

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Substitute for Senate Committee Substitute for Senate Bill No. 98, Page 1, Section
2 A, Line 3, by inserting after all of said section and line the following:

3
4 "361.1100. 1. This section shall be known and may be cited as the "Virtual Currency Kiosk
5 Consumer Protection Act".

6 2. For purposes of this section, the following terms and phrases mean:

7 (1) "Bank Secrecy Act", the federal Bank Secrecy Act, 31 U.S.C. Section 5311, et seq. and
8 its implementing rules and regulations, as amended and recodified from time to time;

9 (2) "Blockchain", a distributed digital ledger or database that is chronological, consensus-
10 based, decentralized, and mathematically verified in nature;

11 (3) "Blockchain analytics", a software service that uses data from various virtual currencies
12 and their applicable blockchains to provide a risk rating specific to digital wallet addresses from
13 users of virtual currency kiosks;

14 (4) "Digital wallet", hardware or software that enables individuals to store and use virtual
15 currency;

16 (5) "Digital wallet address", an alphanumeric identifier representing a destination on a
17 blockchain for a virtual currency transfer that is associated with a digital wallet;

18 (6) "Director", the director of the division;

19 (7) "Division", the division of finance within the department of commerce and insurance;

20 (8) "Federal Deposit Insurance Corporation or Securities Investor Protection Corporation", a
21 bank, credit union, savings and loan association, trust company, savings association, savings bank,
22 industrial bank, or industrial loan company organized under the laws of the United States or any
23 state of the United States, if the bank, credit union, savings and loan association, trust company,
24 savings association, savings bank, industrial bank, or industrial loan company has federally insured
25 deposits;

26 (9) "Fiat currency", a medium of exchange that is authorized or adopted by the United
27 States government as part of its currency and is not backed by a commodity;

28 (10) "Individual", a natural person;

29 (11) "NMLS", the Nationwide Multistate Licensing System and Registry developed by the
30 Conference of State Bank Supervisors and the American Association of Residential Mortgage

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1 Regulators and owned and operated by the State Regulatory Registry, LLC, or any successor or
2 affiliated entity, for the licensing and registration of persons in financial services industries;

3 (12) "United States PATRIOT Act", the federal Uniting and Strengthening America by
4 Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 and its
5 implementing rules and regulations, as amended and recodified from time to time;

6 (13) "Virtual currency",

7 (a) Any type of digital unit that is used as a medium of exchange or a form of digitally
8 stored value or that is incorporated into payment system technology. Virtual currency shall be
9 construed to include digital units of exchange that:

10 a. Have a centralized repository or administrator;

11 b. Are decentralized and have no centralized repository or administrator; or

12 c. May be created or obtained by computing or manufacturing effort;

13 (b) Virtual currency shall not be construed to include digital units that are used:

14 a. Solely within online gaming platforms with no market or application outside such gaming
15 platforms; or

16 b. Exclusively as part of a consumer affinity or rewards program, and can be applied solely
17 as payment for purchases with the issuer or other designated merchants, but cannot be converted
18 into or redeemed for fiat currency;

19 (14) "Virtual currency kiosk", an electronic terminal of the virtual currency kiosk operator
20 that enables the owner or operator to facilitate the exchange of fiat currency for virtual currency or
21 virtual currency for fiat currency or other virtual currency, including, but not limited to:

22 (a) Connecting directly to a separate virtual currency exchange that performs the actual
23 virtual currency transmission; or

24 (b) Drawing upon the virtual currency in the possession of the owner or operator of the
25 electronic terminal;

26 (15) "Virtual currency kiosk operator", a corporation, limited liability company, limited
27 liability partnership, or foreign entity qualified to do business in this state that operates a virtual
28 currency kiosk within this state.

29 3. (1) Except as otherwise provided in this section, all information or reports obtained by
30 the division from a virtual currency kiosk operator, and all information contained in or related to an
31 examination, investigation, operating report, or condition report prepared by, on behalf of, or for the
32 use of the division in relation to a virtual currency kiosk operator, are confidential and are not
33 subject to disclosure under chapter 610.

