

Senate proposal of amendment

H. 137

An act relating to the regulation of insurance products and services

The Senate proposes to the House to amend the bill by striking out Sec. 22, virtual currency kiosk moratorium, in its entirety and inserting in lieu thereof four new sections to be Secs. 22–25 to read as follows:

Sec. 22. 8 V.S.A. § 2571 is amended to read:

§ 2571. DEFINITIONS

As used in this subchapter:

(1) “Blockchain” has the same meaning as in 12 V.S.A. § 1913(a)(1).

(2) “Blockchain analytics” means a software service that uses data from various virtual currencies and their applicable blockchains to provide a risk rating specific to digital wallet addresses from users of virtual-currency kiosks.

(3) “Digital wallet” means hardware or software that enables individuals to store and use virtual currency.

(4) “Digital wallet address” means an alphanumeric identifier representing a destination on a blockchain for a virtual currency transfer that is associated with a digital wallet.

(5) “Exchange,” used as a verb, means to assume or exercise control of virtual currency from or on behalf of a person, including momentarily, to buy, sell, trade, or convert:

(A) virtual currency for money, monetary value, bank credit, or one or more forms of virtual currency, or other consideration; or

(B) money, monetary value, bank credit, or other consideration for one or more forms of virtual currency.

(6) “Existing customer” means a consumer who:

(A) is engaging in a transaction at a virtual-currency kiosk in Vermont; and

(B) whose first transaction with the virtual-currency kiosk operator occurred more than 30 days prior.

(7) “New customer” means a consumer who:

(A) is engaging in a transaction at a virtual-currency kiosk in Vermont; and

(B) whose first transaction with the virtual-currency kiosk operator occurred not more than 30 days prior.

~~(2)~~(8) “Transfer” means to assume or exercise control of virtual currency from or on behalf of a person and to:

(A) credit the virtual currency to the account or digital wallet of another person;

(B) move the virtual currency from one account or digital wallet of a person to another account or digital wallet of the same person; or

(C) relinquish or transfer control or ownership of virtual currency to another person, digital wallet, distributed ledger address, or smart contract.

Sec. 23. 8 V.S.A. § 2574 is amended to read:

§ 2574. REQUIRED DISCLOSURES

(a) Licensee disclosures, generally. A person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity shall provide the disclosures required by this section and any additional disclosure the Commissioner determines reasonably necessary for the protection of the public.

(1) A disclosure required by this section must be made separately from any other information provided by the licensee and in a clear and conspicuous manner in a record the person may keep.

(2) The Commissioner may waive one or more requirements in subsections (b)–(d) of this section and approve alternative disclosures proposed by a licensee if the Commissioner determines that the alternative disclosure is more appropriate for the virtual-currency business activity and provides the same or equivalent information and protection to the public.

(b) Licensee disclosures prior to business activity. Before engaging in virtual-currency business activity with a person, a licensee shall disclose, to the extent applicable to the virtual-currency business activity the licensee will undertake with the person:

(1) a schedule of fees and charges the licensee may assess, the manner by which fees and charges will be calculated if they are not set in advance and disclosed, and the timing of the fees and charges, including general disclosure regarding mark-ups and mark-downs on purchases, sales, or exchanges of virtual currency in which the licensee or any affiliate thereof is acting in a principal capacity;

(2) whether the product or service provided by the licensee is covered by:

(A) a form of insurance or is otherwise guaranteed against loss by an agency of the United States:

(i) up to the full U.S. dollar equivalent of virtual currency purchased from the licensee or for control of virtual currency by the licensee as of the date of the placement or purchase, including the maximum amount provided by insurance under the Federal Deposit Insurance Corporation or otherwise available from the Securities Investor Protection Corporation; or

(ii) if not provided at the full U.S. dollar equivalent of virtual currency purchased from the licensee or for control of virtual currency by the licensee, the maximum amount of coverage for each person expressed in the U.S. dollar equivalent of the virtual currency; or

(B) private insurance against theft or loss, including cyber theft or theft by other means;

(3) the irrevocability of a transfer or exchange and any exception to irrevocability;

(4) a description of:

(A) liability for an unauthorized, mistaken, or accidental transfer or exchange;

(B) the person's responsibility to provide notice to the licensee of the transfer or exchange;

(C) the basis for any recovery by the person from the licensee;

(D) general error-resolution rights applicable to the transfer or exchange; and

(E) the method for the person to update the person's contact information with the licensee;

(5) that the date or time when the transfer or exchange is made and the person's account is debited may differ from the date or time when the person initiates the instruction to make the transfer or exchange;

(6) whether the person has a right to stop a preauthorized payment or revoke authorization for a transfer and the procedure to initiate a stop-payment order or revoke authorization for a subsequent transfer;

(7) the person's right to receive a receipt, trade ticket, or other evidence of the transfer or exchange;

(8) the person's right to at least 30 days' prior notice of a change in the licensee's fee schedule, other terms and conditions of operating its virtual-currency business activity with the person, and the policies applicable to the person's account; and

(9) that virtual currency is not money.

