



## SENATOR JESSE KIEHL

### SB 86: Money Transmission; Virtual Currency 34-LS0305\O

#### Sectional Analysis

**Sec. 1** explains the purpose of the bill.

**Sec. 2** amends AS 06.05.101(a) to create a blanket money transmission (MT) license, with a direct citation to exemptions from licensure requirements, and clarification that a licensee can have an authorized delegate acting within the scope of their license with a written contract.

**Sec. 3** repeals and reenacts AS 06.55.102 to conform with the Money Transmission Modernization Act (MTMA) model law, providing application requirements for a MT license and allowing the Department of Commerce, Community, and Economic Development (the department) to change or update the forms to be consistent with licensing requirements in the national multistate licensing system (NMLS).

**Sec. 4** repeals and reenacts AS 06.55.105 to conform with MTMA, providing a process for the issuance of a license that includes investigation requirements, a 120-day deadline for the department to issue or deny a license, an appeals process, the initial license term. The department is also given the flexibility to streamline the process by utilizing investigations conducted by other states within the NMLS.

**Sec. 5** repeals and reenacts AS 06.55.106 to conform with MTMA, requiring annual license renewal and allowing the department to set fees by regulation. The department intends to set tiered fees based on the aggregate monetary value of money transmissions conducted by a licensee.

**Sec. 6** adds new sections to Article 1 to conform with MTMA. AS 06.55.108 requires licensees to continue to meet the qualifications that apply to new applicants, subject to suspension or revocation of a license for failure to do so.

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AS 06.55.109 contains submission requirements for individuals in control of applicants or licensees and key individuals for background checks, including allowing the use of an independent search firm to conduct a background report on individuals who have resided outside of the US in the prior 10 years.

AS 06.55.110 grants the department discretion to conform licensing practices consistent with other MTMA states, participate in nationwide protocols to coordinate licensing, and utilize the NMLS for all aspects of licensing.

**Sec. 7** adds Article 1A Virtual Currency Business Activity.

AS 06.55.150 provides that VC business activity is MT and unless exempt, the activity requires a MT license.

AS 06.55.155 concerns required disclosures, granting the department discretion to require additional disclosures and to regulate the time and form required for disclosure.

AS 06.55.160 requires a VC business with control over VC to maintain an amount of each type of VC sufficient to satisfy the aggregate entitlements of clients, ensuring consumer protection and reducing regulatory burden on the licensee without increasing net worth requirements.

AS 06.55.165 allows a licensee engaged in VC business activity to include VC in its tangible net worth calculation and details record keeping requirements specific to VC businesses.

AS 06.55.170 contains a list of exempted activities and provides an exemption for business activity of \$5,000 or less.

**Sec. 8** repeals and reenacts AS 06.55.301, creating a requirement that a licensee adopt policies and procedures consistent with applicable state and federal law prior to using an authorized delegate and provides details stating that a licensee must enter into a contract with an authorized delegate with a list of provisions.

**Sec. 9** amends AS 06.55.302 concerning unauthorized activities and liability provisions that apply to persons engaging in MT on behalf of an unlicensed person.

**Sec. 10** amends AS 06.55.401 relating to supervision and the department's powers with respect to examination. It allows the department to accept examination reports from other states, the federal government, or an independent accounting firm. This section requires licensees to pay all costs associated with examinations, references confidentiality requirements, and eliminates the existing requirement to notify a licensee 45 days prior to an examination.

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**Secs. 11 – 14** repeal and reenact or amend subsections of AS 06.55.403 for consistency with MTMA, requiring quarterly reports of licensee’s financial condition and allowing the department to use the NMLS for reporting. Existing requirements for immediate reporting are maintained, ensuring that the department is timely notified of a bankruptcy petition filing, a proceeding to revoke or suspend a license in another state or country, bond cancellation, and criminal charges.

**Sec. 15** repeals and reenacts AS 06.55.404 regarding acquisition of control of a MT licensee, providing procedural and reporting requirements for the acquisition or transfer of control of licensees. It allows exceptions for acquisition of control and contains discretionary provisions for the department for ease and flexibility of administration and the utilization of the NMLS. It adds details for aggregation of interest of ownership for family members for consistency with the MTMA.

