

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1705
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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. These kiosks provide a convenient and accessible way to exchange virtual currency for cash or other forms of value. However, the rapid expansion of these machines has also created significant regulatory challenges and vulnerabilities that are being exploited by criminals for illicit activities, including fraud, money laundering, and the purchase of contraband.

Reports from law enforcement agencies indicate that virtual currency kiosks have been frequently used in financial crimes. Fraud schemes, such as scams targeting the elderly and vulnerable populations, often direct victims to cryptocurrency ATMs to send money to scammers impersonating government officials, law enforcement officers, or tech support representatives. Additionally, criminal organizations use these kiosks to facilitate money laundering by converting illicit cash into untraceable digital assets. 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, this bill aims to deter criminal misuse of virtual currency kiosks and provide law enforcement with necessary tools to investigate and prevent illicit activity. Furthermore, it imposes reasonable limits on transaction amounts and fees to prevent exploitation and ensures that operators maintain compliance with state and federal financial regulations.

By enacting these provisions, Texas will enhance the security of virtual currency transactions, protect consumers from fraud, and prevent digital financial infrastructure from being abused for illegal purposes.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1705 amends current law relating to the regulation of virtual currency kiosks and provides an administrative penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Finance Commission of Texas in SECTION 1 (Section 161.028, Finance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle E, Title 3, Finance Code, by adding Chapter 161, as follows:

CHAPTER 161. VIRTUAL CURRENCY KIOSKS

Sec. 161.001. DEFINITIONS. Defines "blockchain analytics," "blockchain analytics software," "commissioner," "department," "transaction hash," "virtual currency," "virtual currency address," "virtual currency business activity," "virtual currency kiosk," "virtual

currency kiosk operator," "virtual currency kiosk transaction," and "virtual currency wallet."

Sec. 161.002. REGISTRATION REQUIRED. Prohibits a virtual currency kiosk operator from locating, or allowing a third party to locate, a virtual currency kiosk in this state unless the virtual currency kiosk operator registers the kiosk with the Texas Department of Licensing and Regulation (TDLR) and obtains the prior approval of TDLR for the activation of the kiosk.

Sec. 161.003. REPORT REQUIRED. Requires a virtual currency kiosk operator, not later than the 45th day following the date of the end of a calendar quarter, to file with TDLR a report of the location of each virtual currency kiosk of the operator in this state. Requires that the report required under this section include for each virtual currency kiosk certain information.

Sec. 161.004. REQUESTS FOR CERTAIN INFORMATION. (a) 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.

(b) Provides that a release of information under Subsection (a) does not require a subpoena or court order. Provides that a release of additional identifying information requires a subpoena or court order.

Sec. 161.005. DISCLOSURES ON MATERIAL RISK. (a) Requires a virtual currency kiosk operator in this state to disclose in a clear, conspicuous, and easily readable manner all material risks generally associated with virtual currency, including that:

- (1) virtual currency is not legal tender and is not backed or insured by the government;
- (2) accounts and value balances of virtual currency are not subject to Federal Deposit Insurance Corporation, National Credit Union Administration, or Securities Investor Protection Corporation protections;
- (3) 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;
- (4) 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;
- (5) 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;
- (6) 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;
- (7) 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
- (8) any bond maintained by the virtual currency kiosk operator for the benefit of customers may not cover all losses incurred by customers.

(b) Requires a virtual currency kiosk operator, in addition to the disclosures required under Subsection (a), to provide a written disclosure that meets certain requirements. Sets forth the required language of the disclosure.

(c) Requires that the disclosures required under Subsection (a) be displayed on the screen of the virtual currency kiosk with the ability for a customer to acknowledge the receipt of the disclosure.

Sec. 161.006. TRANSACTION-RELATED DISCLOSURES. (a) 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 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.

(b) Requires a virtual currency kiosk operator, before a virtual currency kiosk transaction is entered into for, on behalf of, or with a customer, to disclose certain terms of the transaction in a clear, conspicuous, and easily readable manner.

Sec. 161.007. ACKNOWLEDGMENT OF DISCLOSURES. Requires a virtual currency kiosk operator, before completing a transaction, to ensure that each customer who engages in a virtual currency kiosk transaction using the operator's kiosk acknowledges receipt of all disclosures required under this chapter by confirmation of consent.

