

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 662

INTRODUCER: Senator Burton

SUBJECT: Virtual Currency Kiosk Businesses

DATE: January 19, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson	BI	Pre-meeting
2.			AEG	
3.			FP	

I. Summary:

Senate Bill 662 establishes a regulatory framework for virtual currency kiosk businesses, and provides protections for users of the kiosks by requiring such businesses to register with the Office of Financial Regulation (OFR), requiring certain disclosures, restricting the name under which such business may transact, and providing penalties for specified violations of the part. The Legislative intent of the bill is, in summary, to reduce unlawful and fraudulent activities. The bill provides the OFR is responsible for supervising virtual currency kiosk businesses, and authorizes the Financial Services Commission (the “Commission”) to adopt rules to regulate them.

Registration requirement

The bill prohibits a virtual currency kiosk business from operating in Florida without first registering, or renewing its registration, and being issued a certificate of registration by the OFR. A money transmitter licensed as a money services business (MSB) is exempt from registering as a virtual currency kiosk business. An entity that acts as an intermediary in specified circumstances and or otherwise meets the definition of a money transmitter must be licensed. An applicant to register a virtual currency kiosk business must submit specified information relating to the proposed applicant and business, a nonrefundable fee, and within a specified time, any supplemental information required by the OFR.

Disclosures, Attestations, and Confirmations

The bill requires that virtual currency kiosks:

- Display a disclosure warning consumers about potential dishonest schemes and requiring the customer to acknowledge that they have read the disclosure.
- Display a disclosure that funds lost due to user error or fraud may not be recoverable.

- Confirm whether the customer is using the kiosk to send virtual currency to a wallet owned by someone else and, if so, terminate the transaction unless the owner-operator is a licensed money transmitter.
- Confirm whether the user is younger than 60 years old and, if so:
 - Display a disclosure of a toll-free telephone number such user may call to learn about the risks of the transaction; and
 - Require an attestation to specified information or the transaction must be terminated.

The bill authorizes the Commission to adopt rules to administer the section on disclosures, including to ensure the disclosures are responsive to consumer fraud and emerging technology.

Conduct of Business

A virtual currency kiosk business may transact business only under the legal name by which it is registered, except a fictitious name may be used in specified circumstances.

Penalties

The bill provides penalties for violating the disclosure requirements, operating under any name other than that designated in the registration (unless written notification is given to the OFR), and assigning or attempting to assign a registration.

The bill is effective January 1, 2025.

II. Present Situation:

A virtual currency kiosk, also known as a cryptocurrency kiosk or a Bitcoin ATM, is a physical machine that enables customers to exchange virtual currencies for fiat currency or other virtual currencies.¹ As of 2022, there were over 30,000 virtual currency kiosks in the United States.² Consumers are typically charged fees between 9% and 12% of the value of the transaction but such fees may range from 4% to greater than 20% of the value of a transaction.³

A virtual currency kiosk may be unidirectional, only allowing the sale of virtual currency, or bidirectional, allowing for both the sale and purchase of virtual currency.⁴ To purchase virtual currency from a kiosk, a consumer may store the purchased virtual currency in their own wallet or send the currency to a third party's wallet if the purchaser has a QR code to that person's wallet.⁵ To sell virtual currency from a kiosk, a user deposits virtual currency into the machine's

¹ National Association of Attorneys General, *Your Bitcoin on Every Block: An Introduction to Cryptocurrency Kiosks*, May 4, 2022, available at: [Your Bitcoin on Every Block: An Introduction to Cryptocurrency Kiosks \(naag.org\)](https://naag.org/your-bitcoin-on-every-block-an-introduction-to-cryptocurrency-kiosks) (last visited Jan. 16, 2024) (hereinafter cited as "Attorneys General Article on Cryptocurrency Kiosks").

² McDonnell, S., *United States: US GAO Urges New Virtual Currency Regulations to Counter Human Trafficking and Drug Cartels*, Jan. 2022, available at: [US GAO Urges New Virtual Currency Regulations To Counter Human Trafficking And Drug Cartels - Fin Tech - United States \(mondaq.com\)](https://www.mondaq.com/united-states/1188888) (last visited Jan. 17, 2024) (hereinafter cited as "Article on US GAO Urges New Virtual Currency Regulations").

