

HOUSE BILL NO. 1447

Introduced by

Representatives Swiontek, Christy, Hanson, Heinert, Schauer, J. Olson, Richter

Senators Hogan, Klein, Lee, Rummel, Sickler

1 A BILL for an Act to create and enact a new chapter to title 6 of the North Dakota Century Code,
2 relating to virtual currency kiosks.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new chapter to title 6 of the North Dakota Century Code is created and
5 enacted as follows:

6 **Definitions.**

7 In this chapter unless context requires:

- 8 1. "Blockchain analytics" means the analysis of data from blockchains or public
9 distributed ledgers, including associated transaction information.
- 10 2. "Blockchain analytics software" means a software service that uses blockchain
11 analytics data to provide risk-specific information about virtual currency wallet
12 addresses.
- 13 3. "Commissioner" means the commissioner of financial institutions.
- 14 4. "New customer" means an individual who has never previously transacted with the
15 virtual currency kiosk operator and for the first thirty days after the first financial
16 transaction with the virtual currency kiosk operator.
- 17 5. "Transaction hash" means a unique identifier made up of a string of characters that act
18 as a record and provide proof the transaction was verified and added to the
19 blockchain.
- 20 6. "Virtual currency address" means an alphanumeric identifier associated with a virtual
21 currency wallet identifying the location to which a virtual currency transaction can be
22 sent.
- 23 7. "Virtual currency kiosk" means an electronic terminal acting as a mechanical agent of
24 the virtual currency kiosk operator to enable the virtual currency kiosk operator to

1 facilitate the exchange of virtual currency for money, bank credit, or other virtual
2 currency, including by:

3 a. Connecting directly to a separate virtual currency exchange that performs the
4 actual virtual currency transmission; or

5 b. Drawing upon the virtual currency in the possession of the electronic terminal's
6 operator.

7 8. "Virtual currency kiosk operator" means a person that engages in virtual currency
8 business activity via a money transmission kiosk located in this state or a person that
9 owns, operates, or manages a money transmission kiosk located in this state through
10 which virtual currency business activity is offered.

11 9. "Virtual currency kiosk transaction" means a transaction conducted or performed, in
12 whole or in part, by electronic means via a virtual currency kiosk. Virtual currency
13 kiosk transaction also means a transaction made at a virtual currency kiosk to
14 purchase virtual currency with fiat currency or to sell virtual currency for fiat currency.

15 10. "Virtual currency wallet" means a software application or other mechanism providing a
16 means to hold, store, or transfer virtual currency.

17 **Virtual currency kiosks.**

18 1. A kiosk operator may not engage in virtual currency business activity or hold itself out
19 as being able to engage in virtual currency business activity with or on behalf of
20 another person unless the kiosk operator is licensed in this state as a money
21 transmitter.

22 2. A virtual currency kiosk operator shall comply with all requirements of a money
23 transmitter under chapter 13-09.1.

24 3. A virtual currency kiosk operator may not locate, or allow a third party to locate, a
25 virtual currency kiosk in this state unless the virtual currency kiosk:

26 a. Is placed a commercially accessible area;

27 b. Is accessible to users with sufficient space to account for mobility limitations of
28 users;

29 c. Is subject to security features, including sufficient lighting and surveillance; and

30 d. Complies with any additional restrictions or requirements as required by the
31 commissioner.

- 1 4. Each virtual currency kiosk operator shall submit a quarterly report of the location of
2 each virtual currency kiosk located within the state to the commissioner within forty-
3 five days of the end of the calendar quarter. The location report must include:
4 a. The company legal name;
5 b. Any fictitious or trade name;
6 c. The physical address;
7 d. The start date of operation of the virtual currency kiosk at the location;
8 e. The end date of operation of the virtual currency kiosk at the location, if
9 applicable; and
10 f. The virtual currency addresses associated with the virtual currency kiosk.

