BILL ANALYSIS

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that virtual currency kiosks, commonly known as cryptocurrency ATMs, have become an increasingly popular means for individuals to buy and sell digital assets such as Bitcoin and that these kiosks provide a convenient and accessible way to exchange virtual currency for cash or other forms of value. However, the bill sponsor has also informed the committee that the rapid expansion of these machines has created significant regulatory challenges and vulnerabilities that are being exploited by criminals for illicit activities, including fraud, money laundering, and the purchase of contraband, and the anonymous nature of many virtual currency transactions has also made these kiosks a preferred tool for drug traffickers and those engaged in the sale of illegal goods. S.B. 1705 seeks to establish clear regulatory measures to mitigate these risks while ensuring consumer protection and financial transparency. By requiring licensing, transaction reporting, fraud prevention mechanisms, and enhanced consumer disclosures, the bill aims to deter criminal misuse of virtual currency kiosks and provide law enforcement with necessary tools to investigate and prevent illicit activity. Furthermore, the bill imposes limits on transaction amounts and fees and includes measures to ensure that operators maintain compliance with applicable laws.

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

S.B. 1705 amends the Finance Code to provide for the regulation of virtual currency kiosks.

Registration and Report Requirements

S.B. 1705 prohibits a virtual currency kiosk operator from locating, or allowing a third party to locate, a virtual currency kiosk in Texas unless the virtual currency kiosk operator registers the kiosk with the Texas Department of Banking and obtains the prior approval of the department for the activation of the kiosk. The bill requires a virtual currency kiosk operator, not later than the 45th day following the date of the end of each calendar quarter, to file with the department a report of the location of each virtual currency kiosk of the operator in Texas. The report must include the following information for each virtual currency kiosk:
- company legal name;
- any fictitious or trade name;
- physical address;

- start date of operation of the virtual currency kiosk at a location;
- end date of operation of the virtual currency kiosk at a location, if applicable; and
- each virtual currency address associated with the virtual currency kiosk.

Requests for Certain Information

S.B. 1705 requires a virtual currency kiosk operator, not later than 72 hours after receiving a written request from a law enforcement agency, to provide to the agency limited identifying information such as a virtual currency wallet address or transaction hash. The bill establishes that such a release of information does not require a subpoena or court order but requires a subpoena or court order for the release of additional identifying information.

Disclosures on Material Risk

S.B. 1705 requires a virtual currency kiosk operator in Texas to disclose in a clear, conspicuous, and easily readable manner all material risks generally associated with virtual currency, including that:
- 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 kiosk transactions are deemed to be made when recorded on a public ledger that may not be the date or time when the person initiates the transaction;
- virtual currency's value may be derived from the continued willingness of market participants 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;
- a person who accepts a virtual currency as payment is not required to accept the currency as payment and may decline to accept the currency 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 the operator's customer's virtual currency; and
- any bond maintained by the virtual currency kiosk operator for the benefit of customers may not cover all losses incurred by customers.

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

S.B. 1705 requires a virtual currency kiosk operator, in addition to those material risk disclosures, to provide a written disclosure that:
- is written prominently and in bold type and 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 criminals impersonating the government, organizations, or a person's loved ones.

Transaction-Related Disclosures

S.B. 1705 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 virtual currency kiosk operator, including the following:
- the virtual currency kiosk operator's liability for unauthorized virtual currency kiosk transactions;
- the customer's liability for unauthorized virtual currency kiosk transactions;

- the customer's right to receive prior notice of a change in the virtual currency kiosk operator's rules or policies; and
- under what circumstances the virtual currency kiosk operator, without a court or government order, is authorized to disclose a customer's account information to third parties.

Before a virtual currency kiosk transaction is entered into for, on behalf of, or with a customer, a virtual currency kiosk operator must disclose the terms of the transaction in a clear, conspicuous, and easily readable manner, including the following:
- the amount of the transaction denominated in U.S. dollars and in the applicable virtual currency involved in the transaction;
- any transaction fees, expenses, or charges, including applicable exchange rates;
- the type and nature of the transaction;
- a warning that once completed, the transaction may not be reversed;
- the daily virtual currency kiosk transaction limit prescribed by the bill's provisions; and
- any other disclosures that are customarily provided in connection with a virtual currency kiosk transaction.

Acknowledgement of Disclosures and Required Receipt

S.B. 1705 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 all disclosures required under the bill's provisions by confirmation of consent; and
- after a transaction is completed, provide the customer with a physical or digital receipt in the customer's preferred language that contains the following:
    - the virtual currency kiosk 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 applicable virtual currency address;
    - the sender's name and contact information;
    - the designated recipient's name and contact information;
    - the fees charged;
    - the exchange rate of the virtual currency to U.S. dollars;
    - a statement of the virtual currency kiosk operator's liability for nondelivery or delayed delivery;
    - a statement of the virtual currency kiosk operator's refund policy; and
    - any additional information the Texas Department of Banking may require.