³ Attorneys General Article on Cryptocurrency Kiosks

⁴ *Id.*

⁵ *Id.*

wallet, which is usually done by use of a QR code displayed on the kiosk's screen, and the kiosk dispenses cash when the transaction is completed.⁶

Federal Regulation

Financial Crimes Enforcement Network (“FinCEN”), a bureau of the United States Department of Treasury.⁷ is responsible for safeguarding the financial system from illegal use, combatting money laundering and related crimes, and promoting national security.⁸ Unless an exception applies, a money services business⁹ (MSB) must register with FinCEN.¹⁰ A MSB must registration period is a two-calendar-year period.¹¹ Any person who fails to comply with the registration requirements is liable for a civil penalty of \$5,000 for each violation.¹² A MSB must develop, implement, and maintain an anti-money laundering program, which includes, amongst other things, verifying customer identification.¹³ A MSB must also comply with anti-money laundering reporting requirements, such as reporting certain payment transactions by, though, or to the MSB which involves a transaction more than \$10,000.¹⁴

FinCEN has issued guidance that, unless an exception applies, an administrator¹⁵ or exchanger¹⁶ that: (a) accepts or transmits, or (b) buys or sells, virtual currency¹⁷ is a money transmitter that are subject to money services business registration, reporting, and recordkeeping requirements.¹⁸ Therefore, FinCEN treats virtual currency kiosk operators as MSBs, subject to registration regulations.¹⁹ Notwithstanding this requirement, the United States Government Accountability

⁶ *Id.*

⁷ 31 C.F.R. s. 1010.100(s).

⁸ The U.S. Treasury Financial Crimes Enforcement Network, *Financial Crimes Enforcement Network: Mission*, available at: [Mission | FinCEN.gov](https://www.fincen.gov/mission) (last visited Jan. 15, 2024).

⁹ “Money services business” is defined as a person wherever located doing business, whether or not on a regular basis or as an organized or licensed business concern, wholly or in substantial part within the United States, in one or more of the capacities specified under federal law. 31 C.F.R. s. 1010.100(ff).

¹⁰ 31 C.F.R. s. 1022.380(a).

¹¹ 31 C.F.R. s. 1022.380(b).

¹² 31 C.F.R. s. 1022.380(e) (providing that each day a violation continues constitutes a separate violation).

¹³ 31 C.F.R. s. 1022.210.

¹⁴ 31 C.F.R. s. 1010.311.

¹⁵ “Administrator” is defined as a person engaged as a business in issuing (putting into circulation) a virtual currency, and who has the authority to redeem (to withdraw from circulation) such virtual currency. The U. S. Treasury FinCEN, *Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies*, Mar. 18, 2013, available at: [Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies | FinCEN.gov](https://www.fincen.gov/application-of-fincen-s-regulations-to-persons-administering-exchanging-or-using-virtual-currencies) (last visited Jan. 16, 2024) (hereinafter cited as “FinCEN Guidance on Persons Administering, Exchanging, or Using Virtual Currency”).

¹⁶ “Exchanger” is defined as a person engaged as a business in the exchange of virtual currency for real currency, funds, or other virtual currency. *Id.*

¹⁷ “Virtual Currency” is defined as a medium of exchange that operates like a currency in some environments, but does not have all of attributes of real currency. “Convertible” virtual currency has an equivalent value in real currency, or acts as a substitute for real currency. *Id.*

¹⁸ FinCEN Guidance on Persons Administering, Exchanging, or Using Virtual Currency. “Money transmitter” is defined as a person who provides money transmitter services, which means the acceptance of currency, funds, or other value that substitutes for currency from one person and the transmission of currency, funds, or other value that substitutes for currency to another location or person by any means. “Any means” includes, but is not limited to, a financial agency or institution, a Federal Reserve Bank, an electronic funds transfer network, or an informal value transfer system. 31 C.F.R. s. 1010.100(ff)(5)(A).

¹⁹ *Id.*; See also Article on US GAO Urges New Virtual Currency Regulations.

