

**Chapter 19.174 RCW**  
**AUTOMATED TELLER MACHINES AND NIGHT DEPOSITORIES SECURITY**

**Sections**

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**RCW 19.174.010 Intent.** The intent of the legislature in enacting this chapter is to enhance the safety of consumers using automated teller machines and night deposit facilities in Washington without discouraging the siting of automated teller machines and night deposit facilities in locations convenient to consumers' homes and workplaces. Because decisions concerning safety at automated teller machines and night deposit facilities are inherently subjective, the legislature establishes as the standard of care applicable to operators of automated teller machines and night deposit facilities, in connection with user safety, compliance with the objective standards and information requirements of this chapter. It is not the intent of the legislature in enacting this chapter to impose a duty to relocate or modify automated teller machines or night deposit facilities upon the occurrence of a particular event or circumstance, but rather to establish a means for the evaluation of all automated teller machines and night deposit facilities as provided in this chapter. The legislature further recognizes the need for uniformity as to the establishment of safety standards for automated teller machines and night deposit facilities and intends with this chapter to supersede and preempt a rule, regulation, code, or ordinance of a city, county, municipality, or local agency regarding customer safety at automated teller machines and night deposit facilities in Washington. [1993 c 324 s 2.]

**RCW 19.174.020 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Access area" means a paved walkway or sidewalk that is within fifty feet of an automated teller machine or night deposit facility. "Access area" does not include publicly maintained sidewalks or roads.

(2) "Access device" means:

(a) "Access device" as defined in federal reserve board Regulation E, 12 C.F.R. Part 205, promulgated under the Electronic Fund Transfer Act, 15 U.S.C. Sec. 1601, et seq.; or

(b) A key or other mechanism issued by a banking institution to its customer to give the customer access to the banking institution's night deposit facility.

(3) "Automated teller machine" means an electronic information processing device located in this state that accepts or dispenses cash in connection with a credit, deposit, or convenience account. "Automated teller machine" does not include a device used primarily to facilitate check guarantees or check authorizations, used in connection with the acceptance or dispensing of cash on a person-to-person basis such as by a store cashier, or used for payment of goods and services.

(4) "Banking institution" means a state or federally chartered bank, trust company, savings bank, savings and loan association, and credit union.

(5) "Candle-foot power" means a light intensity of candles on a horizontal plane at thirty-six inches above ground level and five feet in front of the area to be measured.

(6) "Control of an access area or defined parking area" means to have the present authority to determine how, when, and by whom it is to be used, and how it is to be maintained, lighted, and landscaped.

(7) "Defined parking area" means that portion of a parking area open for customer parking that is:

(a) Contiguous to an access area with respect to an automated teller machine or night deposit facility;

(b) Regularly, principally, and lawfully used for parking by users of the automated teller machine or night deposit facility while conducting transactions during hours of darkness; and

(c) Owned or leased by the operator of the automated teller machine or night deposit facility or owned or controlled by the party leasing the automated teller machine or night deposit facility site to the operator. "Defined parking area" does not include a parking area that is not open or regularly used for parking by users of the automated teller machine or night deposit facility who are conducting transactions during hours of darkness. A parking area is not open if it is physically closed to access or if conspicuous signs indicate that it is closed. If a multiple level parking area satisfies the conditions of this subsection (7)(c) and would therefore otherwise be a defined parking area, only the single parking level deemed by the operator of the automated teller machine and night deposit facility to be the most directly accessible to the users of the automated teller machine and night deposit facility is a defined parking area.

(8) "Hours of darkness" means the period that commences thirty minutes after sunset and ends thirty minutes before sunrise.

(9) "Night deposit facility" means a receptacle that is provided by a banking institution for the use of its customers in delivering cash, checks, and other items to the banking institution.

(10) "Operator" means a banking institution or other business entity or a person who operates an automated teller machine or night deposit facility. [2000 c 171 s 76; 1993 c 324 s 1.]

**RCW 19.174.030 Safety procedures—Requirements.** On or before July 1, 1994, with respect to an existing installed automated teller machine and night deposit facility in this state, and an automated teller machine or night deposit facility installed after July 1, 1994, the operator shall adopt procedures for evaluating the safety of the automated teller machine or night deposit facility. These procedures must pertain to the following:

(1) The extent to which the lighting for the automated teller machine or night deposit facility complies or will comply with the standards required by RCW 19.174.050;

(2) The presence of landscaping, vegetation, or other obstructions in the area of the automated teller machine or night deposit facility, the access area, and the defined parking area; and

(3) The incidence of crimes of violence in the immediate neighborhood of the automated teller machine or night deposit facility, as reflected in the records of the local law enforcement agency and of which the operator has actual knowledge. [1993 c 324 s 3.]

