

AMENDMENT NO. _____ Calendar No. _____

Purpose: To prevent fraudulent transactions at digital asset kiosks, and for other purposes.

IN THE SENATE OF THE UNITED STATES—119th Cong., 2d Sess.

S. _____

To provide for a system of regulation of the offer and sale of digital commodities by the Commodity Futures Trading Commission, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. DURBIN

Viz:

1 At the end, add the following:

2 **SEC. 213. PREVENTION OF FRAUDULENT TRANSACTIONS**

3 **AT DIGITAL ASSET KIOSKS.**

4 The Commodity Exchange Act (7 U.S.C. 1 et seq.)

5 is amended by inserting after section 4v (as added by section 207) the following:

7 **“SEC. 4w. REGISTRATION OF DIGITAL ASSET KIOSK OPERA-**

8 **TORS.**

9 “(a) **DEFINITIONS.**—In this section:

10 “(1) **BLOCKCHAIN ANALYTICS.**—The term

11 ‘blockchain analytics’ means the analysis of data

1 from blockchains or public distributed ledgers, and
2 associated transaction information, to provide risk-
3 specific information about digital asset transactions
4 and digital asset addresses.

5 “(2) CUSTOMER.—The term ‘customer’ means
6 any person that purchases or sells digital assets
7 through a digital asset kiosk.

8 “(3) DIGITAL ASSET ADDRESS.—The term ‘dig-
9 ital asset address’ means an alphanumeric identifier
10 associated with a digital asset wallet identifying the
11 location to which digital assets purchased through a
12 digital asset kiosk can be sent or from which digital
13 assets sold through a digital asset kiosk can be
14 accessed.

15 “(4) DIGITAL ASSET KIOSK.—The term ‘digital
16 asset kiosk’ means a stand-alone machine—

17 “(A) that is capable of accepting or dis-
18 pensing legal tender in exchange for digital as-
19 sets; or

20 “(B) through which a person acting on the
21 behalf of, or a mechanical agent of, the digital
22 asset kiosk operator of the machine may enable
23 the digital asset kiosk operator to facilitate the
24 exchange of legal tender for digital assets, in-
25 cluding by—

1 “(i) connecting directly to a separate
2 digital asset exchange that performs a dig-
3 ital asset kiosk transaction; or

4 “(ii) drawing upon the digital assets
5 in the possession of the digital asset kiosk
6 operator.

7 “(5) DIGITAL ASSET KIOSK OPERATOR.—The
8 term ‘digital asset kiosk operator’ means a person
9 that owns, operates, or manages a digital asset kiosk
10 located in the United States or its territories.

11 “(6) DIGITAL ASSET KIOSK TRANSACTION.—
12 The term ‘digital asset kiosk transaction’ means the
13 purchase or sale of digital assets via a digital asset
14 kiosk.

15 “(7) DIGITAL ASSET WALLET.—The term ‘dig-
16 ital asset wallet’ means a software application or
17 other mechanism providing a means for holding,
18 storing, and transferring digital assets.

19 “(8) EXISTING CUSTOMER.—The term ‘existing
20 customer’ means a customer other than a new cus-
21 tomer.

22 “(9) NEW CUSTOMER.—The term ‘new cus-
23 tomer’, with respect to a digital asset kiosk operator,
24 means a customer during the 14-day period begin-
25 ning on the date of the first digital asset kiosk

1 transaction of the customer with that digital asset
2 kiosk operator.

3 “(10) TRANSACTION HASH.—The term ‘trans-
4 action hash’ means a unique identifier made up of
5 a string of characters that act as a record of and
6 provide proof that a transaction was verified and
7 added to the blockchain.

8 “(b) REGISTRATION WITH THE COMMISSION.—Not
9 later than 90 days after the date of enactment of this sec-
10 tion, the Commission shall require digital asset kiosk oper-
11 ators to register with the Commission.

12 “(c) REPORTS ON DIGITAL ASSET TRANSACTIONS.—
13 A digital asset kiosk operator involved in a transaction for
14 the payment, receipt, or transfer of digital assets in an
15 amount, denomination, or both, or under any other cir-
16 cumstances the Commission prescribes by regulation, shall
17 submit to the Commission a report on the transaction at
18 such time and in such manner as determined by the Com-
19 mission.

20 “(d) REGISTRATION OF DIGITAL ASSET KIOSK LO-
21 CATIONS.—

22 “(1) IN GENERAL.—Not later than 90 days
23 after the date of enactment of this section, and not
24 less frequently than once every 90 days thereafter,
25 the Commission shall require digital asset kiosk op-

1 erators to submit to the Commission an updated list
2 containing the physical address of each digital asset
3 kiosk owned, operated, or managed by the digital
4 asset kiosk operator.