Office (“GAO”) reports that only 164 of the estimated 297 kiosk operators in the United States were registered, which has contributed to federal agencies, such as FinCEN, facing challenges in identifying virtual currency kiosk locations.²⁰

Florida Regulation of Consumer Finance

The Florida OFR is responsible for all activities of the Financial Services Commission relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry.²¹

Money Services Businesses

As part the OFR’s responsibilities, the OFR oversees MSBs. As of December 31, 2023, there were a total of 723 MSBs licensed by the OFR.²² A MSB includes any person located or doing business in Florida who acts as, amongst other things, a money transmitter.²³ “Money transmitter” means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in Florida which receives currency, monetary value, a payment instrument, or virtual currency²⁴ for the purpose of acting as an intermediary to transmit currency, monetary value, a payment instrument, or virtual currency from one person to another location or person by means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country. The term includes only an intermediary that has the ability to unilaterally execute or indefinitely prevent a transaction.²⁵ Money transmitters reported \$423,270,012,517 in transmissions during the fiscal year 2022-2023.²⁶

Licenses issued to MSBs are valid until April 30 of the second year following the date of issuance and are valid for 2 years.²⁷ A MSB that does not renew its license by April 30 of their expiration year are deemed inactive and, if the license is not reactivated within 60 days, the license will permanently expire.²⁸ An MSB need only pay the renewal or reactivation fee online via the Regulatory Enforcement and Licensing (REAL) System to renew or reactivate a license.²⁹

²⁰ The GAO, *Virtual Currencies Additional Information Could Improve Federal Agency Efforts to Counter Human and Drug Trafficking*, Dec. 2021, available at: [GAO-22-105462, Accessible Version, VIRTUAL CURRENCIES: Additional Information Could Improve Federal Agency Efforts to Counter Human and Drug Trafficking](#) (last visited Jan. 17, 2024).

²¹ Section 20.121(3)(a)2., F.S.

²² The OFR, *2024 Agency Legislative Bill Analysis Florida Office of Financial Regulation SB 662*, p. 2, Jan. 8, 2024 (on file with the Senate Committee on Banking and Insurance) (hereinafter cited as “2024 OFR Agency Analysis for SB 662”).

²³ Section 560.103(23), F.S.

²⁴ Section 560.103(36), F.S., defines “virtual currency” as a medium of exchange in electronic or digital format that is not currency. The term does not include a medium of exchange in electronic or digital format that is: (a) issued by or on behalf of a publisher or offered on the same game platform; or (b) used exclusively as part of a consumer affinity or rewards program and can be applied solely as payment for purchases with the issuer or other designated merchants but cannot be converted into or redeemed for currency or another medium of exchange.

²⁵ Section 560.103(24), F.S.

²⁶ 2024 OFR Agency Analysis for SB 662 at p. 3.

²⁷ Section 560.141(2), F.S.

²⁸ Section 560.142(4), F.S.

²⁹ 2024 OFR Agency Analysis for SB 662 at p. 3.

Once licensed, an MSB is required to report any change in control persons.^{30,31} If any person, directly or indirectly or acting by or through one or more persons, proposes to purchase or acquire a controlling interest in an MSB, such person or group must submit a new application for licensure at least 30 days before such purchase or acquisition.³² Such a change of control application is not required where the person or group of persons has previously complied with applicable licensing provisions, provided that they are currently affiliated with the MSB, or where the person or group of persons is currently licensed with the OFR as an MSB.³³ A change of control application must be accompanied by the payment of an initial licensing fee³⁴ and a fee per branch or authorized vendor,³⁵ up to a maximum of \$20,000.³⁶

The OFR has enforcement authority against MSBs for violating any state law relating to the detection and prevention of money laundering.³⁷

Virtual Currency Kiosk Businesses

OFR reports that there are currently 26 operators and a total of 2,785 kiosks in Florida.³⁸ Under current Florida law, an operator of a virtual currency kiosk that falls within the definition of a money transmitter is required to be licensed as a MSB. Florida does not have a separate regulatory regime for virtual currency businesses or virtual currency kiosk businesses.³⁹