**Secs. 16 and 17** amend AS 06.55.405(a) and (d) for consistency with MTMA, detailing record keeping obligations of licensees and records subject to inspection by the department, increasing the time period from 3 years to 5 years, and making conforming language changes.

**Sec. 18** amends AS 06.55.406(a) concerning money laundering reports, directing all reports to the appropriate federal agencies as prescribed by the Bank Secrecy Act and any other money laundering laws, instead of the state’s Attorney General.

**Sec. 19 – 23** amend AS 06.55.407 for consistency with MTMA, regarding the confidentiality and release of information. Licensees’ financial information held by the department is kept confidential unless necessary for public protection or in the interests of justice. Only conforming language changes are made to AS 06.55.407(d), which prevents the licensee from disclosing a customer’s information. Information that is considered publicly available and not confidential is listed.

**Sec. 24** adds new sections to conform with MTMA.

AS 06.55.408 requires licensees to submit an annual audited financial statement to the department.

AS 06.55.409 grants the department discretion to enter into agreements with other state and federal agencies to improve efficiencies and reduce regulatory burden, as well as the discretion to administer, interpret, and enforce the chapter, to adopt rules and regulations, and to recover its costs through imposition and collection of fees.

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AS 06.55.410 expands the department's ability to participate in multistate supervisory processes such as joint investigations.

AS 06.55.411 provides that in the event of an inconsistency between state and federal law, the federal law governs to the extent of the inconsistency.

AS 06.55.412 contains requirements and procedures applicable when a licensee adds or replaces a key individual, allowing the department to disapprove a change of key individual due to certain criteria.

**Secs. 25 – 30** revise Article 5 of AS 06.55 to broaden its scope from Permissible Investments to Prudential Standards.

**Sec. 25** amends AS 06.55.501 to allow the department to limit specific investments held by licensees due to risk concerns and adds language to protect beneficiaries of statutory trusts from actions by creditors of licensees.

**Sec. 26** adds new subsections to AS 06.55.501 regarding the establishment and termination of statutory trusts and related department obligations and giving the department the discretion to allow additional permissible investments and to participate with other state regulators to identify permissible investments.

**Secs. 27 – 28** amends subsections of AS 06.55.502 concerning permissible investments for consistency with MTMA, incorporating ACH and cash in transit and allowing letters of credit and excess bonding. Subsection (b) includes a list of investments that are permissible up to a certain aggregate value for each investment category as a component of a licensee's total investment portfolio.

**Sec. 29** adds new sections to article 5.

AS 06.55.503 contains the requirements for letters of credit as permissible investments.

AS 06.55.505 requires a licensee to maintain security in a form and amount determined by the department. This section is a hybrid of MTMA and existing statute.

AS 06.55.510 provides a requirement to maintain a tangible net worth, the amount of which is to be a tiered percentage of total assets. The department may exempt an applicant, in whole or in part, from the requirements of this section.

**Sec. 30** updates language in AS 06.55.601 regarding the suspension and revocation of a license for consistency with MTMA.

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**Sec. 31** amends AS 06.55.601 to allow a licensee to apply for relief from a suspension or revocation of a license.

**Sec. 32** updates language in AS 06.55.602 regarding suspension and revocation of authorized delegates for consistency with MTMA.

**Sec. 33** amends AS 06.55.602 to allow an authorized delegate to apply for relief from a suspension or revocation.

**Secs. 34 – 36** update language in subsections of AS 06.55.603 for consistency with MTMA.

**Sec. 37** amends AS 06.55.605 regarding civil penalties, allowing the department to assess its costs and expenses for investigation and increases maximum penalties from \$1,000 to \$10,000 for conformity with penalties under mortgage statutes.

**Secs. 38-39** update language in subsections of AS 06.55.606 regarding criminal penalties for consistency with MTMA.

**Secs. 40 – 41** amend subsections of AS 06.55.607 by replacing citations to currency exchange license requirements with citations to the unified money transmission license requirements.

