

2026 South Dakota Legislature

Senate Bill 98**AMENDMENT 98E
FOR THE SENATE COMMERCE AND ENERGY ENGROSSED
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) "Existing customer," a user that has been registered as a customer of a licensee
12 for more than seventy-two hours;

13 (4) "Licensee," a person that:

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

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

16 ~~(4)~~(5) "New customer," a user that has been registered as a customer of a licensee for
17 seventy-two hours or less;

18 (6) "User," a person that uses a virtual currency kiosk for a virtual currency
19 transaction;

20 ~~(5)~~(7) "Virtual currency," a natively electronic asset that confers access, economic, or
21 proprietary powers or rights and is recorded using cryptographically secured
22 distributed ledgers, or substantially similar technology; and

23 ~~(6)~~(8) "Virtual currency kiosk," an:

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

(b) Electronic terminal operated by or on behalf of a licensee engaged in virtual currency business activities, or a person acting on behalf of a licensee engaged in virtual currency business activities, whether or not the licensee owns the kiosk or provides custodial services, provided the terminal facilitates the exchange of virtual currency for bank credit, money, or other virtual currency by:

(i) Connecting to a virtual currency exchange that performs a virtual currency transaction; or

(ii) Drawing upon virtual currency or funds maintained by the licensee;
and

~~(7)(9)~~ "Virtual currency transaction," a form of money transmission in which a person, in whole or in part, through a virtual currency kiosk or by other electronic means, exchanges, purchases, sells, or transfers virtual currency.

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

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

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

In addition to the requirements of § 51A-17-70, the renewal report of a licensee must contain:

(1) The number, dollar amount of, and gross revenue attributable to, virtual currency transactions conducted via each of the licensee's virtual currency kiosks located in this state;

(2) A copy of any complaint filed by a user against the licensee with the Better Business Bureau or any state or federal agency, together with a description of the outcome, if any;

(3) The number and dollar amount of refunds requested by users, together with the number of requests granted, the number of requests denied, and the dollar amount of refunds issued by the licensee;

(4) The contact details of the licensee's compliance officer;

(5) The number of physical locations in which the licensee operates a kiosk; and

(6) The number and dollar amount of suspicious activity reports filed by the licensee pursuant to the Bank Secrecy Act.

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

In addition to the requirements of § 51-17-84, the report of condition submitted 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;
 - (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:

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

3 (1) Is written in a clear, conspicuous, and easily readable manner;

4 (2) Is in the chosen language of the user;

5 (3) Describes the material risks associated with the transaction, including that:

6 (a) Virtual currency is not issued or backed by the United States government
7 and is not legal tender;

8 (b) Virtual currency is not subject to protections by the Federal Deposit
9 Insurance Corporation, National Credit Union Administration, or Securities
10 Investor Protection Corporation; and

11 (c) The value of the virtual currency relative to the United States dollar may
12 fluctuate significantly;

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

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

17 (a) This technology may be used to defraud a user;

18 (b) If the user is asked to deposit money at the kiosk by someone who claims
19 to be a friend or family member in a telephone call or electronic message,
20 a government agent, a computer software representative, a bill collector, a
21 law enforcement officer, or anyone not known personally by the user, the
22 transaction should be stopped immediately and local law enforcement and
23 the kiosk operator should be notified; and

24 (c) The user should not send money to anyone not known personally by the
25 user; and

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

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

30 Any time a user engages with a kiosk, the user must acknowledge receipt of all
31 disclosures required pursuant to this section and must confirm the user's consent to use
32 the kiosk, and the kiosk must transmit notice of the user's acknowledgment and
33 confirmation to the licensee. Acknowledgment of the disclosures required by this section
34 does not affect or prevent a fraud victim's eligibility for a refund pursuant to section 7 of
35 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;

(2) Within ninety days after the last occurrence of fraud or of becoming aware of the fraud, informs the licensee of all fraudulent transactions at issue; and

(3) Within one hundred twenty days after contacting the licensee, submits to the licensee a copy of any police report or government agency report or a sworn statement detailing all known fraudulent activity.

Within seventy-two hours of the user's satisfaction of all conditions in this section, the licensee must issue a full refund to the user, including all charges paid by the user in connection with the fraudulent transaction. A licensee shall place a seventy-two hour hold on any virtual currency transaction initiated by a new customer.

At any time during the seventy-two-hour hold period, if requested by the new customer or pursuant to procedures established by the licensee, the licensee must cancel the transaction.

Upon cancellation of the transaction pursuant to this section, the licensee shall promptly return any moneys expended by the new customer in the transaction, less any irreversible third-person network fee.

During the seventy-two-hour hold period pursuant to this section, the licensee may not:

(1) Provide provisional credit, vouchers, or off-chain ledger postings, which make moneys or virtual currency available to the new customer or any third person; or

(2) Represent or certify to any person that any money or virtual currency is available or transferrable before settlement of the transaction.

Nothing in this section may be construed to require the licensee to hold or refund any transaction of an existing customer, or to prohibit the licensee from verifying a new customer's identity or providing proof of initiation of a transaction prior to cancellation of the transaction.

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

A licensee shall establish:

(1) A daily transaction limit not exceeding ~~one~~ two thousand five hundred dollars, or the equivalent in virtual currency, for ~~any user~~ each new customer, adjusted

1 annually by the rate of inflation for the twelve-month period ending in June of the
2 prior year, according to the consumer price index or a successor index; and
3 (2) A ~~thirty-day virtual currency~~ daily transaction limit ~~not exceeding ten thousand~~
4 ~~dollars of ten thousand five hundred dollars~~, or the equivalent in virtual currency,
5 for ~~any user~~ each existing customer.

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

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

12 A licensee may not collect charges from a user related to a single virtual currency
13 transaction, whether directly or indirectly, exceeding twenty-five percent of the amount
14 of the transaction.

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

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

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

20 A licensee shall provide a dedicated telephone line or email address for facilitating
21 law enforcement and regulatory agency communications in the event of a report of fraud
22 from a user. The licensee must ensure the telephone line or email address is monitored
23 frequently.

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

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

28 A licensee shall take reasonable steps to detect and prevent fraud and money
29 laundering, including establishing and maintaining a written anti-fraud policy and

complying with the requirements of the Bank Secrecy Act, 31 U.S.C. §§ 5311 to 5336, inclusive (January 1, 2026).

The policy must include:

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

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

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

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

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

Section 14. 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 verify the identity of a user prior to accepting payment from the user. The licensee shall:

- (1) Obtain a copy of a government-issued identification card that identifies the user; and
- (2) Collect additional user information, including the user's full legal name, date of birth, telephone number, mailing and physical addresses, and email address, prior to accepting a payment from a user.

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

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

Section 15. That a NEW SECTION be added to a NEW CHAPTER in title 51A:

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

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

AMENDED