³⁰ Section 560.103(10), F.S., defines “Control person,” with respect to a money services business, as any of the following: (a) A person who holds the title of president, treasurer, chief executive officer, chief financial officer, chief operations officer, chief legal officer, or compliance officer for a money services business; (b) A person who holds any of the officer, general partner, manager, or managing member positions named in the money services business’s governing documents. As used in this paragraph, the term “governing documents” includes bylaws, articles of incorporation or organization, partnership agreements, shareholder agreements, and management or operating agreements; (c) A director of the money services business’s board of directors; (d) A shareholder in whose name shares are registered in the records of a corporation for profit, whether incorporated under the laws of this state or organized under the laws of any other jurisdiction and existing in that legal form, who owns 25 percent or more of a class of the company’s equity securities; (e) A general partner or a limited partner, as those terms are defined in s. 620.1102, F.S., who has a 25 percent or more transferable interest, as defined in s. 620.1102, F.S., of a limited partnership, limited liability limited partnership, foreign limited partnership, or foreign limited liability limited partnership, as those terms are defined in s. 620.1102, F.S. (f) A member, who is a person that owns a membership interest in a limited liability company or a foreign limited liability company, as those terms are defined in s. 605.0102(36) and (26), F.S., respectively, that holds a 25 percent or more membership interest in such company. As used in this subsection, the term “membership interest” means a member’s right to receive distributions or other rights, such as voting rights or management rights, under the articles of organization; (g) A natural person who indirectly owns 25 percent or more of the shares or stock interest, transferable interest as defined in s. 620.1102, F.S., or membership interest as defined in paragraph (f), of any legal entities referred to in paragraphs (d)-(f).

³¹ Section 560.126(3), F.S.

³² Section 560.126(3)(a), F.S.; r. 69v-560.201(4), F.A.C.

³³ Section 560.126(3)(c), F.S.; r. 69v-560.201(6), F.A.C.

³⁴ Fees are determined by whether the MSB is licensed under Part II or Part III of Chapter 560. Initial licensing fees under Part II licenses require a \$375 license application fee per s. 560.143(1)(a), F.S. Part III licenses require a \$188 license application fee per s. 560.143(b), F.S.

³⁵ Section 560.143(1)(c) and (d), F.S., provides that both the per branch fee and the authorized vendor fee are \$38.

³⁶ Section 560.143(1)(g), F.S.

³⁷ Section 560.123, F.S.

³⁸ The OFR, *OFR – The Sunrise Act Responses to 11.62(4)(5), F.S. for SB 662/HB 977* (on file with the Senate Committee on Banking and Insurance) (hereinafter cited as “The OFR Sunrise Act Responses”).

³⁹ California and Connecticut are the only two states that have adopted legislation to expressly regulate virtual currency kiosks. See Cal. Fin. Code s. 3901; Conn. Gen. Stat. 36a-595 to 36a-612; Conn. P.A. 23-82 (Reg. Sess.), An Act Concerning Digital Assets.

The OFR reports that the Federal Bureau of Investigation (FBI) and the Federal Trade Commission (FTC) have received complaints from Florida of alleged victim losses totaling between \$16 and \$21 million from January 2020 to present.⁴⁰ Since April 2023, the OFR has opened approximately 40 investigations relating to virtual currency kiosk losses.⁴¹

III. Effect of Proposed Changes:

Section 1 of the bill creates definitions the following definitions:

- “Blockchain analytics” refers to the process of examining, monitoring, and gathering insights from the data and transaction patterns on a blockchain network. The primary aim of blockchain analytics is to understand and monitor the network’s health, track money flows, and identify potential security threats, including illicit activity, to extract actionable insights.
- “Virtual currency kiosk” means an electronic terminal that acts as a mechanical agent of the owner-operator, enabling the owner-operator to facilitate the exchange of virtual currency for fiat currency or other virtual currency for a customer.
- “Virtual currency kiosk business” or “registrant” means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which operates a virtual currency kiosk and which is not a money transmitter as defined in this section.
- “Virtual currency kiosk transaction” means the process in which a customer uses a virtual currency kiosk to exchange virtual currency for fiat currency or other virtual currency. A transaction begins at the point at which the customer is able to initiate a transaction, after the customer is given the option to select the type of transaction or account, and does not include any of the screens that display the required terms and conditions, disclaimers, or attestations.
- “Wallet” means hardware or software that enables customers to store and use virtual currency.

