 wave its rights or obligations under this section.

67 **§ 6.2-2704. Regulations.**

68 The Commission may adopt regulations as it deems appropriate to effect the purposes of this
69 chapter. Before adopting any such regulation, the Commission shall give reasonable notice of its content
70 and shall afford interested parties an opportunity to be heard in accordance with the rules of the
71 Commission.

72 **§ 6.2-2705. Authority of Attorney General.**

73 A. The Attorney General is authorized to seek to enjoin violations of this chapter and may also
74 seek damages and other relief as permitted by law. The circuit court having jurisdiction may enjoin such
75 violations notwithstanding the existence of an adequate remedy at law or order or decree damages and
76 such other relief as permitted by law.

77 B. In any action brought by the Attorney General by virtue of the authority granted in this section,
78 the Attorney General shall be entitled to seek reasonable attorney fees, expenses, and costs.

79 C. If the Attorney General files an action to enjoin violations of this chapter, the Attorney General
80 shall give notice of such action to the Commission.

81 D. Whenever the Attorney General has reasonable cause to believe that any person has engaged
82 in, is engaging in, or is about to engage in any violation of the provisions of this chapter, the Attorney
83 General is empowered to issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply
84 mutatis mutandis to civil investigative demands issued pursuant to this section.

85 **2. That the provisions of this act shall become effective on January 1, 2024.**

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