

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 137
3 entitled “An act relating to the regulation of insurance products and services”
4 respectfully reports that it has considered the same and recommends that the
5 Senate propose to the House that the bill be amended by striking out Sec. 22,
6 virtual currency kiosk moratorium, in its entirety and inserting in lieu thereof
7 three new sections to be Secs. 22–24 to read as follows:

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

9 § 2571. DEFINITIONS

10 As used in this subchapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

18 ~~(2)~~(8) “Transfer” means to assume or exercise control of virtual
19 currency from or on behalf of a person and to:

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

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

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

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

6 § 2574. REQUIRED DISCLOSURES

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

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

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

20 (b) Licensee disclosures prior to business activity. Before engaging in
21 virtual-currency business activity with a person, a licensee shall disclose, to the

1 extent applicable to the virtual-currency business activity the licensee will
2 undertake with the person:

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

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

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

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

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

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

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

5 (4) a description of:

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

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

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

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

13 (E) the method for the person to update the person’s contact
14 information with the licensee;

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

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

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

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

7 (9) that virtual currency is not money.

8 (c) Disclosures.

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

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

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

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

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

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

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

11 (E) the daily transaction limit, if applicable.

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

18 (A) the customer’s liability for unauthorized virtual-currency
19 transactions;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 section or under section 2562 of this title, each receipt for virtual-currency
2 transaction completed at a virtual-currency kiosk shall include:

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

5 (2) the full name of the account owner;

6 (3) any unique transaction identifiers;

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

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

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

14 (g) Customer warning.

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

19 Customer Notice. Please Read Carefully.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 § 2577. VIRTUAL-CURRENCY KIOSK OPERATORS

9 (a) Daily transaction limit.

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

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

18 (b) Fee cap. The aggregate fees and charges, directly or indirectly, charged
19 to a customer related to a single transaction or series of related transactions
20 involving virtual currency effected through a money transmission kiosk in this
21 State, including any difference between the price charged to a customer to buy,

1 sell, exchange, swap, or convert virtual currency and the prevailing market
2 value of such virtual currency at the time of such transaction, shall not exceed
3 the greater of the following:

4 (1) \$5.00; or

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

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

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

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

19 (1) ensure that the person engaging in virtual-currency business activity
20 is licensed under subchapter 2 of this chapter to engage in virtual-currency

1 business activity and complies with all other applicable provisions of this
2 chapter;

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

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

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

12 ~~(g) Report. On or before January 15, 2025, the Commissioner of Financial~~
13 ~~Regulation shall report to the House Committee on Commerce and Economic~~
14 ~~Development and the Senate Committee on Finance on whether the~~
15 ~~requirements of this section coupled with relevant federal requirements are~~
16 ~~sufficient to protect customers in Vermont from fraudulent activity. If deemed~~
17 ~~necessary and appropriate by the Commissioner, the Commissioner may make~~
18 ~~recommendations for additional statutory or regulatory safeguards. In~~
19 ~~addition, the Commissioner shall make recommendations for enhanced~~
20 ~~oversight and monitoring of virtual-currency kiosks for the purpose of~~
21 ~~minimizing their use for illicit activities as described in the U.S. Government~~

1 ~~Accountability Office report on virtual currencies, GAO-22-105462, dated~~
2 ~~December 2021.~~ Customer identification. For each virtual-currency
3 transaction occurring at a virtual-currency kiosk in this State, the virtual-
4 currency kiosk operator shall verify the identity of the customer prior to
5 accepting payment from the customer. A virtual-currency kiosk operator shall
6 not allow a customer to engage in any transaction at a virtual-currency kiosk
7 under any name, account, or identity other than the customer's own true name
8 and identity. A virtual-currency kiosk operator shall obtain a copy of a
9 government-issued identification card that identifies the customer and shall
10 collect additional customer information, including the customer's name, date
11 of birth, telephone number, address, and email address prior to accepting any
12 payment from a customer at a virtual-currency kiosk in this State. In addition,
13 a virtual-currency kiosk operator shall take a photograph of the customer in a
14 retainable format at the virtual-currency kiosk for each transaction. A virtual-
15 currency kiosk operator shall be strictly liable for any violation of this
16 subsection.

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

21 (i) Mandatory live screening.

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

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

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

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

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

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

15 (A) positively identify the customer;

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

18 (C) discuss the purpose of the transaction; and

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

20 (j) Blockchain analytics. A virtual-currency kiosk operator shall use
21 blockchain analytics software and retain an established third party that

1 specializes in performing blockchain analytics to assist in the prevention of
2 sending purchased virtual currency from a virtual-currency kiosk operator to a
3 digital wallet known to be affiliated with fraudulent activity at the time of a
4 transaction. The Commissioner may request evidence from any virtual-
5 currency kiosk operator of its current use of blockchain analytics.

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

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

1 transaction. The refund shall include all fees charged in association with the
2 fraudulently induced transaction.

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

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

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

9 (3) allocation of responsibility for monitoring risks;

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

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

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

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

20 (n) Due diligence policy. A virtual-currency kiosk operator shall maintain,
21 implement, and enforce a written Enhanced Due Diligence Policy. The Policy

1 shall be reviewed and approved by the virtual-currency kiosk operator's board
2 of directors or an equivalent governing body of the virtual-currency kiosk
3 operator. The Policy shall identify, at a minimum, individuals who are at risk
4 of fraud based on age or mental capacity.

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

10 (p) Compliance officer.

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

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

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

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

18 (2) Compliance responsibilities required under federal and State law and
19 regulation shall be completed by one or more full-time employees of the
20 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.

and by renumbering the remaining section to be numerically correct.

(Committee vote: _____)

Senator _____

FOR THE COMMITTEE