Section 2 of the bill amends the OFR’s supervisory powers to authorize the agency to supervise virtual currency kiosk businesses, have access to their books and records, and enforce ch. 560, F.S. The bill also authorizes the commission to adopt rules to regulate virtual currency kiosk businesses.

Section 3 of the bill creates Part V of ch. 560, F.S., entitled “Virtual Currency Kiosk Businesses” consisting of ss. 560.501 – 560.506, F.S.

Section 4 of the bill provides a legislative intent for creating the virtual currency kiosk businesses regulation, specifically:

The Legislature intends to reduce unlawful and fraudulent activities by requiring virtual currency kiosk businesses to register with the state and by requiring such businesses and money transmitter licensees to regularly and consistently disclose

⁴⁰ Email from Jason Holloway, Director of Fintech Policy, OFR, to Jacqueline Moody, Florida Senate Committee on Banking and Insurance, Senior Attorney, *Fwd: Kiosk Data*, (Jan. 17, 2024) (on file with Senate Committee on Banking and Insurance) (noting that, from January 2020 to the present, the FBI and the FTC reports for losses from Bitcoin and Crypto ATMs total approximately \$16 and \$5.8 million, respectively; if an alleged victim reported losses to both the FBI and the FTC then the data could be duplicative so the range of loss reported from both agencies is between \$16 and \$21 million).

⁴¹ *Id.*

to all customers of virtual currency kiosks certain specified risks relating to virtual currency kiosk transactions.

Section 5 of the bill prohibits a virtual currency kiosk business from operating in Florida without first registering, or renewing its registration, and being issued a certificate of registration by the OFR. The bill exempts a money transmitter licensed as a MSB from registering as a virtual currency kiosk business but makes such money transmitter subject to the disclosure (section 7), conduct (section 8), and enhanced due diligence (section 9) requirements of the bill. If an entity, in the course of its business, acts as an intermediary with the ability to unilaterally execute or indefinitely prevent a virtual currency kiosk transaction, or otherwise meets the definition of a money transmitter, the entity must be licensed as a MSB.

Unless licensed as a money services business, a money transmitter that operates or solicits business as a virtual currency kiosk business without first being issued a certificate of registration by the OFR or without maintaining a certificate of registration commits a felony of the third degree.⁴² A person who registers or attempts to register as a virtual currency kiosk business by means of fraud, misrepresentation, or concealment commits a felony of the third degree.

A virtual currency kiosk business registration issued under this part is not transferable or assignable.

Section 6 of the bill provides for virtual currency kiosk businesses' registration application requirements. An applicant must submit to the OFR all of the following:

- A completed registration application on forms prescribed by rule of the commission which must include:
 - The legal name, including any fictitious or trade names used by the applicant in the conduct of its business, and the physical and mailing address of the applicant.
 - The date of the applicant's formation and the state in which the applicant was formed, if applicable.
 - The name, social security number, alien identification or taxpayer identification number, business and residence address, and employment history for the past 5 years for each person who meets the definition of a control person.
 - A description of the organizational structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded.
 - The name of the registered agent in this state for service of process.
 - The physical address of the location of each virtual currency kiosk through which the applicant proposes to conduct or is conducting business in this state.
 - Any other information as required ch. 560, F.S., or commission rule.
- A nonrefundable fee in the amount of \$188.
- Any information needed to resolve any deficiencies found in the application, which must be submitted within 30 days after the date of the application or the date of any request by the OFR, whichever is later.

⁴² A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Sections 775.082, 775.083, and 775.084, F.S.

A registrant shall report, on a form prescribed by rule of the commission, any change in the information contained in an initial application form, or an amendment thereto, within 30 days after the change is effective. A registrant must renew its registration annually on or before December 31 each year. A registrant may not receive a prorated fee for registration. To renew such registration, the registrant must provide all of the following:

- The information required by a virtual currency kiosk business for an initial registration application, if there are changes in the application information, or an affidavit signed by the registrant that the information remains the same as the prior year.
- Upon request, evidence that the registrant has been operating in compliance with the disclosure (section 7) and conduct (section 8) requirements of the bill. Such evidence may be prescribed by rule by the commission and may include, but is not limited to:
 - Current disclosures presented to customers during the transaction process.
 - Current use of blockchain analytics to prevent transfers to wallet addresses linked to known criminal activity.