11 **Disclosures.**

- 12 1. A virtual currency kiosk operator shall disclose in a clear, conspicuous, and easily
13 readable manner in the chosen language of the customer, all relevant terms and
14 conditions generally associated with the products, services, and activities of the virtual
15 currency kiosk operator and virtual currency.
16 2. The virtual currency kiosk operator must receive acknowledgment of receipt of all
17 disclosures required under this section via confirmation of consent.
18 3. Each virtual currency kiosk must include a warning written prominently and in bold
19 type, stating substantially the following form:
20 a. WARNING: CONSUMER FRAUD OFTEN STARTS WITH CONTACT FROM A
21 STRANGER WHO IS INITIATING A DISHONEST SCHEME. I UNDERSTAND
22 THAT CRIMINAL ACTIVITY MAY APPEAR IN MANY FORMS, INCLUDING:
23 (1) Claims of a frozen bank account or credit card.
24 (2) Fraudulent bank transactions.
25 (3) Claims of identity theft or job offerings in exchange for payments.
26 (4) Requests for payments to government agencies or companies.
27 (5) Requests for disaster relief donations or loans.
28 (6) Offers to purchase tickets for lotteries, sweepstakes, or drawings for
29 vehicles.
30 (7) Prompts to click on desktop popups, such as virus warnings or
31 communication from alleged familiar merchants.

(8) Communication from someone impersonating a representative of your bank or a law enforcement officer.

(9) IF YOU BELIEVE YOU ARE BEING SCAMMED, CALL YOUR LOCAL LAW ENFORCEMENT BEFORE ANY TRANSACTION.

b. WARNING: FUNDS LOST DUE TO USER ERROR OR FRAUD MAY NOT BE RECOVERABLE. TRANSACTIONS CONDUCTED ON THIS VIRTUAL CURRENCY KIOSK ARE IRREVERSIBLE. I UNDERSTAND THESE RISKS AND WISH TO CONTINUE WITH CONDUCTING MY VIRTUAL CURRENCY KIOSK TRANSACTION. PROTECT YOURSELF FROM FRAUD. NEVER SEND MONEY TO SOMEONE YOU DON'T KNOW.

4. The commissioner shall require the disclosure of material risks associated with virtual currency and virtual currency transactions, including:

a. The transaction may not be reversed;

b. The virtual currency kiosk operator's liability for unauthorized virtual currency transactions;

c. The virtual currency kiosk customer's liability for unauthorized currency transactions;

d. Virtual currency is not legal tender, backed or insured by the government, and accounts and value balances are not subject to federal deposit insurance corporation, national credit union administration, or securities investor protection corporation protections;

e. Some virtual currency transactions are deemed to be made when recorded on a public ledger which may not be the date or time when the individual initiates the transaction;

f. Virtual currency's value may be derived from market participants' continued willingness to exchange fiat currency for virtual currency, which may result in the permanent and total loss of a particular virtual currency's value if the market for virtual currency disappears;

g. An individual who accepts a virtual currency as payment today is not required to accept and might not accept virtual currency in the future;

- 1 h. The volatility and unpredictability of the price of virtual currency relative to fiat
2 currency may result in a significant loss over a short period;
3 i. The nature of virtual currency means any technological difficulties experienced by
4 virtual currency kiosk operators may prevent access to or use of an individual's
5 virtual currency; and
6 j. Any bond maintained by the virtual currency kiosk operator for the benefit of an
7 individual may not cover all losses an individual incurs.

8 5. The commissioner shall require disclosure of:

- 9 a. The amount of the transaction denominated in United States dollars as well as
10 the applicable virtual currency;
11 b. Any fees or expenses charged by the virtual currency kiosk operator;
12 c. Any applicable exchange rates;
13 d. A daily virtual currency transaction limit of no more than one thousand dollars;
14 e. Notice of a change in the virtual currency kiosk operator's rules or policies;
15 f. The name, address, and telephone number of the owner of the kiosk and the
16 days, time, means by which a consumer can contact the owner for consumer
17 assistance. Any relevant state and local law enforcement agency for reporting
18 fraud must be displayed on or at the location of the virtual currency kiosk or on
19 the first screen of the kiosk;
20 g. Under what circumstances the virtual currency kiosk operator, without a court or
21 government order, discloses a person's account information to third parties; and
22 h. Other disclosures customarily given in connection with a virtual currency
23 transaction.