Prevention of Fraudulent Activity and Fraud Policy

S.B. 1705 requires a virtual currency kiosk operator to use blockchain analytics software to assist in the prevention of 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. The bill authorizes the Texas Department of Banking to request evidence from any virtual currency kiosk operator of current use of blockchain analytics.

S.B. 1705 requires a virtual currency kiosk operator to take reasonable steps to detect and prevent fraud, including establishing and maintaining a written antifraud policy. The policy must, at a minimum, include the following:
- the identification and assessment of fraud-related risk areas;
- procedures and controls to protect against identified risks;
- allocation of responsibility for monitoring risks; and
- procedures for the periodic evaluation and revision of the antifraud procedures, controls, and monitoring mechanisms.

Measures to Ensure Compliance With Laws

S.B. 1705 requires a virtual currency kiosk operator to designate and employ a compliance officer who satisfies the following criteria:
- is qualified to coordinate and monitor compliance with the bill's requirements and as otherwise provided by federal and state laws, rules, and regulations;
- is employed full time by the virtual currency kiosk operator; and
- does not own more than 20 percent of the virtual currency kiosk operator.

Any compliance responsibilities required under federal or state laws, rules, and regulations must be completed by the full-time employees of the virtual currency kiosk operator.

Daily Transaction Limit

S.B. 1705 prohibits a virtual currency kiosk operator from entering into a transaction or series of transactions with a customer for a total amount having a value of greater than $3,000 in a 24-hour period.

Required Identification and Required Registered Wallet for Recipients

S.B. 1705 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 scans the customer's driver's license or personal identification card;
- ensure that each designated recipient of a virtual currency kiosk transaction using the operator's kiosk has a virtual currency wallet registered with the operator; and
- require a person registering a virtual currency wallet to provide the following:
  - the person's driver's license or personal identification card; and
  - a photograph of the person's face.

Temporary Hold on Transactions by Certain Customers

S.B. 1705 requires a virtual currency kiosk operator to place a 72-hour hold on any transaction initiated by a first-time customer who engages in a virtual currency kiosk transaction using the operator's kiosk.

Permitted Fees

S.B. 1705 caps at the greater of $5 or 12 percent of the U.S. dollar equivalent of virtual currency involved in the transaction or transactions 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 virtual currency kiosk in Texas, including any difference between the price charged to a customer to buy, sell, exchange, or convert virtual currency and the prevailing market value of the virtual currency at the time of the transaction.

Customer Service

S.B. 1705 requires a virtual currency kiosk operator that conducts business in Texas to do the following:
- provide live customer service between the hours of 8 a.m. and 10 p.m. Monday through Friday; and
- display the following on the virtual currency kiosk or screen of the kiosk:
  - the customer service toll-free telephone number;
  - the operator's name, address, and telephone number; and
  - the days on, time on, and method by which a customer can contact the operator for assistance.

Revocation of Registration, Cease and Desist Orders, and Consent Orders

S.B. 1705 requires the Texas Department of Banking to revoke a registration of a virtual currency kiosk operator if the virtual currency kiosk operator violates the bill's provisions or a rule adopted or order issued under the bill's provisions.

S.B. 1705 authorizes the commissioner, if the commissioner has reason to believe that a person has engaged or is likely to engage in an activity in violation of the bill's provisions, to order the person to cease and desist from the violation. The bill defines "commissioner" for the bill's purposes as the banking commissioner of Texas or a person designated by the banking commissioner and acting under the banking commissioner's direction and authority. The bill subjects the commissioner's order to the bill's provisions relating to notices, hearings, and other procedures for nonemergency orders, unless the order is issued as an emergency order. The bill authorizes the commissioner to issue an emergency cease and desist order under the bill's provisions relating to requirements for notice and hearing procedures for emergency orders on finding that the person's violation or likely violation threatens immediate and irreparable harm to the public. The bill authorizes a cease and desist order under these provisions to require the person to cease and desist from the action or violation or to take affirmative action to correct any condition resulting from or contributing to the action or violation, including the payment of restitution to each Texas resident damaged by the violation.

S.B. 1705 authorizes the commissioner to enter into a consent order at any time with a person to resolve a matter arising under the bill's provisions or a rule adopted or order issued under the bill's provisions. The bill requires a consent order to be signed by the person to whom the order is issued or by the person's authorized representative and to indicate agreement with the terms contained in the order. However, a consent order may provide that the order does not constitute an admission by a person that the person has violated the bill's provisions or a rule adopted or order issued under the bill's provisions. The bill establishes that a consent order is a final order and may not be appealed.

