

2026 South Dakota Legislature

Senate Bill 98

AMENDMENT 98A FOR THE INTRODUCED BILL

1 **An Act to prevent virtual currency kiosk fraud.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

4 Terms used in this chapter mean:

5 (1) "Charges," fees charged to a user for a virtual currency transaction, plus the
6 difference between the market price of virtual currency at the time of the
7 transaction and the price charged to the user;

8 (2) "Distributed ledgers," a digital system maintained across multiple computers for
9 recording virtual currency transactions using blockchain technology, as defined in
10 § 53-12-1, or substantially similar technology;

11 (3) "Licensee," a person that:

12 (a) Is licensed pursuant to chapter 51A-17; and

13 (b) Operates a virtual currency kiosk in this state;

14 (4) "User," a person that uses a virtual currency kiosk for a virtual currency
15 transaction;

16 (5) "Virtual currency," a natively electronic asset that confers access, economic, or
17 proprietary powers or rights and is recorded using cryptographically secured
18 distributed ledgers, or substantially similar technology; and

19 (6) "Virtual currency kiosk," an:

20 (a) Application or product that directs a user to remit payment in person,
21 including through a clerk or other intermediary, for the purpose of
22 completing a virtual currency transaction; or

23 (b) Electronic terminal operated by or on behalf of a licensee engaged in virtual
24 currency business activities, or a person acting on behalf of a licensee
25 engaged in virtual currency business activities, whether or not the licensee
26 owns the kiosk or provides custodial services, provided the terminal

1 facilitates the exchange of virtual currency for bank credit, money, or other
2 virtual currency by:
3 (i) Connecting to a virtual currency exchange that performs a virtual
4 currency transaction; or
5 (ii) Drawing upon virtual currency or funds maintained by the licensee;
6 and
7 (7) "Virtual currency transaction," a form of money transmission in which a person, in
8 whole or in part, through a virtual currency kiosk or by other electronic means,
9 exchanges, purchases, sells, or transfers virtual currency.

10 **Section 2. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

11 Any operator of a virtual currency kiosk in this state must be licensed pursuant to
12 chapter 51A-17. The provisions of this Act are in addition to those in chapter 51A-17.

13 **Section 3. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

14 In addition to the requirements of § 51A-17-70, the renewal report of a licensee
15 must contain:
16 (1) The number, dollar amount of, and gross revenue attributable to, virtual currency
17 transactions conducted via each of the licensee's virtual currency kiosks located in
18 this state;
19 (2) A copy of any complaint filed by a user against the licensee with the Better Business
20 Bureau or any state or federal agency, together with a description of the outcome,
21 if any;
22 (3) The number and dollar amount of refunds requested by users, together with the
23 number of requests granted, the number of requests denied, and the dollar amount
24 of refunds issued by the licensee;
25 (4) The contact details of the licensee's compliance officer;
26 (5) The number of physical locations in which the licensee operates a kiosk; and
27 (6) The number and dollar amount of suspicious activity reports filed by the licensee
28 pursuant to the Bank Secrecy Act.

29 **Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

30 In addition to the requirements of § 51-17-84, the report of condition submitted
31 by a licensee must contain:

- (1) The licensee's legal name and any fictitious or trade name;
- (2) The licensee's physical address and the location of each virtual currency kiosk being operated in this state, at the time of the report, by the licensee;
- (3) The date operation began for each kiosk being operated in this state, at the time of the report, by the licensee;
- (4) The date operation ceased for any kiosk operated in this state, during the reported quarter, by the licensee;
- (5) For each kiosk operated by the licensee in this state, any alphanumeric identifier used by the licensee, which:
 - (a) Is associated with a software application or other mechanism that provides the means to access or transfer virtual currency; and
 - (b) Identifies the location to which virtual currency is sent; and
- (6) The number of virtual currency transactions declined due to a suspicion of fraudulent activity.

Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 51A:

For each virtual currency transaction at a licensee's virtual currency kiosk, the licensee shall provide a user with a receipt that:

- (1) Complies with the requirements of § 51A-17-96;
- (2) Is available to the user both electronically and in paper form; and
- (3) Contains:
 - (a) A description of the type, value, and precise time of the transaction;
 - (b) A list of each applicable virtual currency address, together with any unique identifiers used to permanently reference transactions on distributed ledgers;
 - (c) The exchange rate, to United States dollars; ~~and~~
 - (d) A statement of the refund policy pursuant to section 7 of this Act; ~~and~~
 - (e) A full listing of all fees and charges applied to the transaction.

Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 51A:

For each virtual currency transaction at a licensee's virtual currency kiosk, the licensee shall provide a user a disclosure that:

- (1) Is written in a clear, conspicuous, and easily readable manner;
- (2) Is in the chosen language of the user;
- (3) Describes the material risks associated with the transaction, including that:

- (a) Virtual currency is not issued or backed by the United States government and is not legal tender;
- (b) Virtual currency is not subject to protections by the Federal Deposit Insurance Corporation, National Credit Union Administration, or Securities Investor Protection Corporation; and
- (c) The value of the virtual currency relative to the United States dollar may fluctuate significantly;

(4) States the name, address, and telephone number of the licensee and the days and times a user may contact the licensee for assistance; ~~and~~

(5) Contains a prominent warning in bold type, provided separately from the other disclosure provisions, which states that:

- (a) This technology may be used to defraud a user;
- (b) If the user is asked to deposit money at the kiosk by someone who claims to be a friend or family member in a telephone call or electronic message, a government agent, a computer software representative, a bill collector, a law enforcement officer, or anyone not known personally by the user, the transaction should be stopped immediately and local law enforcement and the kiosk operator should be notified; and
- (c) The user should not send money to anyone not known personally by the user; ~~and~~

(6) Provides a full listing of all fees and charges applied to the transaction.