**RCW 19.174.040 Lighting requirements—Compliance.** (1) An operator of an automated teller machine or night deposit facility installed on or after July 1, 1994, shall comply with RCW 19.174.050 beginning on the date the automated teller machine or night deposit facility is installed. Compliance with RCW 19.174.050 by an operator as to an automated teller machine and night deposit facility existing as of July 1, 1994, is optional until July 1, 1996, and mandatory thereafter. This section applies to an operator of an automated teller machine or night deposit facility only to the extent that the operator controls the access area or defined parking area to be lighted.

(2) If an access area or a defined parking area is not controlled by the operator of an automated teller machine or night deposit facility, and if the person who leased the automated teller machine or night deposit facility site to the operator controls the access area or defined parking area, the person who controls the access area or defined parking area shall comply with RCW 19.174.050 for an automated teller machine or night deposit facility installed on or after July 1, 1994, beginning on the date the automated teller machine or night deposit facility is installed and for an automated teller machine or night deposit facility existing as of July 1, 1994, by or on July 1, 1996. [1993 c 324 s 4.]

**RCW 19.174.050 Lighting requirements.** The operator, owner, or other person responsible for an automated teller machine or night deposit facility shall provide lighting during hours of darkness with respect to an open and operating automated teller machine or night deposit facility and a defined parking area, access area, and the exterior of an enclosed automated teller machine or night deposit facility installation according to the following standards:

(1) There must be a minimum of ten candle-foot power at the face of the automated teller machine or night deposit facility and extending in an unobstructed direction outward five feet;

(2) There must be a minimum of two candle-foot power within fifty feet from all unobstructed directions from the face of the automated teller machine or night deposit facility. In the event the automated teller machine or night deposit facility is located within ten feet of the corner of the building and the automated teller machine or night deposit facility is generally accessible from the adjacent side, there must be a minimum of two candle-foot power along the first forty unobstructed feet of the adjacent side of the building; and

(3) There must be a minimum of two candle-foot power in that portion of the defined parking area within fifty feet of the automated teller machine or night deposit facility. [1993 c 324 s 5.]

**RCW 19.174.060 Notice to customer.** The issuer of an access device shall furnish a customer receiving the device with a notice of basic safety precautions that the customer should employ while using an automated teller machine or night deposit facility. This information must be furnished by personally delivering or by mailing the information to each customer whose mailing address is in this state for the account to which the access device relates. This information must be furnished for an access device issued on or after July 1, 1994, at or before the time the customer is furnished with his or her access device. For a customer to whom an access device was issued before July 1, 1994, the information must be delivered or mailed to the customer on or before December 31, 1994. Only one notice must be furnished per household, and if an access device is furnished to more than one customer for a single account or set of accounts or on the basis of a single application or other request for the access devices, only a single notice must be furnished in satisfaction of the notification responsibilities as to all those customers. The information may be included with other disclosures related to the access device furnished to the customer, such as with an initial or periodic disclosure statement furnished under the Electronic Fund Transfer Act, 15 U.S.C. Sec. 1601, et seq. [1993 c 324 s 6.]

**RCW 19.174.070 Exceptions.** This chapter does not apply to an automated teller machine or night deposit facility that is:

- (1) Located inside of a building, unless it is a freestanding installation that exists for the sole purpose of providing an enclosure for the automated teller machine or night deposit facility;
- (2) Located inside a building, except to the extent a transaction can be conducted from outside the building; or
- (3) Located in an area, including an access area, building, enclosed space, or parking area that is not controlled by the operator. [1993 c 324 s 7.]

**RCW 19.174.080 Chapter supersedes local government actions.** This chapter supersedes and preempts all rules, regulations, codes, statutes, or ordinances of all cities, counties, municipalities, and local agencies regarding customer safety at automated teller machines or night deposit facilities located in this state. [1993 c 324 s 8.]

**RCW 19.174.090 Compliance evidence of adequate safety measures.** Compliance with the objective standards and information requirements of this chapter is prima facie evidence that the operator of the automated teller machine or night deposit facility in question has provided adequate measures for the safety of users of the automated teller machine or night depository. [1993 c 324 s 9.]

**RCW 19.174.900 Effective date—1993 c 324.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 12, 1993]. [1993 c 324 s 15.]