Sec. 161.008. RECEIPT REQUIRED. Requires the virtual currency kiosk operator, after a transaction is completed, to provide the customer with a physical or digital receipt in the customer's preferred language that contains certain information.

Sec. 161.009. PREVENTION OF FRAUDULENT ACTIVITY. 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. Authorizes TDLR to request evidence from any virtual currency kiosk operator of current use of blockchain analytics.

Sec. 161.010. FRAUD POLICY. Requires a virtual currency kiosk operator to take reasonable steps to detect and prevent fraud, including establishing and maintaining a written antifraud policy. Requires that the policy required by this section, at a minimum, include 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.

(b) Requires that any compliance responsibilities required under federal or state laws, rules, and regulations be completed by the full-time employees of the virtual currency kiosk operator.

Sec. 161.011. MEASURES TO ENSURE COMPLIANCE WITH LAWS. (a) Requires a virtual currency kiosk operator to designate and employ a compliance officer who is qualified to coordinate and monitor compliance with the requirements of this chapter 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.

(b) Requires that any compliance responsibilities required under federal or state laws, rules, and regulations be completed by the full-time employees of the virtual currency kiosk operator.

Sec. 161.012. DAILY TRANSACTION LIMIT. 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.

Sec. 161.013. IDENTIFICATION REQUIRED. Requires a virtual currency kiosk operator, before completing a transaction, to 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.

Sec. 161.014. REGISTERED WALLET FOR RECIPIENTS REQUIRED. (a) Requires a virtual currency kiosk operator to 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.

(b) Requires a virtual currency kiosk operator to require a person registering a virtual currency wallet to provide the person's driver's license or personal identification card and a photograph of the person's face.

Sec. 161.015. TEMPORARY HOLD ON TRANSACTIONS BY CERTAIN CUSTOMERS. 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.

Sec. 161.016. PERMITTED FEES. Prohibits 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 this state, 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 from exceeding the greater of \$5 or 12 percent of the United States dollar equivalent of virtual currency involved in the transaction or transactions.

Sec. 161.017. CUSTOMER SERVICE. Requires a virtual currency kiosk operator that conducts business in this state to:

- (1) provide live customer service between the hours of 8 a.m. and 10 p.m. Monday through Friday; and
- (2) display on the virtual currency kiosk or screen of the kiosk the customer service toll-free telephone number; the name, address, and telephone number of the operator; and the days on, time on, and method by which a customer can contact the operator for assistance.

Sec. 161.018. REVOCATION OF REGISTRATION. Requires TDLR to revoke a registration of a virtual currency kiosk operator if the virtual currency kiosk operator violates this chapter or a rule adopted or order issued under this chapter.

Sec. 161.019. CEASE AND DESIST ORDERS. (a) Authorizes the banking commissioner of Texas (commissioner), if the commissioner has reason to believe that a person has engaged in or is likely to engage in an activity in violation of this chapter, to order the person to cease and desist from the violation. Provides that the commissioner's order is subject to Section 161.022 unless the order is issued as an emergency order. Authorizes the commissioner to issue an emergency cease and desist order under Section 161.023 if the commissioner finds that the person's violation or likely violation threatens immediate and irreparable harm to the public.

(b) Authorizes a cease and desist order under this section 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 resident of this state damaged by the violation.

Sec. 161.020. CONSENT ORDERS. (a) Authorizes the commissioner to enter into a consent order at any time with a person to resolve a matter arising under this chapter or a rule adopted or order issued under this chapter.

(b) Requires that a consent order be signed by the person to whom the order is issued or by the person's authorized representative and indicate agreement with the terms contained in the order. Authorizes a consent order, however, to provide that the order does not constitute an admission by a person that the person has violated this chapter or a rule adopted or order issued under this chapter.

(c) Provides that a consent order is a final order and is prohibited from being appealed.

Sec. 161.021. ADMINISTRATIVE PENALTY. (a) Authorizes the commissioner, after notice and hearing, to assess an administrative penalty against a person who has:

(1) violated this chapter or a rule adopted or order issued under this chapter and has failed to correct the violation not later than the 30th day after the date TDLR sends written notice of the violation to the person;

(2) engaged in a pattern of violations; or

(3) demonstrated wilful disregard for the requirements of this chapter, the rules adopted under this chapter, or an order issued under this chapter.

(b) Authorizes a violation corrected after a person receives written notice from TDLR of the violation to be considered for purposes of determining whether a person has engaged in a pattern of violations under Subsection (a)(2) or demonstrated wilful disregard under Subsection (a)(3).