Administrative Penalty

S.B. 1705 authorizes the commissioner, after notice and hearing, to assess an administrative penalty against a person who:
- has violated the bill's provisions or a rule adopted or order issued under the bill's provisions and has failed to correct the violation not later than the 30th day after the date the Texas Department of Banking sends written notice of the violation to the person;
- has engaged in a pattern of violations; or
- has demonstrated wilful disregard for the requirements of the bill's provisions, the rules adopted under the bill's provisions, or an order issued under the bill's provisions.

The bill provides the following with respect to the administrative penalty:
- a violation corrected after a person receives written notice from the department of the violation may be considered for purposes of determining whether a person has engaged in a pattern of violations or demonstrated wilful disregard under these provisions;
- the amount of the penalty may not exceed $5,000 for each violation or, in the case of a continuing violation, $5,000 for each day that the violation continues;
- each transaction in violation of the bill's provisions and each day that a violation continues is a separate violation;
- in determining the amount of the penalty, the commissioner must consider factors that include the seriousness of the violation, the person's compliance history, and the person's good faith in attempting to comply with the bill's provisions, provided that if the person is found to have demonstrated wilful disregard under these provisions, the trier of fact may recommend that the commissioner impose the maximum administrative penalty of $5,000 permitted under these provisions;
- a hearing to assess an administrative penalty is considered a contested case hearing and is subject to the bill's provisions relating to administrative procedures;

- an order imposing an administrative penalty after notice and hearing becomes effective and is final for purposes of collection and appeal immediately on issuance; and
- the commissioner may collect an administrative penalty assessed under these provisions in the same manner that a money judgment is enforced in court.

Notice, Hearing, and Other Procedures for Nonemergency Orders

S.B. 1705 establishes that an order issued by the commissioner under the bill's provisions that is not an emergency order becomes effective only after notice and an opportunity for hearing. The order must satisfy the following criteria:
- state the grounds on which the order is based;
- to the extent applicable, state the action or violation from which the person subject to the order must cease and desist or the affirmative action the person must take to correct a condition resulting from the violation or that is otherwise appropriate;
- be delivered by personal delivery or sent by certified mail, return receipt requested, to the person against whom the order is directed at the person's last known address;
- state the order's effective date, which may not be before the 21st day after the date the order is delivered or mailed; and
- include a notice that a person may file a written request for a hearing on the order with the commissioner not later than the 20th day after the date the order is delivered or mailed.

S.B. 1705 establishes the following with respect to such an order:
- unless the commissioner receives a written request for a hearing from the person against whom the order is directed not later than the 20th day after the date the order is delivered or mailed, the order takes effect as stated in the order and is final against and non-appealable by that person from that date;
- a hearing on the order must be held not later than the 45th day after the date the commissioner receives the written request for the hearing unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date;
- an order that has been affirmed or modified after a hearing becomes effective and is final for purposes of enforcement and appeal immediately on issuance; and
- the order may be appealed to the district court of Travis County as provided by the bill's provisions relating to administrative procedures.

Requirements for Notice and Hearing Procedures for Emergency Orders

S.B. 1705 authorizes the commissioner to issue an emergency order under the bill's provisions, without prior notice and an opportunity for hearing, if the commissioner finds the following:
- the action, violation, or condition that is the basis for the order:
  - has caused or is likely to cause the insolvency of the virtual currency kiosk operator;
  - has caused or is likely to cause the substantial dissipation of the virtual currency kiosk operator's assets or earnings;
  - has seriously weakened or is likely to seriously weaken the condition of the virtual currency kiosk operator; or
  - has seriously prejudiced or is likely to seriously prejudice the interests of the virtual currency kiosk operator, a customer of the virtual currency kiosk operator, or the public; and
- immediate action is necessary to protect the interests of the virtual currency kiosk operator, a customer of the virtual currency kiosk operator, or the public.

S.B. 1705 authorizes the commissioner, in connection with and as directed by an applicable emergency order, to seize the records and assets of a virtual currency kiosk operator or

authorized delegate that relate to the operator's virtual currency kiosk business. An emergency order must meet the following criteria:

- state the grounds on which the order is based;
- advise the person against whom the order is directed that the order takes effect immediately, and, to the extent applicable, require the person to immediately cease and desist from the conduct or violation that is the subject of the order or to take the affirmative action stated in the order as necessary to correct a condition resulting from the conduct or violation or as otherwise appropriate;
- be delivered by personal delivery or sent by certified mail, return receipt requested, to the person against whom the order is directed at the person's last known address; and
- include a notice that a person may request a hearing on the order by filing a written request for hearing with the commissioner not later than the 15th day after the date the order is delivered or mailed.