5 “(2) FORM AND MANNER OF REGISTRATION.—
6 Each submission by a digital asset kiosk operator
7 under paragraph (1) shall include—

8 “(A) the legal name of the digital asset
9 kiosk operator;

10 “(B) any fictitious or trade name of the
11 digital asset kiosk operator;

12 “(C) the physical address of each digital
13 asset kiosk owned, operated, or managed by the
14 digital asset kiosk operator that is located in
15 the United States or the territories of the
16 United States;

17 “(D) the start date of operation of such
18 digital asset kiosk;

19 “(E) the end date of operation of such dig-
20 ital asset kiosk, if applicable; and

21 “(F) each digital asset address used by the
22 digital asset kiosk operator.

23 “(3) FALSE AND INCOMPLETE INFORMATION.—
24 The filing of false or materially incomplete informa-
25 tion in a submission required under paragraph (1)

1 shall be deemed a failure to comply with the require-
2 ments of this subsection.

3 “(e) DISCLOSURES.—Before entering into a digital
4 asset kiosk transaction with a customer, a digital asset
5 kiosk operator shall disclose in a clear, conspicuous, and
6 easily readable manner—

7 “(1) all relevant terms and conditions of the
8 digital asset kiosk transaction, including—

9 “(A) the amount of the digital asset kiosk
10 transaction;

11 “(B) the type and nature of the digital
12 asset kiosk transaction;

13 “(C) a warning that the digital asset kiosk
14 transaction is final, is not refundable, and may
15 not be reversed;

16 “(D) the type and amount of any fees or
17 other expenses to be paid by the customer; and

18 “(E) the exchange rates of—

19 “(i) the digital asset to United States
20 dollars, with respect to the digital asset
21 kiosk transaction; and

22 “(ii) the digital asset to United States
23 dollars on the global marketplace;

24 “(2) a warning relating to consumer fraud, in-
25 cluding—

1 “(A) a warning that consumer fraud often
2 starts with contact from a stranger and that
3 the customer should never send money to some-
4 one the customer does not know;

5 “(B) a warning about the most common
6 types of fraudulent schemes involving digital
7 asset kiosks, such as—

8 “(i) impersonation of a government
9 official or a bank representative;

10 “(ii) threats of jail time or financial
11 penalties;

12 “(iii) offers of—

13 “(I) a job or reward in exchange
14 for payment; or

15 “(II) deals that seem too good to
16 be true;

17 “(iv) claims of a frozen bank account
18 or credit card; or

19 “(v) requests for donations to charity
20 or disaster relief; and

21 “(C) a statement that the customer should
22 contact the customer service helpline of the dig-
23 ital asset kiosk operator or State or local law
24 enforcement if the customer suspects fraudulent
25 activity; and

1 “(3) a disclosure relating to the material risks
2 associated with digital assets and digital asset kiosk
3 transactions, including disclosures such as—

4 “(A) digital assets are not issued or
5 backed by the United States Government and
6 are not legal tender;

7 “(B) a digital asset is not subject to pro-
8 tections by the Federal Deposit Insurance Cor-
9 poration, National Credit Union Administra-
10 tion, or Securities Investor Protection Corpora-
11 tion;

12 “(C) digital asset transactions involve risk,
13 as the value of digital assets is derived from
14 supply and demand in the global marketplace
15 and digital assets may lose value; and

16 “(D) a person or business that accepts dig-
17 ital assets as payment today may not accept
18 digital assets as payment in the future.

19 “(f) ACKNOWLEDGMENT OF DISCLOSURES.—

20 “(1) IN GENERAL.—Each time a customer uses
21 a digital asset kiosk, the digital asset kiosk operator
22 shall ensure acknowledgment of all disclosures re-
23 quired under subsection (e) through confirmation of
24 consent of the customer at the digital asset kiosk.

1 “(2) REFUND ELIGIBILITY.—The consent of a
2 customer under paragraph (1) shall not affect the
3 eligibility of the customer for a refund under sub-
4 section (m).

5 “(g) RECEIPTS.—On completion of each digital asset
6 kiosk transaction, the digital asset kiosk operator shall
7 provide the customer with a virtual or physical receipt,
8 subject to subsection (h), that includes the following infor-
9 mation:

10 “(1) The name and contact information of the
11 digital asset kiosk operator, including a telephone
12 number for a customer service helpline.

13 “(2) The name of the customer.

14 “(3) The type, value, date, and precise time of
15 the digital asset kiosk transaction, the transaction
16 hash, and each applicable digital asset address.

17 “(4) The amount of the digital asset kiosk
18 transaction, expressed in United States dollars.

19 “(5) All fees charged.

20 “(6) A statement that the customer may be en-
21 titled by law to a refund if the customer reports
22 fraudulent activity in conjunction with the digital
23 asset kiosk transaction not later than 30 days after
24 the date of the digital asset kiosk transaction.