(c) Disclosures.

(1) Disclosures prior to each virtual-currency transaction. In connection with any virtual-currency transaction effected through a ~~money transmission~~ virtual-currency kiosk in this State, or in any transaction where the licensee or any affiliate thereof is acting in a principal capacity in a sale of virtual currency to, or purchase of virtual currency from, a customer, then immediately prior to effecting such a purchase or sale transaction with or on behalf of a customer, a licensee shall prominently disclose and shall require the customer to acknowledge and confirm the terms and conditions of the virtual-currency transaction, which shall include the following:

~~(1)(A)~~ (A) the type, value, date, precise time, and amount of the transaction; ~~and~~

~~(2)(B)~~ (B) the consideration charged for the transaction, including:

~~(A)(i)~~ (i) any charge, fee, commission, or other consideration for any trade, exchange, conversion, or transfer involving virtual currency; and

~~(B)(ii)~~ (ii) any difference between the price paid by the customer for any virtual currency and the prevailing market price of such virtual currency, if any;

(C) for a customer of a virtual-currency kiosk, a description of the virtual-currency kiosk operator's refund policy, which shall be consistent with the requirements specified in subsections 2577(k) and (l) of this subchapter;

(D) for a customer of a virtual-currency kiosk, the customer warning described in subdivision (g)(1) of this section; and

(E) the daily transaction limit, if applicable.

(2) Disclosures for new kiosk accounts. When opening an account for a new customer, and prior to entering into an initial transaction for, on behalf of, or with such customer, each virtual-currency kiosk operator shall disclose relevant terms and conditions associated with its products, services, and activities and with virtual currency, generally, including disclosures substantially similar to the following:

(A) the customer's liability for unauthorized virtual-currency transactions;

(B) under what circumstances the virtual-currency kiosk operator will, absent a court or government order, disclose information concerning the customer's account to third parties;

(C) the customer's right to receive periodic account statements and valuations from the virtual-currency kiosk operator;

(D) the customer's right to receive a receipt, trade ticket, or other evidence of a transaction;

(E) the customer's right to prior notice of a change in the virtual-currency kiosk operator's rules or policies;

(F) a statement of the material risks associated with virtual-currency transactions, generally, as described in subsection (h) of this section;

(G) the name and telephone number of the Department of Financial Regulation and a statement disclosing that a customer may contact the Department with questions or complaints about a licensee; and

(H) such other disclosures as are customarily given in connection with the opening of customer accounts.

(d) Licensee receipt requirements. Except as otherwise provided in subsection (e) of this section, at the conclusion of a virtual-currency transaction with or on behalf of a person, a licensee shall provide the person with a receipt that contains:

(1) the name and contact information of the licensee, including information the person may need to ask a question or file a complaint;

(2) the type, value, date, precise time, and amount of the transaction expressed in U.S. currency;

(3) the consideration charged for the transaction, including:

(A) any charge, fee, commission, or other consideration for any trade, exchange, conversion, or transfer involving virtual currency; or

(B) the amount of any difference between the price paid by the customer for any virtual currency and the prevailing market price of such virtual currency, if any; and

(4) any other information required pursuant to section 2562 of this title.

(e) Licensee daily confirmation. If a licensee discloses that it will provide a daily confirmation in the initial disclosure under subsection ~~(e)~~(b) of this section, the licensee may elect to provide a single, daily confirmation for all transactions with or on behalf of a person on that day instead of a per-transaction confirmation.

(f) Kiosk transaction receipt. Notwithstanding any other provision of law to the contrary, a virtual-currency kiosk operator shall provide a customer with both a paper and an electronic receipt in a retainable form for each virtual-currency transaction completed at a virtual-currency kiosk. In addition to the information required to be included in a receipt under subsection (d) of this section or under section 2562 of this title, each receipt for virtual-currency transaction completed at a virtual-currency kiosk shall include:

(1) the identification of any applicable digital wallet address to which virtual currency is transmitted;

(2) the full name of the account owner;

(3) any unique transaction identifiers;

(4) a prominent statement of the virtual-currency kiosk operator's refund obligations under this section, in a form approved by the Commissioner;

(5) a statement of the operator's liability for nondelivery or delayed delivery of virtual currency; and

(6) the name and telephone number of the Department of Financial Regulation and a statement disclosing that a customer may contact the Department with questions or complaints about an operator.