S.B. 1705 establishes the following with respect to an applicable emergency order:

- an emergency order takes effect as soon as the person against whom the order is directed has actual or constructive knowledge of the order's issuance;
- a virtual currency kiosk operator or authorized delegate against whom an emergency order is directed must submit a written certification to the commissioner, signed by the operator or authorized delegate, and their principals and responsible individuals, as applicable, and each person named in the order, stating that each person has received a copy of and has read and understands the order;
- unless the commissioner receives a written request for a hearing from a person against whom an emergency order is directed not later than the 15th day after the date the order is delivered or mailed, the order is final and non-appealable as to that person on the 16th day after the date the order is delivered or mailed;
- a request for a hearing does not stay an emergency order;
- a hearing on an emergency order takes precedence over any other matter pending before the commissioner, and must be held not later than the 10th day after the date the commissioner receives the written request for hearing unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date;
- an emergency order that has been affirmed or modified after a hearing is final for purposes of enforcement and appeal; and
- the order may be appealed to the district court of Travis County as provided in the bill's provisions relating to administrative procedures.

Administrative Procedures

S.B. 1705 requires all administrative proceedings under the bill's provisions to be conducted in accordance with the Administrative Procedure Act and Texas Administrative Code provisions governing the rules of procedure for contested case hearings, appeals, and rulemakings for purposes of the Finance Commission of Texas. The bill authorizes a person affected by a final order of the commissioner issued under the bill's provisions after a hearing to appeal the order by filing a petition for judicial review in a district court of Travis County. A petition for judicial review filed in the district court under these provisions does not stay or vacate the appealed order unless the court, after notice and hearing, specifically stays or vacates the order.

Refund

S.B. 1705 authorizes a customer, not later than the 14th day after the date that the customer enters into a virtual currency kiosk transaction, if the customer believes the transaction was fraudulently induced, to file a complaint with the following entities:

- the virtual currency kiosk operator of the kiosk used to complete the transaction; and
- an appropriate governmental or law enforcement agency.

The bill requires a governmental or law enforcement agency that receives such a complaint to do the following:
- investigate the complaint; and
- provide a report to the customer and the virtual currency kiosk operator stating whether or not the virtual currency kiosk transaction was fraudulently induced.

The bill requires the virtual currency kiosk operator, if that report states that a virtual currency kiosk transaction was fraudulently induced, to issue to the customer a full refund for any fees charged by the operator in connection with the transaction.

Physical Warning Signs

S.B. 1705 requires a virtual currency kiosk operator in Texas to post at the location of each virtual currency kiosk of the operator a written warning in the form of a sign within readable sight of the kiosk that provides notice to customers that law enforcement does not accept virtual currency payments.

Law Enforcement Contact

S.B. 1705 requires a virtual currency kiosk operator in Texas to have, at a minimum, a dedicated law enforcement contact and dedicated method of contact for the applicable governmental or law enforcement agencies to contact the operator. The contact method must be displayed and made available on the virtual currency kiosk operator's website and must be updated as necessary.

Rules

S.B. 1705 requires the Finance Commission of Texas to adopt rules necessary to implement, administer, and enforce the bill's provisions. The commission must adopt rules necessary to implement the bill as soon as practicable after the bill's effective date.

Definitions

S.B. 1705 defines the following terms for purposes of the bill's provisions:
- "blockchain analytics" as the analysis of data from blockchains or public distributed ledgers, including associated transaction information;
- "blockchain analytics software" as a software service that uses blockchain analytics data to provide risk-specific information, including information relating to virtual currency wallet addresses;
- "transaction hash" as a unique identifier made up of a string of characters that act as a record of and provide proof that the transaction was verified and added to the blockchain;
- "virtual currency" by reference to the Uniform Commercial Code provisions of the Business & Commerce Code;
- "virtual currency address" as an alphanumeric identifier associated with a virtual currency wallet identifying the location to which a virtual currency kiosk transaction can be sent;
- "virtual currency business activity" as exchanging, transferring, or storing virtual currency;
- "virtual currency kiosk" as an electronic terminal operated by a virtual currency kiosk operator to enable the operator to facilitate the exchange of virtual currency for money, bank credit, or other virtual currency, including by doing the following:
  - 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" as a person that engages in virtual currency business activity through a virtual currency kiosk located in Texas or a person that owns, operates,

or manages a virtual currency kiosk located in Texas through which virtual currency business activity is offered;

- "virtual currency kiosk transaction" as a transaction conducted or performed, wholly or partly, by electronic means on a virtual currency kiosk, including a transaction made at a virtual currency kiosk to purchase virtual currency with fiat currency or to sell virtual currency for fiat currency; and
- "virtual currency wallet" as a software application or other mechanism providing a means to hold, store, or transfer virtual currency.

EFFECTIVE DATE

September 1, 2025.