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SB-401 Digital financial asset transaction kiosks. (2023-2024)

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Senate Bill No. 401

CHAPTER 871

An act to add Chapter 9 (commencing with Section 3901) to Division 1.25 of the Financial Code, relating to financial institutions.

[Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 401, Limón. Digital financial asset transaction kiosks.

Existing law requires a bank, savings association, credit union, industrial loan company, savings bank, or other business entity, or a person who operates an automated teller machine to adopt procedures for evaluating the safety of an automated teller machine, including the incidence of crimes of violence in the immediate neighborhood of the automated teller machine as reflected in the records of the local law enforcement agency and of which the operator has actual knowledge.

This bill would provide for the regulation of digital financial asset transaction kiosks, as defined, by the Department of Financial Protection and Innovation. The bill would, among other things, prohibit an operator, as defined, from accepting or dispensing more than \$1,000 in a day from or to a customer via a digital financial asset transaction kiosk. The bill would require, on or after January 1, 2025, an operator, before a digital financial asset transaction, to provide a written disclosure in English and in the same language principally used by the operator to advertise, solicit, or negotiate with a customer containing the terms and conditions of the transaction, including the amount of a digital financial asset involved in the transaction. The bill would require an operator to provide a customer with a receipt for any transaction made at the operator's digital financial asset transaction kiosk that includes certain information, including the name of the customer and the date and time of the transaction. The bill would require an operator to provide to the department a list of all locations of digital financial asset transaction kiosks that the operator owns, operates, or manages in this state and would require the department to make that list for each operator available to the public on the department's internet website.

This bill would become operative only if AB 39 of the 2023–24 Regular Session is enacted and takes effect on or before January 1, 2024.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 9 (commencing with Section 3901) is added to Division 1.25 of the Financial Code, to read:

CHAPTER 9. Digital Financial Asset Transaction Kiosks

3901. For purposes of this division:

(a) "Charges" means either of the following:

- (1) Fees or expenses paid by the customer.
- (2) The difference between the current market price of the digital financial asset on a licensed digital financial asset exchange and the price of the digital financial asset charged to the customer.

(b) (1) "Digital financial asset transaction kiosk" means an electronic information processing device that is capable of accepting or dispensing cash in exchange for a digital financial asset.

(2) As used in this subdivision, "cash" means physical United States currency, both coins and paper currency.

(c) "Licensed digital financial asset exchange" means a digital financial asset exchange that is not an operator and has either of the following:

- (1) A license to conduct virtual currency business activity in this state or the State of New York pursuant to Part 200 of Title 23 of the New York Codes, Rules and Regulations.
- (2) A license pursuant to this division.

(d) "Operator" means a person who owns, operates, or manages a digital financial asset transaction kiosk located in this state.

3902. An operator shall not accept or dispense more than one thousand dollars (\$1,000) in a day from or to a customer via a digital financial asset transaction kiosk.

3904. On or after January 1, 2025, an operator shall not collect charges, whether direct or indirect, from a customer related to a single digital financial asset transaction that exceed the greater of the following:

(a) Five dollars (\$5).

(b) Fifteen percent of the United States dollar equivalent of digital financial assets involved in the transaction according to the publicly quoted market price of the digital asset on a licensed digital financial asset exchange at the time the customer initiates the transaction.

3905. (a) (1) On or after January 1, 2025, before a digital financial asset transaction, an operator shall provide a written disclosure in English and in the same language principally used by the operator to advertise, solicit, or negotiate with a customer containing the terms and conditions of the transaction, which shall include, at a minimum, all of the following:

- (A) The amount of a digital financial asset involved in the transaction.
- (B) The amount, in United States dollars, of any fees, expenses, and charges collected by the operator.
- (C) The United States dollar price of the digital financial asset that is charged to the customer and the United States dollar price of the digital financial asset as listed by a licensed digital financial asset exchange.
- (D) If an operator does not provide a method to reverse or refund a transaction, a warning that all transactions are final and cannot be undone.

(2) The disclosure required by this subdivision shall be clear and conspicuous and provided separately from any other disclosure provided by the operator.

(b) An operator shall provide a customer with a receipt for any transaction made at the operator's digital financial asset transaction kiosk that includes all of the following information:

- (1) The name of the customer.
- (2) The date and time of the transaction.
- (3) The name of the operator.
- (4) The amount of a digital financial asset involved in the transaction.
- (5) The amount of United States dollars involved in the transaction.
- (6) The amount, in United States dollars, of any fees collected by the operator in relation to the transaction.

(7) The amount, in United States dollars, of any spread between the United States dollar price of the digital financial asset that is charged to the customer and the United States dollar price of the digital financial asset as listed by a licensed digital financial asset exchange.

(8) The name of the licensed digital financial asset exchange the operator used to calculate the spread described in paragraph (7).

3906. (a) An operator shall provide to the department a list of all locations of digital financial asset transaction kiosks that the operator owns, operates, or manages in this state.

(b) An operator shall provide the department with updates to the list required by this section within 30 days of any changes.

(c) The department shall make the list required by this section for each operator available to the public on the department's internet website.

3907. (a) On or after July 1, 2025, an operator shall comply with Section 3201 to the extent that the operator engages in digital financial asset business activity.

(b) If an operator does not engage in digital financial asset business activity but allows or facilitates another person to engage in digital financial asset business activity via a digital financial asset transaction kiosk that is owned, operated, or managed by the operator, the operator shall do all of the following:

(1) On or after July 1, 2025, ensure that the person engaging in digital financial asset business activity via the digital financial asset transaction kiosk has a license pursuant to this division.

(2) Ensure that any charges collected from a customer, whether collected by the operator, a person engaging in digital financial asset business activity via the digital financial asset transaction kiosk, or both, comply with the limits provided by Section 3904.

(3) Comply with all other provisions of this chapter.

SEC. 2. This act shall become operative only if Assembly Bill 39 of the 2023–24 Regular Session is enacted and takes effect on or before January 1, 2024.