

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 1991

H.P. 1384

House of Representatives, March 23, 1999

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### **An Act to Protect Customers of Nonbank Cash-dispensing Machines.**

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Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Banking and Insurance suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative SULLIVAN of Biddeford.  
Cosponsored by Senator DOUGLASS of Androscoggin and  
Senator: ABROMSON of Cumberland.

Be it enacted by the People of the State of Maine as follows:

2  
4       **Sec. 1. 9-B MRSA §131, sub-§35**, as amended by PL 1997, c. 398,  
Pt. A, §24, is further amended to read:

6       **35. Satellite facility.** "Satellite facility" means any  
7 facility, automated device or electronic terminal established by  
8 a financial institution authorized to do business in this State  
9 at which an existing financial institution customer may initiate  
10 banking transactions, including, but not limited to, cash  
11 deposits to and withdrawals from that customer's account, cash  
12 advances on a preauthorized credit line, transfers between  
13 ~~checking--and--savings~~ deposit or share accounts or payment  
14 transfers from the customer's account to accounts of other  
15 financial institution customers. Such a facility is not  
16 permanently staffed and is not part of a main office or branch  
17 office of a financial institution. Such a facility may be part of  
18 an electronic funds transfer system. Satellite facilities  
19 include facilities engaged in soliciting, receiving or accepting  
20 money or its equivalent on deposit from new and existing  
21 customers. The term satellite facility does not include a cash  
22 dispensing machine, that, operating in conjunction with a  
23 processor and network, allows a customer to debit an account in  
24 exchange for dispensing cash and that may allow a customer to  
25 effectuate transfers between the customer's accounts in the same  
26 financial institution, a point-of-sale terminal, a night  
27 depository or an office or facility engaged solely in the  
28 solicitation and origination of loans.

30       **Sec. 2. 32 MRSA c. 80, sub-c. III** is enacted to read:

32                                   **SUBCHAPTER III**

34                                   **CASH-DISPENSING MACHINES ESTABLISHED BY NONBANKS**

36       **§6151. Definitions**

38       As used in this subchapter, unless the context otherwise  
39 indicates, the following terms have the following meanings.

40       **1. Administrator.** "Administrator" means the Director of  
41 the Office of Consumer Credit Regulation within the Department of  
42 Professional and Financial Regulation.

43       **2. Cash-dispensing machine.** "Cash-dispensing machine"  
44 means an electronic device that, operating in conjunction with a  
45 processor and network, allows a customer to debit an account in  
46 exchange for dispensing cash and that may allow a customer to  
47 effectuate account transfers subject to the limitations of  
48 section 6152. It does not include a satellite facility operated  
49

2 by a financial institution or service corporation or a  
3 consumer-owned and consumer-operated personal computer terminal.

4 3. Establish. "Establish" means to own, lease or otherwise  
5 legally control.

6 4. Financial institution. "Financial institution" means  
7 any financial institution as defined in Title 9-B, section 131,  
8 subsection 17; any credit union as defined in Title 9-B, section  
9 131, section 131, subsection 12; or any bank, commercial bank,  
10 savings bank, trust company, building and loan association,  
11 savings and loan association, savings association, cooperative  
12 bank, credit union or similar banking or credit union  
13 organization chartered by any other state or by the Federal  
14 Government.

15 5. Network. "Network" means a person who engages primarily  
16 in the establishment and maintenance of a computer-operated  
17 system for transmitting items and messages between financial  
18 institutions, processors and cash-dispensing machines or similar  
19 electronic devices.

20 6. Operator. "Operator" means the person who owns, leases  
21 or otherwise legally controls a cash-dispensing machine and is  
22 responsible for registering the cash-dispensing machine.

23 7. Person. "Person" means an individual, partnership,  
24 corporation or other business association recognized under state  
25 law.

26 8. Processor. "Processor" means a person who  
27 electronically acquires financial data emanating from a  
28 cash-dispensing machine and relays that data to a network.

29 9. Satellite facility. "Satellite facility" means a  
30 satellite facility as defined in Title 9-B, section 131,  
31 subsection 35.