A virtual currency kiosk business's renewal application that fails to provide any requested evidence of compliance must be denied by the OFR.

The registration of a virtual currency kiosk business that does not renew its registration by December 31 each year must be made inactive for 60 days. A virtual currency kiosk business may not conduct business while its registration is inactive. Within 60 days after the registration becoming inactive, a virtual currency kiosk business must renew its registration by submitting all of the information required in the paragraph above, and the registration will become effective upon the date of any certificate of registration that is issued by the OFR. Failure to submit an application to renew the virtual currency kiosk business's registration within 60 days after the registration becoming inactive will result in the registration becoming null and void. If the registration is null and void, a new application to register the virtual currency kiosk business must be submitted to the OFR and a certification of registration must be issued by the OFR before the virtual currency kiosk business may resume conducting business in Florida.

If a control person of a prospective registrant has engaged in any unlawful business practices, or been convicted or found guilty of a crime involving dishonest dealing, fraud, acts of moral turpitude, or other acts that reflect an inability to engage lawfully in the business of a registered virtual currency kiosk business, the OFR may not accept the prospective registrant's initial or renewal registration application. Any false statement made by a virtual currency kiosk business with respect to the name of the business or its business address or location in any application for registration renders the registration void. A void registration may not be construed as creating a defense to any prosecution for violation of this chapter.

The commission may adopt rules to administer the provisions of section 6 of the bill.

Section 7 of the bill sets out disclosure requirements with which virtual currency kiosk businesses must comply, including all of the following:

- Be full and complete.
- Contain no material misrepresentations.
- Be readily understandable and in the language in which the virtual currency kiosk transaction is conducted.

- Be displayed in at least 14-point type.

Before authorizing a customer to initiate a virtual currency kiosk transaction, the owner-operator must ensure that the virtual currency kiosk displays the disclosures in this section on two separate screens:

The first disclosure must be in substantially the following form:

WARNING: CONSUMER FRAUD OFTEN STARTS WITH CONTACT FROM A STRANGER WHO IS INITIATING A DISHONEST SCHEME. I UNDERSTAND THAT DISHONEST SCHEMES MAY APPEAR IN MANY FORMS, INCLUDING, BUT NOT LIMITED TO:

- Claims of a frozen bank account or credit card.
- Fraudulent bank transactions.
- Claims of identity theft or job offerings in exchange for payments.
- Requests for payments to government agencies or companies.
- Requests for disaster relief donations or loans.
- Offers to purchase tickets for lotteries, sweepstakes, or drawings for vehicles.
- Prompts to click on desktop pop-ups, such as virus warnings or communication from alleged familiar merchants.
- Communication from someone impersonating a representative of your bank or a law enforcement officer.
- Requests from persons who are impersonating relatives or friends in need or promoting investment or romance scams.

PROTECT YOURSELF FROM FRAUD. NEVER SEND MONEY TO SOMEONE YOU DON'T KNOW.

The second disclosure must be in substantially the following form:

WARNING: FUNDS LOST DUE TO USER ERROR OR FRAUD MAY NOT BE RECOVERABLE. TRANSACTIONS CONDUCTED ON THIS VIRTUAL CURRENCY KIOSK ARE IRREVERSIBLE. I UNDERSTAND THESE RISKS AND WISH TO CONTINUE WITH CONDUCTING MY VIRTUAL CURRENCY KIOSK TRANSACTION.

PROTECT YOURSELF FROM FRAUD. NEVER SEND MONEY TO SOMEONE YOU DON'T KNOW.

In addition to these two disclosure requirements, the virtual currency kiosk business (not a money transmitter licensed as a MSB) must ensure that the virtual currency kiosk displays on a pop-up window the following question to the customer:

“ARE YOU USING THIS KIOSK TO SEND VIRTUAL CURRENCY TO A WALLET OWNED BY SOMEONE ELSE?”

The virtual currency kiosk business must require the customer to respond to this question in the negative before the customer can proceed with the virtual currency kiosk transaction. The virtual currency kiosk business must ensure that the virtual currency kiosk terminates a customer's virtual currency kiosk transaction if the customer has provided a "yes" response to this question.

