

**SUBJECT:** Requiring registration of certain unmanned automatic teller machines

**COMMITTEE:** Pensions, Investments and Financial Services — committee substitute recommended

**VOTE:** 9 ayes — Anchia, Parker, Capriglione, Muñoz, Perez, Rogers, Slawson, Stephenson, Vo  
0 nays

**WITNESSES:** For — Caroline Roberts, Children at Risk; Adam Chaney, Elijah Rising; Joseph Scaramucci, McLennan County Sheriffs Office; (*Registered, but did not testify*: Melodie Durst, Credit Union Coalition of Texas; George Craig, Houston Police Department)  
  
Against — None  
  
On — (*Registered, but did not testify*: Charles Cooper, Texas Department of Banking)

**BACKGROUND:** Finance Code sec. 59.301 defines an "unmanned teller machine" to mean a machine, other than a telephone, capable of being operated solely by a customer to communicate to a financial institution.  
  
Concerns have been raised that some unmanned automatic teller machines that are not operated by financial institutions are inadequately regulated and could be linked to vice crimes and human trafficking. Some have called for these machines to be registered in order to operate in the state.

**DIGEST:** CSHB 2629 would require the Texas Department of Banking to establish and maintain on the department's website an online registry of unmanned automatic teller machines (ATMs), to be updated at least quarterly.  
  
The registration requirement would not apply to an unmanned ATM that was:

- installed, maintained, owned, leased, or operated by, or at the discretion of, a financial institution or an affiliate of a financial institution;
- located or operated in another state; or
- not available for public use.

**Registration and application.** Before operating an ATM in the state, the operator of the machine would have to register the machine and place a valid registration sticker on it. To register one or more ATMs, the operator of the machine would be required to file an application with the Texas Department of Banking (TDB). The registration application would have to be in writing and notarized and be completed by the operator of the ATM.

The application for each ATM the operator was applying to register would have to include:

- the name, address, and telephone number of the facility or place of business where the ATM would be located;
- the name, address and telephone number of the occupant and operator;
- the ATM equipment information, including the quantity, equipment make and model, and machine identification or serial number;
- a copy of each agreement used or intended to be used by the operator relating to the operation of the ATM; and
- any other relevant information that could be required by TDB.

**Application fee.** The application would be accompanied by a fee paid to the Texas Finance Commission, which the commission by rule would be required to impose. The commission could not charge an application fee for the filing of a new application for an ATM following a material change in the information disclosed in the registration of the machine.

The application fee would have to be in an amount:

- that was at least \$5 but not more than \$25 for each ATM being registered;

- that did not exceed a total of \$200, regardless of the number of ATMs being registered;
- sufficient to cover the costs of TDB in carrying out its duties prescribed by the bill.

**Approval or denial.** No later than the 90th day after the date an application for registration was filed, TDB would be required to approve or deny the application. The department would have to approve the application if it was accurate, complete, and complied with this bill's provisions.

Upon approval, TDB would be required to notify the applicant of the approval and issue the applicant a registration sticker for each ATM included in the application. If TDB found that the application was incomplete, inaccurate, or did not comply with the registration requirements outlined by this bill, it would have to deny the application and notify the applicant of the reasons for denial.

A complete and accurate application that was not approved or denied before the 91st day after the date TDB received the application would be considered approved. Proof of submission of an application to TDB would satisfy the requirement to display a registration sticker for each ATM included in the application until the operator was issued a registration sticker for the machine.

An operator that had submitted an application considered approved because of TDB's failure to approve or deny the application within 90 days could install and operate each of the machines listed for registration until the date on which the department denied the application, if ever, or the operator failed to comply with the bill's provisions for relocation of an ATM.

If a registration application that was considered approved because of the department's failure to approve or deny the application within 90 days was later denied by the department, the operator would have to uninstall and cease operation of each ATM operating under that approval until the date

an application for registration of the ATM received the department's approval, if ever.

TDB would have sole discretion to determine whether a submitted application was accurate and complete.

**Registration sticker.** The Texas Finance Commission by rule would be required to determine the size, design, display location, and technology used for a registration sticker. Minimum requirements for the sticker would have to include:

- the ATMs identification and serial number;
- the name, address, and telephone number of the facility or place of business where the ATM was located;
- the name, address, and telephone number of the occupant and the operator; and
- the date of issuance of the registration.

The ATM operator would be required to display the registration sticker issued for each machine in the manner prescribed by finance commission rule. Rules established by the commission would have to ensure that the registration sticker was plainly visible and readable by the public.

The registration of an ATM would be valid unless a material change in the information disclosed in the registration of the machine occurred and the operator of the machine failed to comply with provisions for relocation of a registered machine.

**Relocation of an ATM.** If a registered ATM was relocated or there was a change in the operator or occupant of the facility where the machine was located, no later than the 30th day before the scheduled or effective date of the applicable change, the operator would have to notify TDB in writing of a material change in the information disclosed in the registration of the machine.

In such cases, the machine's operator, no later than the 60th day after the

scheduled or effective date of a material change in the registration of an ATM, would be required to file a new registration application or submit a request for written approval of the transfer of the registration due to a relocation of the ATM, to a new occupant, operator, lessee or lessor of the machine, as applicable. If an operator failed to file a new application or submit a request for transfer approval within 60 days, the operator would have to uninstall and cease operation of the ATM, unless the department granted the operator an extension.

Registration of a machine could be transferred following a relocation of a machine only with the written approval of TDB. The finance commission by rule could prescribe registration transfer procedures and forms to be used for the issuance of new registration stickers.

**Violations.** An operator of an ATM subject to the bill's registration requirements would be in violation if the operator operated the machine without a valid registration sticker. An occupant would be in violation if the occupant permitted an ATM subject to registration to be placed in the premises of a business establishment or facility owned or operated by the occupant without a valid registration sticker.

**Civil penalty.** Violators of the registration requirements or related rules would be liable to this state for a civil penalty of no less than \$50 or more than \$500 for each violation. Each day of a continuing violation would be a separate violation. The civil penalty could not exceed \$2,000 in the aggregate for the violation and all violations of a similar nature.

The bill would authorize the attorney general to bring an action in the name of this state for injunctive relief, recovery of a civil penalty, or both in a district court in Travis County or a county in which any part of the violation or threatened violation occurred.

The finance commission would be required to adopt rules to administer, implement, and enforce the provisions of this bill no later than January 1, 2022.

**Other provisions.** The operator of an ATM subject to registration that was not in operation on or before the bill's effective date would not be required to file a registration application until January 1, 2022.

The operator of an ATM that was in operation before the effective date of the bill and was subject to registration would be required to file a registration application by January 1, 2023.

Provisions related to the civil penalty and injunctive relief would take effect January 1, 2023.

The bill would take effect September 1, 2021.