(g) Customer warning.

(1) Prior to entering into a virtual-currency transaction with a customer at a virtual-currency kiosk, and as required by subdivision (c)(1)(D) of this section, each virtual-currency kiosk operator shall ensure a warning is disclosed to the customer substantially similar to the following:

Customer Notice. Please Read Carefully.

Did you receive a phone call from your bank, software provider, the police, or were you directed to make a payment for Social Security, a utility bill, an investment, warrants, or bail money at this kiosk? STOP

Is anyone on the phone pressuring you to make a payment of any kind? STOP

I understand that the purchase and sale of cryptocurrency may be a final, irreversible, and nonrefundable transaction.

I confirm I am sending funds to a digital wallet I own or directly have control over. I confirm that I am using funds gained from my own initiative to make my transaction.

(2) A virtual-currency kiosk operator shall ensure a customer has a readily accessible opportunity to end a transaction for any reason prior to its completion.

(h) Statement of material risks. As used in subdivision (c)(2)(F) of this section, a statement of material risks associated with virtual-currency transactions, generally, shall include disclosures substantially similar to the following:

(1) Virtual currency is not legal tender, is not backed by the government, and accounts and value balances are not subject to Federal Deposit Insurance Corporation or Securities Investor Protection Corporation protections.

(2) Legislative and regulatory changes or actions at the State, federal, or international level may adversely affect the use, transfer, exchange, and value of virtual currency.

(3) Transactions in virtual currency may be irreversible and, accordingly, losses due to fraudulent or accidental transactions may not be recoverable.

(4) Some virtual-currency transactions shall be deemed to be made when recorded on a public ledger, which is not necessarily the date or time that the customer initiates the transaction.

(5) The value of virtual currency may be derived from the continued willingness of market participants to exchange fiat currency for virtual currency, which may result in the potential for permanent and total loss of value of a particular virtual currency should the market for that virtual currency disappear.

(6) There is no assurance that a person who accepts a virtual currency as payment today will continue to do so in the future.

(7) The volatility and unpredictability of the price of virtual currency relative to fiat currency may result in significant loss over a short period of time.

(8) The nature of virtual currency may lead to an increased risk of fraud or cyber attack.

(9) The nature of virtual currency means that any technological difficulties experienced by the virtual-currency kiosk operator may prevent the access or use of a customer's virtual currency.

(10) Any bond or trust account maintained by the virtual-currency kiosk operator for the benefit of its customers may not be sufficient to cover all losses incurred by customers.

Sec. 24. 8 V.S.A. § 2577 is amended to read:

§ 2577. VIRTUAL-CURRENCY KIOSK OPERATORS

(a) Daily transaction limit.

(1) A virtual-currency kiosk operator shall not accept or dispense more than ~~\$1,000.00~~ \$2,000.00 of cash in a day in connection with virtual-currency transactions with a single, new customer in this State via one or more ~~money transmission~~ virtual-currency kiosks.

(2) A virtual-currency kiosk operator shall not accept or dispense more than \$5,000.00 of cash in a day in connection with virtual-currency transactions with a single, existing customer in this State via one or more virtual-currency kiosks.

(b) Fee cap. The aggregate fees and charges, directly or indirectly, charged to a customer related to a single transaction or series of related transactions involving virtual currency effected through a money transmission kiosk in this State, including any difference between the price charged to a customer to buy, sell, exchange, swap, or convert virtual currency and the prevailing market value of such virtual currency at the time of such transaction, shall not exceed the greater of the following:

(1) \$5.00; or

(2) ~~three~~ 15 percent of the U.S. dollar equivalent of virtual currency involved in the transaction or transactions.

(c) Single transaction. The purchase, sale, exchange, swap, or conversion of virtual currency, or the subsequent transfer of virtual currency, in a series of transactions shall be deemed to be a single transaction for purposes of ~~subsection (b)~~ subsections (a) and (b) of this section.

(d) Licensing requirement. A virtual-currency kiosk operator shall comply with the licensing requirements of this subchapter to the extent that the virtual-currency kiosk operator engages in virtual-currency business activity.