**Sec. 42** updates language in AS 06.55.702(a) concerning hearings for consistency MTMA.

**Sec. 43** amends AS 06.55.802 for consistency with MTMA, adding new exemptions from licensing requirements and allowing the department to add additional exemptions if it is in the public interest. Because the money transmission license is a company-level license, individuals employed or contracted by the licensee don't need their own licenses as long as they're in compliance with the licensee's contract. New exemptions include insurance companies and attorneys where any money transmission is performed as an ancillary service to their regular course of business, and payroll processors.

**Sec. 44** adds AS 06.55.803, allowing the department to require a person who claims an exemption to provide information and documentation demonstrating the claimed exemption.

**Sec. 45** amends AS 06.55.810, requiring licensees and authorized delegates to provide customers with notices of how to file a complaint.

**Sec. 46** amends AS 06.55.810 by adding a new subsection (d) that requires licensees and authorized delegates to include on a receipt or through disclosure on the licensee's website or mobile application the name and phone number of the department and a statement on how customers can contact the department with questions or complaints.

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**Sec. 47** adds AS 06.55.815, allowing an in-state determination of the location of a person requesting a transaction electronically or by telephone based on information provided by the person.

**Sec. 48** repeals and reenacts AS 06.55.830 regarding receipting requirements for consistency with MTMA, outlining content and format requirements for money transmission receipts. Certain transactions are exempted from receipting requirements, including stored value cards.

**Sec. 49** adds AS 06.55.835 requiring licensees to timely transmit money unless the licensee determines there may be fraud involved or another crime. The licensee is required to respond to inquiries from the sender with the reason for the failure to forward money unless doing so violates a state or federal law.

**Sec. 50** repeals and reenacts AS 06.55.840, regarding refunds for consistency with MTMA, requiring refunds within 10 days of a written request and providing exemptions to that requirement.

**Sec. 51** amends language in AS 06.55.850(b) regarding the establishment of fee levels for consistency with other changes in this bill.

**Sec. 52** amends AS 06.55.850 by adding a new subsection (f) to set an annual renewal fee based on a licensee's total volume of money transmission in the state.

**Secs 53 – 60** amend definitions found in AS 06.55.990 for consistency with MTMA. In the definition of "control," the percentage of ownership or voting interests is reduced from 25% to 10%, ensuring that those with power over a company that is entrusted with money transmission are subject to background checks. The updated definitions of "payment instrument" and "stored value" clarify that gift cards (closed-loop stored value), rewards programs, and stored value cards aren't considered money transmission. Other definitions that are updated are "authorized delegate," "money transmission," "person," "state," and "unsafe or unsound practice."

**Sec. 61** adds new definitions to AS 06.55.990 consistent with MTMA.

**Sec. 62** amends AS 06.55.995, updating the title of the chapter to the Alaska Uniform Money Transmission Modernization Act.

**Sec. 63** amends AS 12.62.400(b) to allow the use of the NMLS in money transmission licensing instead of the FBI's criminal registry.

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**Sec. 64** repeals several sections in AS 06.55 that are no longer necessary or incorporated elsewhere in this legislation, including provisions regarding interstate cooperation, security bonds, net worth requirements, currency exchange licenses, money laundering reports, types of permissible investments, suspension of licenses, transmission requirements, fees, and the definitions of terms no longer contained in the chapter.

**Secs. 65 & 69** indicate that Sec. 37 regarding penalties creates an INDIRECT COURT RULE AMENDMENT by changing the award of court costs and attorney fees. The Constitution of the State of Alaska, art. IV, sec. 15, requires a two-thirds vote to change a court rule. In the event of a failed vote, Sec. 37 regarding penalties would not take effect, but the rest of the bill would.

**Secs. 66-67** add uncodified transition language. Existing contracts, rights, liabilities, and obligations in effect before this law remain in effect. Current licensees are able to operate under their current licenses until they expire.

**Sec. 68** provides authority to the department to promulgate regulations necessary to carry out changes made by the act.

**Sec. 70** allows that the department may begin work on regulations immediately.

**Sec. 71** provides an effective date of July 1, 2026, for the remainder of the bill.