32 10. Service corporation. "Service corporation" means a  
33 service corporation, as defined in Title 9-B, section 131,  
34 subsection 37, owned by one or more financial institutions.

35 11. Servicing agent. "Servicing agent" means a person who  
36 contracts with an operator to provide customer relations,  
37 financial recordkeeping or similar services in regard to a  
38 cash-dispensing machine.

39 §6152. Establishment of cash-dispensing machines; limitations

2 1. Cash-dispensing machines. A person may not establish or  
3 operate a cash-dispensing machine unless that person has first  
4 complied with the provisions of this subchapter.

6 2. Limitations. A cash-dispensing machine:

8 A. May not accept deposits or loan payments or effectuate  
9 account transfers other than those transfers between the  
10 customer's accounts in the same financial institution; and

12 B. Must be operated in such a way as to comply with the  
13 Electronic Funds Transfer Act, 15 United States Code 1693 et  
14 seq. or regulations adopted under that Act.

16 **§6153. Registration**

18 1. Initial operation; notice. Prior to the date of the  
19 initial operation of any cash-dispensing machine, the operator  
20 shall provide the following information to the administrator for  
21 the purpose of registering the cash-dispensing machine:

22 A. An initial notice that includes:

24 (1) The operator's name, address and telephone number;

26 (2) The name and address of where the cash-dispensing  
28 machine is to be located;

30 (3) The anticipated date of the initial operation of  
32 the cash-dispensing machine;

34 (4) The types of transactions available;

36 (5) The processor's name, address and telephone number;

38 (6) The servicing agent's name, address and telephone  
39 number;

40 (7) The name, title, address and telephone number of  
42 the person completing the notice; and

44 (8) Any other information required by the  
45 administrator; and

46 B. A registration fee of \$50 for the first cash-dispensing  
47 machine location and \$25 for each additional location,  
48 payable to the Treasurer of State.

2           2. Annual notice; fee. After filing an initial notice, as  
4           required by subsection 1, the operator shall provide annually, no  
6           later than January 31st, to the administrator a notice and  
8           registration fee in accordance with subsection 1, paragraphs A  
10          and B.

12           3. Notification of change. The operator shall promptly  
14          notify the administrator in writing:

16           A. Of any changes to the information required under  
18           subsection 1, paragraph A; or

20           B. If the operation of the cash-dispensing machine is  
22           terminated.

24           4. Verification. The administrator may, at any time,  
26          verify the completeness and accuracy of any required notice under  
28          this section.

30           5. Violation; inadequate documentation. The operator is in  
32          violation of this section if the operator fails to promptly  
34          provide adequate documentation to and upon request of the  
36          administrator or if the documentation is determined to be  
38          incomplete or inaccurate. The administrator shall inform the  
40          operator of any such failure or discrepancy under this subsection  
42          and shall inform the operator of the penalty established in  
44          accordance with subsection 6.

46           6. Fine. The administrator may impose a fine of \$5 per day  
48          on any person failing to comply with the requirements of this  
            section.

**§6154. Required disclosures to customers**

1. Disclosure of pertinent information. An operator shall  
            clearly and conspicuously disclose on a sign posted on the  
            cash-dispensing machine or in clear view of a customer viewing  
            the cash-dispensing machine:

A. The name of the operator;

B. A disclaimer indicating that the operator is not a  
            financial institution or a credit union;

C. The name, address and 24-hour toll-free telephone number  
            where a customer may direct inquires or complaints;

D. A statement that the Office of Consumer Credit  
            Regulation is responsible for the operator's compliance with

2 state law and the address and telephone number of the  
3 office; and

4 E. That a fee may be assessed by the operator.

6 2. Fees imposed. Any operator may not charge a fee for use  
7 of a cash-dispensing machine unless the amount of the fee is  
8 clearly and conspicuously disclosed electronically during the  
9 course of the transaction in a manner that permits the customer  
10 to cancel the transaction without incurring the fee.