(e) Operator accountability. If a virtual-currency kiosk operator allows or facilitates another person to engage in virtual-currency business activity via a ~~money transmission~~ virtual-currency kiosk in this State that is owned, operated, or managed by the virtual-currency kiosk operator, the virtual-currency kiosk operator shall do all of the following:

(1) ensure that the person engaging in virtual-currency business activity is licensed under subchapter 2 of this chapter to engage in virtual-currency business activity and complies with all other applicable provisions of this chapter;

(2) ensure that any charges collected from a customer via the ~~money transmission~~ virtual-currency kiosk comply with the ~~limits provided by~~ fee cap established in subsection (b) of this section; and

(3) comply with all other applicable provisions of this chapter.

(f) Moratorium. To protect the public safety and welfare and safeguard the rights of consumers, virtual-currency kiosks shall not be permitted to operate in Vermont prior to July 1, ~~2025~~ 2026. This moratorium shall not apply to a virtual-currency kiosk that was duly licensed and operational in Vermont on or before June 30, 2024.

~~(g) Report. On or before January 15, 2025, the Commissioner of Financial Regulation shall report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance on whether the requirements of this section coupled with relevant federal requirements are~~

sufficient to protect customers in Vermont from fraudulent activity. If deemed necessary and appropriate by the Commissioner, the Commissioner may make recommendations for additional statutory or regulatory safeguards. In addition, the Commissioner shall make recommendations for enhanced oversight and monitoring of virtual-currency kiosks for the purpose of minimizing their use for illicit activities as described in the U.S. Government Accountability Office report on virtual currencies, GAO-22-105462, dated December 2021. Customer identification. For each virtual-currency transaction occurring at a virtual-currency kiosk in this State, the virtual-currency kiosk operator shall verify the identity of the customer prior to accepting payment from the customer. A virtual-currency kiosk operator shall not allow a customer to engage in any transaction at a virtual-currency kiosk under any name, account, or identity other than the customer's own true name and identity. A virtual-currency kiosk operator shall obtain a copy of a government-issued identification card that identifies the customer and shall collect additional customer information, including the customer's name, date of birth, telephone number, address, and email address prior to accepting any payment from a customer at a virtual-currency kiosk in this State. In addition, a virtual-currency kiosk operator shall take a photograph of the customer in a retainable format at the virtual-currency kiosk for each transaction. A virtual-currency kiosk operator shall be strictly liable for any violation of this subsection.

(h) Customer support. A virtual-currency kiosk operator shall offer live, toll-free, telephone customer support during the hours of operation of a virtual-currency kiosk. The customer support telephone number shall be displayed on the virtual-currency kiosk or on the virtual-currency kiosk screen.

(i) Mandatory live screening.

(1) A virtual-currency kiosk operator shall identify and speak by telephone with:

(A) a new customer over 60 years of age prior to such customer's first virtual-currency transaction with the virtual-currency kiosk operator; or

(B) a customer attempting to conduct more than \$5,000.00 in virtual-currency transactions during any consecutive 10-day period.

(2) The virtual-currency kiosk operator's approval of a transaction subject to a mandatory live screening under this subsection shall be dependent upon its assessment of its communication with the customer during the screening.

(3) A virtual-currency kiosk operator shall record and retain a copy of each mandatory live screening.

(4) During the mandatory live screening, the virtual-currency kiosk operator shall:

(A) positively identify the customer;

(B) reconfirm any attestations made by the customer at the virtual-currency kiosk;

(C) discuss the purpose of the transaction; and

(D) discuss types of fraudulent schemes relating to virtual currency.

(j) Blockchain analytics. A virtual-currency kiosk operator shall use blockchain analytics software and retain an established third party that specializes in performing blockchain analytics to assist in the prevention of sending purchased virtual currency from a virtual-currency kiosk operator to a digital wallet known to be affiliated with fraudulent activity at the time of a transaction. The Commissioner may request evidence from any virtual-currency kiosk operator of its current use of blockchain analytics.

(k) Full refund for new customers. The virtual-currency kiosk operator shall provide a full refund to a customer who was fraudulently induced to engage in a virtual-currency kiosk transaction, provided the fraudulently induced transaction occurred while the customer was a new customer and further provided the customer contacts the virtual-currency kiosk operator and a law enforcement or government agency to inform the operator and the agency of the fraudulent nature of the transaction within 90 days after the customer's last virtual-currency transaction with the virtual-currency kiosk operator. The refund shall include any fees charged in association with the fraudulently induced transaction.