1 “(7) The refund policy of the digital asset kiosk
2 operator or a Uniform Resource Locator where the
3 refund policy of the digital asset kiosk operator can
4 be found.

5 “(8) A statement that the customer should con-
6 tact law enforcement if the customer suspects fraud-
7 ulent activity, including contact information for a
8 relevant law enforcement or government agency.

9 “(9) Any additional information the digital
10 asset kiosk operator determines appropriate.

11 “(h) PHYSICAL RECEIPTS REQUIRED.—Effective be-
12 ginning on the date that is 1 year after the date of enact-
13 ment of this section, each receipt required under sub-
14 section (g)—

15 “(1) shall be issued to the customer as a phys-
16 ical receipt at the digital asset kiosk at the time of
17 the digital asset kiosk transaction; and

18 “(2) may also be provided in additional forms
19 or communications.

20 “(i) ANTI-FRAUD POLICY.—

21 “(1) IN GENERAL.—Each digital asset kiosk op-
22 erator shall take reasonable steps to detect and pre-
23 vent fraud, including establishing and maintaining a
24 written anti-fraud policy that includes—

1 “(A) the identification and assessment of
2 fraud-related risk areas;

3 “(B) procedures and controls to protect
4 against risks identified under subparagraph
5 (A);

6 “(C) allocation of responsibility for moni-
7 toring the risks identified under subparagraph
8 (A); and

9 “(D) procedures for the periodic evaluation
10 and revision of the anti-fraud procedures, con-
11 trols, and monitoring mechanisms described in
12 subparagraphs (B) and (C).

13 “(2) SUBMISSION OF ANTI-FRAUD POLICY TO
14 THE COMMISSION.—Each digital asset kiosk oper-
15 ator shall submit to the Commission the anti-fraud
16 policy required under paragraph (1) not later than
17 90 days after the later of—

18 “(A) the date of enactment of this section;
19 and

20 “(B) the date on which the digital asset
21 kiosk operator begins operating.

22 “(j) APPOINTMENT OF COMPLIANCE OFFICER.—
23 Each digital asset kiosk operator shall designate and em-
24 ploy a compliance officer who—

1 “(1) is qualified to coordinate and monitor com-
2 pliance with this section and all other applicable
3 Federal and State laws, rules, and regulations;

4 “(2) is employed full-time by the digital asset
5 kiosk operator;

6 “(3) is not the chief executive officer of the dig-
7 ital asset kiosk operator; and

8 “(4) does not own or control more than 20 per-
9 cent of any interest in the digital asset kiosk oper-
10 ator.

11 “(k) USE OF BLOCKCHAIN ANALYTICS.—

12 “(1) IN GENERAL.—Each digital asset kiosk op-
13 erator shall use blockchain analytics—

14 “(A) to prevent sending digital assets to a
15 digital asset wallet known to be affiliated with
16 fraudulent activity at the time of a digital asset
17 kiosk transaction; and

18 “(B) to detect transaction patterns indic-
19 ative of fraud or other illicit activities.

20 “(2) COMPLIANCE.—The Commissioner may re-
21 quest evidence from any digital asset kiosk operator
22 to confirm compliance with this subsection.

23 “(l) VERBAL CONFIRMATION REQUIRED BEFORE
24 NEW CUSTOMER TRANSACTIONS.—

1 “(1) IN GENERAL.—Before entering into a dig-
2 ital asset kiosk transaction valued at \$300 or more
3 with a new customer, a digital asset kiosk operator
4 shall obtain verbal confirmation from the new cus-
5 tomer that—

6 “(A) the new customer wishes to proceed
7 with the digital asset kiosk transaction;

8 “(B) the new customer understands the
9 nature of the digital asset kiosk transaction;
10 and

11 “(C) the new customer is not being fraudu-
12 lently induced to engage in the transaction.

13 “(2) REASONABLE EFFORT.—A digital asset
14 kiosk operator shall make a reasonable effort to de-
15 termine whether a new customer is being fraudu-
16 lently induced to engage in the digital asset kiosk
17 transaction.

18 “(3) METHOD OF CONFIRMATION.—Each verbal
19 confirmation required under paragraph (1) shall be
20 given through a live telephone or video call to a per-
21 son employed by, or on behalf of, the digital asset
22 kiosk operator.

23 “(m) REFUNDS.—

24 “(1) APPLICATION.—A customer seeking a re-
25 fund for a digital asset kiosk transaction on the

1 basis that it was fraudulently induced shall, not later
2 than 90 days after the date of that digital asset
3 kiosk transaction, submit to the digital asset kiosk
4 operator an application that includes the following:

5 “(A) The name, address, and phone num-
6 ber of the customer.

7 “(B) The transaction hash of the digital
8 asset kiosk transaction or information sufficient
9 to determine the type, value, date, and time of
10 the digital asset kiosk transaction.