12 3. Receipt for transaction. A cash-dispensing machine must  
13 provide a receipt for the transaction that must include the  
14 following information in a clear and conspicuous manner:

16 A. The amount of the transaction;

18 B. The amount of any fee imposed by the operator;

20 C. The total amount debited to the customer's account,  
21 including any fee imposed by the operator;

22 D. The date and time of the transaction;

24 E. A number or code that identifies the customer and the  
25 account accessed; and

26 F. The location of the cash-dispensing machine.

28 **§6155. Effects of violations on rights of parties**

30 **1. Violation of subchapter; unfair practices; civil**  
31 **penalty. An operator that violates any provision of this**  
32 **subchapter or any rule adopted by the administrator or that**  
33 **through any unfair, unconscionable or deceptive practice causes**  
34 **actual damage to a customer, is subject to the following:**

35 A. Examination and investigation pursuant to section 6156;

36 B. After notice and hearing, a cease and desist order from  
37 the administrator;

38 C. A civil action by the administrator through the Attorney  
39 General after which a court may assess a civil penalty of  
40 not more than \$5,000; and

41 D. Revocation, suspension or nonrenewal of the operator's  
42 registration pursuant to section 6157.

2           2. Penalty. A person who establishes a cash-dispensing  
3 machine pursuant to this subchapter without having filed notice  
4 with the administrator is guilty of a Class E crime.

6           **§6156. Examination of books, accounts and records**

8           1. Compliance. The administrator may examine the  
9 cash-dispensing machines, books, accounts and records of an  
10 operator or servicing agent and make investigations to determine  
11 compliance with this subchapter.

12           2. Chargeable expenses. The expenses of the administrator  
13 incurred in the examination or investigation of any operator or  
14 servicing agent are chargeable to the operator required to file  
15 notice under this subchapter.

16           **§6157. Suspension or revocation of registration**

18           After notice and hearing, the administrator may suspend or  
19 revoke an operator's registration if the administrator finds that:

21           1. Violation. The operator knowingly violated a provision  
22 of this subchapter or a rule or order adopted by the  
23 administrator pursuant to this subchapter;

25           2. Refusal to permit examination or pay exam fees. The  
26 operator or servicing agent refused to permit the administrator  
27 to make an examination authorized by this subchapter or refused  
28 to reimburse the administrator for the expenses of an examination;

30           3. Failure to respond. The operator failed to promptly and  
31 adequately respond to requests from the administrator; or

33           4. Failure to submit notice. The operator willfully failed  
34 to submit a notice required by this subchapter.

36           **§6158. Treatment of fees**

38           The aggregate of fees, examination expense reimbursement and  
39 other payments made pursuant to this subchapter are appropriated  
40 for the use of the administrator. Any balances of the funds do  
41 not lapse but must be carried forward to be expended for the same  
42 purposes in the following fiscal year.

44           **§6159. Rulemaking**

46           The administrator may adopt reasonable rules for the  
47 implementation and administration of this subchapter. Rules  
48 adopted pursuant to this subchapter are routine technical rules  
49 as defined in Title 5, chapter 375, subchapter II-A.



2       **§6160. Exclusions**

4           This subchapter does not apply to any cash-dispensing  
6       machine established by a financial institution or service  
      corporation.

8       **§6161. Effective date**

10           This subchapter takes effect January 31, 2000.

12

**SUMMARY**

14

16           This bill provides for the regulation of cash-dispensing  
18       machines operated by entities other than financial institutions  
20       and credit unions. It requires registration by any operator  
22       seeking to establish cash-dispensing machines in the State and  
24       requires disclosure of the name, address and telephone number of  
26       the operator of the machine; maintenance of a toll-free number  
      for consumer assistance; and disclosure of the name, address and  
      telephone number of the regulating agency. It also requires that  
      the customer be given the opportunity to cancel a transaction  
      without incurring any fee. In addition, it provides the Director  
      of the Office of Consumer Credit Regulation with regulation and  
      examination authority and provides for penalties for failure to  
      file notice and to comply with the provisions of this bill.

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