

## **BILL ANALYSIS**

H.B. 2798  
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Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Media outlets, including the *Houston Chronicle* and CBS News, reported that Texas has recently seen a rapid increase in the number of virtual currency kiosks in gas stations and convenience stores, among other locations, which allow users to buy or sell digital assets. However, the Federal Trade Commission (FTC) reported that scammers frequently exploit these kiosks to deceive individuals into purchasing cryptocurrency under false pretenses that create an urgent justification for consumers to withdraw cash from their bank accounts and deposit it into a virtual currency kiosk, often leading to financial loss, which disproportionately affects individuals over 60 years of age. Recent FTC data indicates that consumer losses from such scams have increased nearly tenfold since 2020, exceeding \$110 million in losses in 2023 alone, with median reported losses averaging \$10,000 per incident. H.B. 2798 aims to enhance consumer protections in the virtual currency market, reduce fraudulent activity, and ensure transparency and accountability in digital asset transactions by requiring virtual currency kiosk operators to clearly display certain on-screen disclosures and warnings to customers before transactions proceed, establishing a daily transaction cap for first-time users, and providing for refunds for certain new customers in cases of fraud.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Finance Commission of Texas in SECTION 1 of this bill.

### **ANALYSIS**

H.B. 2798 amends the Finance Code to set out certain required disclosures and other requirements regarding virtual currency kiosk transactions.

#### **Disclosures on Material Risks**

H.B. 2798 requires a virtual currency kiosk operator, before entering into an initial virtual currency kiosk transaction for, on behalf of, or with a customer, to clearly and conspicuously disclose, in plain, easy to read language, at least the following material risks generally associated with virtual currency:

- virtual currency is not legal tender and is not backed or insured by the government;
- accounts and value balances of virtual currency are not subject to FDIC, National Credit Union Administration, or Securities Investor Protection Corporation protections;
- some virtual currency transactions are considered to be made only when recorded on a public ledger, which may not be the date or time when the transaction is initiated;

- a virtual currency's value may be derived from the continued willingness of market participants to exchange fiat currency for the virtual currency, which may result in the permanent and total loss of the virtual currency's value if the market for that virtual currency disappears;
- a customer who accepts a virtual currency as payment at the time of the transaction is not required to accept the currency as payment and may decline to accept the currency as payment in a future transaction;
- the volatility and unpredictability of the price of virtual currency relative to fiat currency may result in a significant loss in value over a short period;
- the nature of virtual currency means that any technological difficulties experienced by a virtual currency kiosk operator may prevent access to or use of their customers' virtual currency; and
- any bond maintained by the virtual currency kiosk operator for the benefit of the operator's customers may not cover all of the losses incurred by those customers.

These disclosures must be displayed on the screen of the virtual currency kiosk with the ability for a customer to acknowledge the receipt of the disclosures.

H.B. 2798 requires a virtual currency kiosk operator, in addition to those material risk disclosures, to provide a written disclosure that:

- is prominently displayed and in bold type;
- must be acknowledged by the customer;
- is provided separately from the material risk disclosures; and
- states a warning, as set out by the bill, regarding the irreversibility of losses due to fraudulent or accidental transactions and the use of virtual currency transactions by scammers.

### **Transaction-Related Disclosures**

H.B. 2798 requires a virtual currency kiosk operator to disclose all relevant terms generally associated with virtual currency and with the products, services, and activities of the operator, including the following:

- the customer's liability for unauthorized virtual currency transactions;
- the customer's right to do the following:
  - stop payment of a virtual currency transfer and the procedure to stop payment;
  - receive a receipt, trade ticket, or other evidence of a transaction at the time of the transaction; and
  - receive prior notice of a change in the operator's rules or policies;
- the circumstances under which the operator, without a court or government order, is authorized to disclose a customer's account information to third parties; and
- other disclosures customarily provided in connection with the opening of a customer's account.