24 6. After the completion of each transaction, the virtual currency kiosk operator shall
25 provide an individual with a physical receipt in the language chosen by the customer
26 containing the following:

- 27 a. The virtual currency kiosk operator's name and contact information, including a
28 telephone number to answer questions and register complaints;
29 b. Relevant state and local law enforcement or government agency for reporting
30 fraud;

- c. The type, value, date, and precise time of the transaction, transaction hash, and each applicable virtual currency address;
- d. The name and contact information of the sender;
- e. The name and contact information of the designated recipient;
- f. All fees charged;
- g. The exchange rate of the virtual currency to United States dollars;
- h. A statement of the virtual currency kiosk operator's liability for nondelivery or delayed delivery;
- i. A statement of the virtual currency kiosk operator's refund policy; and
- j. Any additional information the commissioner may require.

Prevention of fraudulent activity.

- 1. A virtual currency kiosk operator shall use blockchain analytics software to assist in the detection and prevention of suspicious activity, including sending purchased virtual currency from a virtual currency kiosk operator to a virtual currency wallet known to be affiliated with fraudulent activity at the time of a transaction and identifying patterns that reflect money laundering or other illicit activity. The commissioner may request evidence from any virtual currency kiosk operator of use of blockchain analytics.
- 2. 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 must include:
 - a. The identification and assessment of fraud-related risk areas;
 - b. Procedures and controls to protect against identified risks;
 - c. Allocation of responsibility for monitoring risks; and
 - d. Procedures for the periodic evaluation and revision of the antifraud procedures, controls, and monitoring mechanisms.
- 3. Each virtual currency kiosk operator shall designate and employ a compliance officer with the following requirements:
 - a. The individual must be qualified to coordinate and monitor compliance with this chapter and all other applicable federal and state laws and rules;
 - b. The individual must be employed full-time by the virtual currency kiosk operator; and

c. The designated compliance officer may not be any individual who owns more than twenty percent of the virtual currency kiosk operator by whom the individual is employed.

4. Compliance responsibilities required under federal and state laws and rules must be completed by full-time employees of the virtual currency kiosk operator.

5. A virtual currency kiosk operator shall issue a refund to a new customer for the full amount of all transactions made within the thirty-day new customer time period on the request of the customer. To receive a refund under this section, a new customer must have been fraudulently induced to engage in the virtual currency transactions and shall contact the virtual currency kiosk operator and a government or law enforcement regarding the fraudulent nature of the transaction agency within ninety days of the last transaction to occur during the thirty-day new customer time period.

6. A virtual currency kiosk operator shall issue a refund to an existing customer for the full amount of all transaction fees upon the request of an existing customer. To receive a refund under this section, a customer must have been fraudulently induced to engage in the virtual currency transactions and shall contact the virtual currency kiosk operator and a government or law enforcement agency regarding the fraudulent nature of the transaction within ninety days of the transaction.

Daily transaction limit.

A virtual currency kiosk operator may not accept transactions of more than one thousand dollars of cash or the equivalent in virtual currency in a day in connection with virtual currency kiosk transactions with a single customer in this state via one or more virtual currency kiosks operated by the same virtual currency operator.

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 charged 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 the virtual currency at the time of the transaction, may not exceed the greater of five dollars or three percent of the dollar equivalent of virtual currency involved in the transaction or transactions.

1 **Customer service.**

2 A virtual currency kiosk operator performing business in this state shall provide live
3 customer service at a minimum on Monday through Friday between eight a.m. central time and
4 ten p.m. central time. The customer service toll free number must be displayed on the virtual
5 currency kiosk or the virtual currency kiosk screens.