34 (2) Information contained in the records of the division that is not confidential and may be
35 available to the public either on the division's website, upon receipt by the division of a written
36 request, or in NMLS shall include:

37 (a) The name, business address, telephone number, and unique identifier of a virtual
38 currency kiosk operator;

1 (b) The business address of a virtual currency kiosk operator's registered agent for service;
2 and

3 (c) Copies of any final orders of the division relating to any violation of this section or
4 regulations implementing this section.

5 4. If any provision of this section is inconsistent with any federal law, including but not
6 limited to the Bank Secrecy Act or the United States PATRIOT Act, the applicable federal law shall
7 govern to the extent of any inconsistency.

8 5. (1) The director may request evidence of compliance with this section or a rule adopted
9 or order issued pursuant to this section as reasonably necessary or appropriate to administer and
10 enforce this section, and other applicable law, including the Bank Secrecy Act and the United States
11 PATRIOT Act.

12 (2) A virtual currency kiosk operator shall provide the director all records the director may
13 reasonably require to ensure compliance with this section.

14 6. As part of establishing a relationship with a customer, and prior to entering into an initial
15 transaction for, on behalf of, or with such customer, each virtual currency kiosk operator shall
16 disclose in clear, conspicuous, and legible writing in the English language, whether in accessible
17 terms of service or elsewhere, all material risks associated with its products, services, and activities
18 and virtual currency generally, including disclosures substantially similar to the following:

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

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

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

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

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

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

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

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

37 (9) The nature of virtual currency means that any technological difficulties experienced by
38 the virtual currency kiosk operator may prevent the access or use of a customer's virtual currency;
39 and

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

3 7. When opening an account for a new customer, and prior to entering into an initial
 4 transaction for, on behalf of, or with such customer, each virtual currency kiosk operator shall
 5 disclose in clear, conspicuous, and legible writing in the English language, whether in accessible
 6 terms of service or elsewhere, all relevant terms and conditions associated with its products,
 7 services, and activities and virtual currency generally, including disclosures substantially similar to
 8 the following:

9 (1) The customer's liability for unauthorized virtual currency transactions;

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

12 (3) The customer's right to receive periodic account statements and valuations from the
 13 virtual currency kiosk operator;

14 (4) The customer's right to receive a receipt, trade ticket, or other evidence of a transaction;

15 (5) The customer's right to prior notice of a change in the virtual currency kiosk operator's
 16 rules or policies; and

17 (6) Such other disclosures as are customarily given in connection with the opening of
 18 customer accounts.

19 8. Prior to entering into a virtual currency transaction with a customer, each virtual currency
 20 kiosk operator shall ensure a warning is disclosed to a customer substantially similar to the
 21 following:

22 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, utility bill,
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 is a final
irreversible and non-refundable transaction.

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

23 9. Upon completion of any virtual currency kiosk transaction, each virtual currency kiosk
 24 operator shall provide to a customer a digital or physical receipt containing the following
 25 information:

1 (1) The name and contact information of the virtual currency kiosk operator, including a
2 telephone number established by the virtual currency kiosk operator to answer questions and register
3 complaints;

4 (2) The type, value, date, and precise time of the transaction in the local time zone;

5 (3) The fee charged;

6 (4) The exchange rate, if applicable;

7 (5) A statement of the liability of the virtual currency kiosk operator for non-delivery or
8 delayed delivery; and

9 (6) A statement of the refund policy of the virtual currency kiosk operator.

10 10. All virtual currency kiosk operators shall use blockchain analytics software to assist in
11 the prevention of sending purchased virtual currency from a virtual currency kiosk operator to a
12 digital wallet known to be affiliated with fraudulent activity at the time of a transaction. The
13 division may request evidence from any virtual currency kiosk operator of current use of blockchain
14 analytics.

15 11. All virtual currency kiosk operators performing business in this state shall provide live
16 customer service at a minimum on Monday through Friday between the hours of 8:00 a.m. and
17 10:00 p.m. The customer service toll free number shall be displayed on the virtual currency kiosk or
18 the virtual currency kiosk screens.