The licensee shall cause contact information for any relevant state and local law enforcement and government agencies for reporting fraud to be displayed on the kiosk, at the location of the kiosk, or on the kiosk's first screen that is visible to the user.

Any time a user engages with a kiosk, the user must acknowledge receipt of all disclosures required pursuant to this section and must confirm the user's consent to use the kiosk, and the kiosk must transmit notice of the user's acknowledgment and confirmation to the licensee. Acknowledgment of the disclosures required by this section does not affect or prevent a fraud victim's eligibility for a refund pursuant to section 7 of this Act.

Section 7. That a NEW SECTION be added to a NEW CHAPTER in title 51A:

A licensee shall issue a full refund to any user that:

(1) Is the victim of a fraudulent virtual currency transaction involving a virtual currency kiosk operated by the licensee;

1 (2) Within ninety days after the last occurrence of fraud or of becoming aware of the
2 fraud, informs the licensee of all fraudulent transactions at issue; and
3 (3) Within one hundred twenty days after contacting the licensee, submits to the
4 licensee a copy of any police report or government agency report or a sworn
5 statement detailing all known fraudulent activity.

6 Within seventy-two hours of the user's satisfaction of all conditions in this section,
7 the licensee must issue a full refund to the user, including all charges paid by the user in
8 connection with the fraudulent transaction.

9 **Section 8. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

10 A licensee shall establish:

11 (1) A daily transaction limit not exceeding one thousand dollars, or the equivalent in
12 virtual currency, for any user; and
13 (2) A thirty-day virtual currency transaction limit not exceeding ten thousand dollars,
14 or the equivalent in virtual currency, for any user.

15 The transaction limits and protections provided for in this chapter apply to all
16 products and services offered through the licensee's virtual currency kiosk. Any alternative
17 product or service of the licensee, including affiliated kiosks, online portals for purchases,
18 and over-the-counter transactions, may not be used to circumvent or exceed the
19 prescribed limits.

20 **Section 9. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

21 A licensee may not collect charges from a user related to a single virtual currency transaction,
22 whether directly or indirectly, exceeding three percent of the amount of the transaction.

23 **Section 9. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

24 At a minimum, a licensee shall provide live customer service during the hours
25 between 8:00 a.m. to 10:00 p.m. local time. A toll-free telephone number must be
26 displayed on the virtual currency kiosk or the kiosk's screen.

27 **Section 10. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

28 A licensee shall provide a dedicated telephone line or email address for facilitating
29 law enforcement and regulatory agency communications in the event of a report of fraud

1 from a user. The licensee must ensure the telephone line or email address is monitored
2 frequently.

3 Upon request from a law enforcement or regulatory agency, the licensee must
4 provide relevant findings and grant the requestor assistance in any investigation related
5 to potential fraud.

6 **Section 11. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

7 A licensee shall take reasonable steps to detect and prevent fraud and money
8 laundering, including establishing and maintaining a written anti-fraud policy and
9 complying with the requirements of the Bank Secrecy Act, 31 U.S.C. §§ 5311 to 5336,
10 inclusive (January 1, 2026).

11 The policy must include:

- 12 (1) Mechanisms to identify and assess risks associated with fraud and money
13 laundering;
- 14 (2) Controls and procedures to protect against identified risks;
- 15 (3) An allocation of responsibility for monitoring risks; and
- 16 (4) Procedures for the periodic evaluation and revision of the policy's procedures,
17 controls, monitoring, and other mechanisms.

18 **Section 12. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

19 A licensee shall employ software that analyzes data from publicly accessible
20 distributed ledgers and traces addresses capable of sending or receiving virtual currency
21 to identify risk indicators, including any address used to access or transfer virtual currency
22 for fraudulent or other illicit purposes.

23 The software must prevent the initiation of any transaction if, at the time of the
24 transaction, the destination address is reasonably likely or known to be connected to
25 fraudulent activity.

26 The licensee shall block transfers to addresses associated with overseas platforms
27 that do not permit access by users in the United States.

28 **Section 13. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

29 For each virtual currency transaction at a licensee's virtual currency kiosk, the
30 licensee shall verify the identity of a user prior to accepting payment from the user. The
31 licensee shall:

1 (1) Obtain a copy of a government-issued identification card that identifies the user;
2 and

3 (2) Collect additional user information, including the user's full legal name, date of
4 birth, telephone number, mailing and physical addresses, and email address, prior
5 to accepting a payment from a user.

6 The licensee may not allow a user to engage in a transaction at the kiosk using any
7 name, account, or identity that does not belong to the user.

8 The licensee is strictly liable for any violation of this section.

9 **Section 14. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

10 On an annual basis, a licensee shall provide external virtual currency kiosk staff
11 with training materials that describe ways users may be exploited in virtual currency
12 transactions involving kiosks, including indicators that a user may be the victim of fraud.

13 The licensee may not prohibit or prevent staff at the location of the kiosk from
14 educating users about fraud.