(l) Fee refund for existing customers. The virtual-currency kiosk operator shall provide a fee refund to an existing customer who has been fraudulently induced to engage in a virtual-currency kiosk transaction, provided the customer contacts the virtual-currency kiosk operator and a law enforcement or government agency to inform the operator and the agency of the fraudulent nature of the transaction within 90 days after the last fraudulently induced transaction. The refund shall include all fees charged in association with the fraudulently induced transaction.

(m) Fraud prevention. A virtual-currency kiosk operator shall take reasonable steps to detect and prevent fraud, including establishing and maintaining a written antifraud policy. The antifraud policy shall, at a minimum, include the following:

(1) the identification and assessment of fraud-related risk areas;

(2) procedures and controls to protect against identified risks;

(3) allocation of responsibility for monitoring risks;

(4) procedures for the periodic evaluation and revision of the antifraud procedures, controls, and monitoring mechanisms;

(5) procedures and controls that prevent more than one customer from using the same digital wallet;

(6) procedures and controls that enable the virtual-currency kiosk operator to prevent a digital wallet from being used at a virtual-currency kiosk it operates if the operator knows or reasonably should know the digital wallet is affiliated with fraudulent activities; and

(7) policies and procedures for using a risk-based method for monitoring customers on a post transaction basis.

(n) Due diligence policy. A virtual-currency kiosk operator shall maintain, implement, and enforce a written Enhanced Due Diligence Policy. The Policy shall be reviewed and approved by the virtual-currency kiosk operator's board of directors or an equivalent governing body of the virtual-currency kiosk operator. The Policy shall identify, at a minimum, individuals who are at risk of fraud based on age or mental capacity.

(o) Compliance policies. A virtual-currency kiosk operator shall maintain, implement, and enforce written compliance policies and procedures. Such policies and procedures shall be reviewed and approved by the virtual-currency kiosk operator's board of directors or an equivalent governing body of the virtual-currency kiosk operator.

(p) Compliance officer.

(1) A virtual-currency kiosk operator shall designate and employ a compliance officer who meets the following requirements:

(A) is qualified to coordinate and monitor compliance with this section and all other applicable federal and State laws and regulations;

(B) is employed full-time by the virtual-currency kiosk operator; and

(C) is not an individual who owns more than 20 percent of the virtual-currency kiosk operator by whom the individual is employed.

(2) Compliance responsibilities required under federal and State law and regulation shall be completed by one or more full-time employees of the virtual-currency kiosk operator.

(q) Consumer protection officer. A virtual-currency kiosk operator shall designate and employ a consumer protection officer who meets the following requirements:

(1) is qualified to coordinate and monitor compliance with this section and all other applicable federal and State laws and regulations;

(2) is employed full-time by the virtual-currency kiosk operator; and

(3) is not an individual who owns more than 20 percent of the virtual-currency kiosk operator by whom the individual is employed.

(r) The Commissioner may adopt rules the Commissioner deems necessary and proper to carry out the purposes of this section, including with respect to what constitutes fraudulent activity or a fraudulently induced transaction in the context of customer transactions at a virtual-currency kiosk.

Sec. 25. 8 V.S.A. § 13301 is amended to read:

§ 13301. CORPORATORS OF MUTUAL FINANCIAL INSTITUTIONS

(a) Persons named in the organizational documents constitute the original board of corporators of a mutual financial institution. Membership on this board continues until terminated by death, resignation, or disqualification as provided in this section.

(b) All corporators shall be residents of the geographic area that the financial institution serves or an area proximate to this geographic area. A person ~~may~~ shall not continue as a corporator after ceasing to be a resident of the financial institution's geographic area or an area proximate to this geographic area.

(c) Any corporator failing to attend the annual meeting of the board of corporators for two successive years ceases to be a member of the board unless reelected by a vote of the remaining corporators.

(d) The number of corporators may be fixed or altered by the internal governance documents of the financial institution, and vacancies may be filled by election at any annual meeting.

(e) More than 50 percent of all corporators shall be depositors of the financial institution.

(f) At least two-thirds of all corporators shall be independent. As used in this subsection, an "independent corporator" means an individual who is not an employee, director, or officer of the financial institution, its subsidiaries, or its affiliates.

(g) Corporators shall be fiduciaries of the depositor base and shall exercise their authority in the best interests of the depositors with a duty of loyalty and care. In exercising their duties as corporators, corporators shall consider the interests of the depositors, the borrowers, and other customers of the financial institution; the general benefit and economic well-being of the communities served by the financial institution; and the safety, soundness, and general business needs of the financial institution.

and by renumbering the remaining section to be numerically correct.