(c) Prohibits the amount of the penalty from exceeding \$5,000 for each violation or, in the case of a continuing violation, \$5,000 for each day that the violation continues. Provides that each transaction in violation of this chapter and each day that a violation continues is a separate violation.

(d) Requires the commissioner, in determining the amount of the penalty, to 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 this chapter, provided that if the person is found to have demonstrated wilful disregard under Subsection (a)(3), the trier of fact is authorized to recommend that the commissioner impose the maximum administrative penalty permitted under Subsection (c).

(e) Provides that a hearing to assess an administrative penalty is considered a contested case hearing and is subject to Section 161.024.

(f) Provides that an order imposing an administrative penalty after notice and hearing becomes effective and is final for purposes of collection and appeal immediately on issuance.

(g) Authorizes the commissioner to collect an administrative penalty assessed under this section in the same manner that a money judgment is enforced in court.

Sec. 161.022. NOTICE, HEARING, AND OTHER PROCEDURES FOR NONEMERGENCY ORDERS. (a) Provides that this section applies to an order issued by the commissioner under this chapter that is not an emergency order.

(b) Provides that an order to which this section applies becomes effective only after notice and an opportunity for hearing. Requires that the order meet certain criteria.

(c) Provides that, 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.

(d) Requires that a hearing on the order 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.

(e) Provides that 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. Authorizes the order to be appealed to the district court of Travis County as provided by Section 161.024(b).

Sec. 161.023. REQUIREMENTS FOR NOTICE AND HEARING PROCEDURES FOR EMERGENCY ORDERS. (a) Provides that this section applies to an emergency order issued by the commissioner under this chapter.

(b) Authorizes the commissioner to issue an emergency order, without prior notice and an opportunity for hearing, if the commissioner finds that:

(1) 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

(2) 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.

(c) Authorizes the commissioner, in connection with and as directed by an 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.

(d) Requires that an emergency order meet certain criteria.

(e) Provides that an emergency order takes effect as soon as the person against whom the order is directed has actual or constructive knowledge of the issuance of the order.

(f) Requires a virtual currency kiosk operator or authorized delegate against whom an emergency order is directed to 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.

(g) Provides that, 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.

(h) Provides that a request for a hearing does not stay an emergency order.

(i) Provides that a hearing on an emergency order takes precedence over any other matter pending before the commissioner and is required to 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.

(j) Provides that an emergency order that has been affirmed or modified after a hearing is final for purposes of enforcement and appeal. Authorizes the order to be appealed to the district court of Travis County as provided in Section 161.024(b).

Sec. 161.024. ADMINISTRATIVE PROCEDURES. (a) Requires that all administrative proceedings under this chapter be conducted in accordance with Chapter 2001 (Administrative Procedure), Government Code, and 7 T.A.C. Chapter 9.

(b) Authorizes a person affected by a final order of the commissioner issued under this chapter after a hearing to appeal the order by filing a petition for judicial review in a district court of Travis County. Provides that a petition for judicial review filed in the district court under this subsection does not stay or vacate the appealed order unless the court, after notice and hearing, specifically stays or vacates the order.

Sec. 161.025. REFUND. (a) 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 virtual currency kiosk operator of the kiosk used to complete the transaction and an appropriate governmental or law enforcement agency.

(b) Requires a governmental or law enforcement agency that receives a complaint under Subsection (a) to 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.

(c) Requires the virtual currency kiosk operator, if the report provided under Subsection (b) 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.

Sec. 161.026. PHYSICAL WARNING SIGNS. Requires a virtual currency kiosk operator in this state 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.

Sec. 161.027. LAW ENFORCEMENT CONTACT. Requires that a virtual currency kiosk operator in this state, at a minimum, have a dedicated law enforcement contact and dedicated method of contact for the applicable governmental or law enforcement agencies to contact the operator. Requires that the contact method be displayed and made available on the virtual currency kiosk operator's Internet website and be updated as necessary.

Sec. 161.028. RULES. Requires the Finance Commission of Texas (commission) to adopt rules necessary to implement, administer, and enforce this chapter.

SECTION 2. Requires the commission, as soon as practicable after the effective date of this Act, to adopt rules necessary to implement the changes in law made by this Act.

SECTION 3. Effective date: September 1, 2025.