H.B. 2798 requires a virtual currency kiosk operator, before a virtual currency transaction is entered into for, on behalf of, or with a customer, to clearly and conspicuously disclose the terms of the transaction. The disclosure must be in plain, easy to read language and address at least the following:

- the amount of the transaction;
- any transaction fees, expenses, or charges, including applicable exchange rates;
- the type and nature of the transaction;
- a warning that once a transaction is completed, the transaction may not be reversed;
- the daily virtual currency kiosk transaction limit for new customers prescribed by the bill's provisions;
- the difference in the virtual currency's sale price compared to the current market price; and

- any other disclosures customarily provided in connection with a virtual currency kiosk transaction.

### **Acknowledgment of Disclosures and Required Receipt**

H.B. 2798 requires a virtual currency kiosk operator to do the following:

- before completing a transaction, ensure that each customer who engages in a virtual currency kiosk transaction using the operator's kiosk acknowledges receipt of the required disclosures by obtaining confirmation of consent; and
- after a transaction is completed, provide the customer with a physical receipt, or an electronic receipt sent by email or text message, that contains the following:
  - the operator's name and contact information, including a telephone number to answer questions and register complaints;
  - the type, value, date, and precise time of the transaction, the transaction hash, and each virtual currency address;
  - the fees charged;
  - the exchange rate;
  - a statement of the operator's liability for nondelivery or delayed delivery;
  - a statement of the operator's refund policy; and
  - any additional information the banking commissioner of Texas may require.

### **Refunds for New Customers and Daily Transaction Limit**

H.B. 2798 requires the operator of a virtual currency kiosk to issue to a new customer, on request, a refund for the total amount of all virtual currency kiosk transactions made by the customer at the kiosk during the new customer period if the customer, as follows:

- was fraudulently induced to enter into a virtual currency kiosk transaction; and
- not later than the 14th day after the date on which the last virtual currency kiosk transaction was made during that period, contacts the operator and an applicable governmental or law enforcement agency to inform them of the fraudulent nature of the transaction.

The bill establishes a maximum daily transaction limit of \$2,000 for each new customer of a virtual currency kiosk located in Texas. For these purposes, a person is considered to be a new customer if less than 72 hours has elapsed from the time the person first signed up as a customer.

### **Administration, Fees, and Rules**

H.B. 2798 requires the Texas Department of Banking to administer and enforce the bill's provisions. The bill authorizes the banking commissioner of Texas to do the following:

- charge a virtual currency kiosk operator a reasonable fee to cover the costs of implementing the bill's provisions; and
- investigate a virtual currency kiosk operator to determine compliance with the bill's provisions in the same manner as allowed under administrative provisions of the Money Services Modernization Act, including examination of the records of the operator.

H.B. 2798 authorizes the Finance Commission of Texas to adopt rules necessary to administer and enforce the bill's provisions.

### **Applicability and Definitions**

H.B. 2798 applies to a virtual currency kiosk operator that operates a virtual currency kiosk in Texas. The bill defines the following terms:

- "digital asset service provider" by reference as an electronic platform that facilitates the trading of digital assets on behalf of a digital asset customer and maintains custody of the customer's digital assets;

- "transaction hash" as a unique identifier consisting of a string of characters that act as a record of a transaction and provide proof that the transaction was verified and added to the blockchain;
- "virtual currency" by reference to the Uniform Commercial Code;
- "virtual currency kiosk" as an electronic terminal operated by a virtual currency kiosk operator in Texas to enable the operator to facilitate the exchange of virtual currency for money, bank credit, or other virtual currency, including by:
  - connecting directly to a separate virtual currency exchanger that performs the actual virtual currency transmission; or
  - drawing on the virtual currency in the possession of the electronic terminal's operator;
- "virtual currency kiosk operator" or "operator" as a person, including a digital asset service provider, that operates a virtual currency kiosk; and
- "virtual currency kiosk transaction" as a transaction conducted or performed, wholly or partly, by electronic means using a virtual currency kiosk, including a transaction made at a virtual currency kiosk to purchase currency with fiat currency or to sell virtual currency for fiat currency.

**EFFECTIVE DATE**

September 1, 2025.