19 12. All virtual currency kiosk operators shall take reasonable steps to detect and prevent
20 fraud, including establishing and maintaining a written anti-fraud policy. The anti-fraud policy
21 shall, at a minimum, include:

22 (1) The identification and assessment of fraud related risk areas;

23 (2) Procedures and controls to protect against identified risks;

24 (3) Allocation of responsibility for monitoring risks; and

25 (4) Procedures for the periodic evaluation and revision of the anti-fraud procedures,
26 controls, and monitoring mechanisms.

27 13. (1) Each virtual currency kiosk operator shall maintain, implement, and enforce a
28 written "Enhanced Due Diligence Policy". Such a policy shall be reviewed and approved by the
29 virtual currency kiosk operator's board of directors or an equivalent governing body of the virtual
30 currency kiosk operator.

31 (2) The "Enhanced Due Diligence Policy" shall identify, at minimum, individuals who are at
32 risk of fraud based on age or mental capacity.

33 14. (1) Each virtual currency kiosk operator shall comply with the provisions of this
34 section, any lawful order, rule, or regulation made or issued under the provisions of this section, and
35 all applicable federal and state laws, rules, and regulations.

36 (2) Each virtual currency kiosk shall maintain, implement, and enforce written compliance
37 policies and procedures. Such policies and procedures shall be reviewed and approved by the
38 virtual currency kiosk operator's board of directors or an equivalent governing body of the virtual
39 currency kiosk operator.

1 15. (1) Each virtual currency kiosk operator shall designate and employ a compliance
2 officer with the following requirements:

3 (a) The individual shall be qualified to coordinate and monitor compliance with this section
4 and all other applicable federal and state laws, rules, and regulations;

5 (b) The individual shall be employed full-time by the virtual currency kiosk operator; and

6 (c) The designated compliance officer cannot be any individual who owns more than twenty
7 percent of the virtual currency kiosk operator by whom the individual is employed.

8 (2) Compliance responsibilities required under federal and state laws, rules, and regulations
9 shall be completed by full-time employees of the virtual currency kiosk operator.

10 16. Each virtual currency kiosk operator shall designate and employ a consumer protection
11 officer with each of the following requirements:

12 (1) The individual shall be qualified to coordinate and monitor compliance with this section
13 and all other applicable federal and state laws, rules, and regulations;

14 (2) The individual shall be employed full-time by the virtual currency kiosk operators; and

15 (3) The designated consumer protection officer cannot be an individual who owns more than
16 twenty percent of the virtual currency kiosk operator by whom the individual is employed.

17 17. (1) Each virtual currency kiosk operator shall submit a report to the division of the
18 location of each virtual currency kiosk located within this state within forty-five days of the end of
19 the calendar quarter. The director shall formulate a system for virtual currency kiosk operators to
20 submit such locations that is consistent with the requirements of this section.

21 (2) The location report shall include, at a minimum, the following information regarding the
22 location where a virtual currency kiosk is located:

23 (a) Company legal name;

24 (b) Any fictitious or trade name;

25 (c) Physical address;

26 (d) Start date of operation of virtual currency kiosk at location; and

27 (e) End date of operation of virtual currency kiosk at location, if applicable.

28 18. (1) Any virtual currency kiosk operator who owns, operates, solicits, markets,
29 advertises, or facilitates virtual currency kiosks in this state shall be deemed to be engaged in money
30 transmission and require licensure pursuant to sections 361.900 to 361.1035.

31 (2) All unlicensed virtual currency kiosk operators shall apply for a money transmitter
32 license within sixty days after this section goes into effect. Virtual currency kiosk operators who
33 apply within this time will be allowed to continue operations while the division reviews the
34 application. Any virtual currency kiosk operator whose application is denied by the division shall
35 cease operations until granted a money transmitter license.

36 19. The division of finance may promulgate rules for the purpose of implementing the
37 provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010,
38 that is created under the authority delegated in this section shall become effective only if it complies
39 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This

1 section and chapter 536 are nonseverable and if any of the powers vested with the general assembly
2 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
3 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
4 adopted after August 28, 2025, shall be invalid and void."; and

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6 Further amend said bill by amending the title, enacting clause, and intersectional references
7 accordingly.