11 “(C) A copy of a report to a State or local
12 law enforcement or government agency, made
13 not later than 90 days after the digital asset
14 kiosk transaction, that includes a sworn affi-
15 davit attesting that the customer was fraudu-
16 lently induced to engage in the digital asset
17 kiosk transaction.

18 “(2) REFUND.—

19 “(A) NEW CUSTOMERS.—Not later than
20 30 days after receiving an application under
21 paragraph (1) from a new customer, a digital
22 asset kiosk operator shall issue a refund to the
23 new customer for the full amount of each dig-
24 ital asset kiosk transaction, including the dollar
25 value of digital assets exchanged and all trans-

1 action fees, described in that application if that
2 transaction occurred while the customer was a
3 new customer.

4 “(B) EXISTING CUSTOMERS.—Not later
5 than 30 days after receiving an application
6 under paragraph (1) from an existing customer,
7 a digital asset kiosk operator shall issue a re-
8 fund to the existing customer for the full
9 amount of all transaction fees associated with
10 each digital asset kiosk transaction described in
11 that application.

12 “(3) ENHANCED DAMAGES.—In addition to any
13 penalty under subsection (r), any digital asset kiosk
14 operator that knowingly denies a refund to a cus-
15 tomer who is entitled to a refund under paragraph
16 (2) shall be liable to the customer in an amount
17 equal to the greater of—

18 “(A) 3 times the amount of the refund
19 owed; and

20 “(B) \$10,000.

21 “(n) TRANSACTION LIMITS.—

22 “(1) 24-HOUR PERIOD.—During any 24-hour
23 period, a digital asset kiosk operator shall not accept
24 more than—

1 “(A) \$1,000, or the equivalent amount in
2 digital assets, from any new customer; or

3 “(B) \$2,000, or the equivalent amount in
4 digital assets, from any existing customer.

5 “(2) TOTAL.—A digital asset kiosk operator
6 shall not accept a total of more than \$5,000, or the
7 equivalent amount in digital assets, from any new
8 customer.

9 “(o) TRANSACTION FREEZES WITH RESPECT TO
10 NEW CUSTOMERS.—

11 “(1) IN GENERAL.—Each digital asset kiosk op-
12 erator shall place a 48-hour transaction freeze for a
13 new customer after each digital asset kiosk trans-
14 action made during the 14-day period during which
15 a customer is a new customer.

16 “(2) LIFTING OF THE TRANSACTION FREEZE.—
17 A digital asset kiosk operator may automatically lift
18 a transaction freeze under paragraph (1) after the
19 48-hour freeze period, unless the customer contacts
20 the digital asset kiosk operator before the end of the
21 48-hour freeze period to report fraudulent activity.

22 “(p) CUSTOMER SERVICE HELPLINE.—Each digital
23 asset kiosk operator shall provide live customer service
24 during all hours that the digital asset kiosk operator ac-
25 cepts digital asset kiosk transactions, the phone number

1 for which is regularly monitored and displayed in a clear,
2 conspicuous, and easily readable manner on each digital
3 asset kiosk.

4 “(q) COMMUNICATIONS WITH LAW ENFORCE-
5 MENT.—

6 “(1) IN GENERAL.—Each digital asset kiosk op-
7 erator shall provide a dedicated and frequently mon-
8 itored phone number and email address for relevant
9 law enforcement and government agencies to facili-
10 tate communication with the digital asset kiosk oper-
11 ator in the event of reported or suspected fraudulent
12 activity.

13 “(2) SUBMISSION.—Not later than 90 days
14 after the date of enactment of this section, each dig-
15 ital asset kiosk operator shall submit the phone
16 number and email address described in paragraph
17 (1) to the Commissioner and all other relevant law
18 enforcement and government agencies.

19 “(r) CIVIL PENALTIES.—

20 “(1) IN GENERAL.—Any person who fails to
21 comply with any requirement of this section, or any
22 regulation prescribed under this section, shall be lia-
23 ble to the United States for a civil monetary penalty
24 of \$10,000 for each such violation.

1 “(2) CONTINUING VIOLATION.—Each day that
2 a violation described in paragraph (1) continues
3 shall constitute a separate violation for purposes of
4 that paragraph.

5 “(3) ASSESSMENTS.—Any penalty imposed
6 under this subsection shall be assessed and collected
7 by the Commissioner.

8 “(s) RELATIONSHIP TO STATE LAWS.—

9 “(1) PREEMPTION.—The provisions of this sec-
10 tion shall preempt any State law, rule, or regulation
11 only to the extent that such State law, rule, or regu-
12 lation conflicts with a provision of this section.

13 “(2) RULE OF CONSTRUCTION.—Nothing in
14 this section shall prohibit a State from enacting a
15 law, rule, or regulation that provides greater protec-
16 tion to customers than the protection provided by
17 this section.”.