After these required disclosures or affirmation, the owner-operator must ensure that the virtual kiosk displays, on a screen by itself, the following attestation:

"I ATTEST THAT I AM YOUNGER THAN 60 YEARS OF AGE."

If a customer attests that he or she is younger than 60 years of age, the virtual currency kiosk may allow the customer to proceed with the virtual currency kiosk transaction. If a customer attests that he or she is 60 years of age or older, the virtual currency kiosk business must ensure that the virtual currency kiosk provides such customer with a toll-free number to contact regarding the risks of engaging in virtual currency transactions and displays, on a screen by itself, the following attestation in substantially the following form:

I ATTEST THAT I AM 60 YEARS OF AGE OR OLDER. I ALSO ATTEST THAT I HAVE BEEN GIVEN A TOLL-FREE NUMBER AND THAT I HAVE HAD AN OPPORTUNITY TO CALL SUCH NUMBER TO SPEAK WITH SOMEONE REGARDING THE RISKS OF ENGAGING IN VIRTUAL CURRENCY KIOSK TRANSACTIONS. I FURTHER ATTEST THAT I UNDERSTAND THAT I MAY BE SOLELY RESPONSIBLE FOR LOSS OF FUNDS DUE TO USER ERROR OR FRAUD.

If a customer makes this attestation, the virtual currency kiosk may allow the customer to proceed with the virtual currency kiosk transaction. If the customer does not make the attestation, the virtual currency kiosk business must ensure that the virtual currency kiosk terminates the customer's virtual currency kiosk transaction.

The bill authorizes the commission to adopt rules to administer this section and to ensure that virtual currency kiosk disclosures are responsive to consumer fraud and emerging technology.

Section 8 of the bill requires a virtual currency kiosk business to transact business only under the legal name under which it is registered. The use of a fictitious name is allowed if the fictitious name has been registered with the Department of State and disclosed to the OFR as part the owner-operator's registration or application (including any supplemental information) before its use.

Section 9 of the bill provides for penalties, including:

- A virtual currency kiosk business that violates the disclosure requirements under section 7 of the bill commits a felony of the third degree.
- Each of the following violations constitutes a second degree misdemeanor:⁴³
 - Operating under any name other than that designated in the registration, unless written notification is given to the OFR.

⁴³ A second degree misdemeanor is punishable by up to 60 days imprisonment and up to a \$500 fine. Sections 775.082 and 775.083, F.S.

- Assigning or attempting to assign a virtual currency kiosk business registration issued.

In addition to the criminal penalties, a court may invalidate the registration of any registrant under this part who has been found guilty of such prohibited conduct.

Section 10 provides the bill is effective January 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

No new state fee may be imposed or authorized by the legislature except through legislation approved by two-thirds of the membership of each house of the Legislature and presented to the Governor for approval pursuant to Art. III, s. 8, Fla. Const.⁴⁴ The term “fee” is defined as any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.⁴⁵ A state fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.⁴⁶

SB 662 imposes a new nonrefundable registration fee under section 6 of the bill which creates s. 560.503(1)(b), F.S., including registration application requirements. As a result, the bill requires the approval of two-thirds of the membership of each house of the

⁴⁴ Art. VII, s. 19(a), Fla. Const.

⁴⁵ Art. VII, s. 19(d)(1), Fla. Const.

⁴⁶ Art. VII, s. 19(e), Fla. Const.

Legislature. Further, the fee required under the bill must be contained in a separate bill that contains no other subject which has been done in SB 1182 (2024).

B. Private Sector Impact:

The OFR reports there would be de minimis costs to businesses and consumers to implement the provisions of the bill. The bill requires virtual currency kiosk businesses to use blockchain analytics software to prohibit transactions to addresses that are linked to criminal activity, but there are free versions of the required software that can be utilized.⁴⁷

C. Government Sector Impact:

The OFR reports that the fiscal cost for rulemaking, and the fiscal impact to update the OFR's technology (e.g. the OFR's REAL system and website), would be minimal and absorbed within the OFR's current resources.⁴⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 560.103 and 560.105 of the Florida Statutes. This bill creates sections 560.501, 560.502, 560.503, 560.504, 560.505, 560.506, and 560.507 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁴⁷ The OFR Sunrise Act Responses.

⁴⁸ 2024 OFR Agency Analysis for SB 662 at p. 8.