

By Senator Diaz de la Portilla

36-483-06

1 A bill to be entitled

2 An act relating to violent video games;

3 providing legislative intent; providing

4 definitions; prohibiting a person from selling

5 or renting a video game to a minor, or allowing

6 a minor to play a video game in a video arcade,

7 if the video game has been labeled as a violent

8 video game; providing that having requested

9 identification from a person purchasing a video

10 game or playing a video game in a video arcade

11 is an affirmative defense to any action filed

12 under the act; requiring that each violent

13 video game that is imported into or distributed

14 in this state for retail sale, rental, or

15 playing in a video arcade, be labeled in a

16 specified manner; authorizing an enforcing

17 authority to commence a civil action to seek

18 injunctive relief to restrain or enjoin a

19 person from violating the act or to impose a

20 civil penalty; providing that attorney's fees

21 may be awarded under certain circumstances;

22 directing that any civil penalty recovered be

23 deposited into the General Revenue Fund;

24 providing that a violation of the act is a

25 misdemeanor; providing an effective date.

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27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Distribution of violent video games to

30 minors prohibited; penalties.--

31 (1) The Legislature finds that:

1 (a) Minors who are exposed to depictions of violence
2 in video games are more likely to experience feelings of
3 aggression, to experience a reduction of activity in the
4 frontal lobes of the brain, and to exhibit violent antisocial
5 or aggressive behavior.

6 (b) Even minors who do not commit acts of violence
7 suffer psychological harm from prolonged exposure to violent
8 video games.

9 (c) This state has a compelling interest in preventing
10 violent, aggressive, and antisocial behavior, and in
11 preventing psychological or neurological harm to minors who
12 play violent video games.

13 (2) As used in this section, the term:

14 (a) "Cruel" means the intention to virtually inflict a
15 high degree of pain by torture or serious physical abuse of
16 the image of a victim in addition to killing the image of the
17 victim.

18 (b) "Depraved" means pleasure in the virtual killing
19 or indifference to the suffering of the image of the victim,
20 as evidenced by torture or serious physical abuse of the image
21 of a victim.

22 (c) "Enforcing authority" means a county or municipal
23 attorney, the state attorney, the Department of Legal Affairs
24 if a violation of this section occurs in more than one
25 judicial circuit, or anyone aggrieved by a violation of this
26 section.

27 (d) "Heinous" means shockingly atrocious. For the
28 killing depicted in a video game to be heinous, it must
29 involve additional acts of torture or serious physical abuse
30 of the image of a victim as set apart from other killings.

31 (e) "Minor" has the same meaning as in s. 1.01.

1 (f) "Person" has the same meaning as in s. 1.01.

2 (g) "Serious physical abuse" means a significant or
3 considerable amount of injury or damage to the image of a
4 victim's body suggesting substantial risk of death,
5 unconsciousness, extreme physical pain, substantial
6 disfigurement, or substantial impairment of the function of a
7 bodily member, organ, or mental faculty. Serious physical
8 abuse, unlike torture, does not require that the victim be
9 depicted as conscious of the abuse at the time it is
10 inflicted. However, the player must specifically intend the
11 abuse apart from the killing.

12 (h) "Torture" includes mental as well as physical
13 abuse of the image of a victim. In either case, the victim
14 must be depicted as conscious of the abuse at the time it is
15 inflicted, and the player must specifically intend to
16 virtually inflict severe mental or physical pain or suffering
17 upon the victim, apart from killing the image of the victim.

18 (i) "Video arcade" means any premises where 10 or more
19 video game machines or devices are operated, and where minors
20 are legally permitted to enter.

21 (j) "Video game" means any electronic amusement device
22 that uses a computer, microprocessor, or similar electronic
23 circuitry and its own monitor, or a device that is designed to
24 be used with a television set or a computer monitor, which
25 interacts with the user of the device.

26 (k) "Violent video game" means a video game in which
27 the options available to a player include killing, maiming,
28 dismembering, or sexually assaulting an image of a human
29 being, if those acts are depicted in the game in a manner
30 that:

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1 1.a. A reasonable person, considering the game as a
2 whole, would find appeals to a deviant or morbid interest of
3 minors;

4 b. Is patently offensive to prevailing standards in
5 the community concerning what is suitable for minors; and

6 c. Lacks serious literary, artistic, political, or
7 scientific value for minors; or

8 2. Enables the player to virtually inflict serious
9 injury upon images of human beings or characters having
10 substantially human characteristics in a manner that is
11 especially heinous, cruel, or depraved in that it involves
12 torture or serious physical abuse to the image of a victim.

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14 Pertinent factors in determining whether a killing depicted in
15 a video game is especially heinous, cruel, or depraved include
16 infliction of gratuitous violence upon the image of a victim
17 beyond that necessary to commit the killing, needless
18 mutilation of the image of a victim's body, and helplessness
19 of the image of a victim.

20 (3) A person may not sell or rent a video game to a
21 minor, or allow a minor to play a video game in a video
22 arcade, if the video game has been labeled as a violent video
23 game.

24 (4) Proof that a person, or his or her employee or
25 agent, demanded, was shown, and reasonably relied upon
26 evidence that a purchaser or renter of a violent video game,
27 or the player of a violent video game in a video arcade, was
28 not a minor, or that the manufacturer failed to label a
29 violent video game as required by subsection (6), is an
30 affirmative defense to any action brought under this section.
31 Evidence of majority includes, but need not be limited to, a

1 driver's license or an identification card issued to the
2 purchaser, renter, or player by a state or by the Armed Forces
3 of the United States.

4 (5) This section does not apply if the violent video
5 game is sold or rented to a minor by the minor's parent,
6 grandparent, aunt, uncle, or legal guardian.

7 (6) Each violent video game that is imported into or
8 distributed in this state for retail sale, rental, or playing
9 in a video arcade must be labeled with a solid white "18"
10 outlined in black of not less than 2 inches by 2 inches. The
11 "18" must be displayed on the front face of the video game
12 package.

13 (7)(a) An enforcing authority may institute a civil
14 action in order to:

15 1. Seek injunctive relief to immediately restrain or
16 enjoin any person from engaging in any activity in violation
17 of this section or to seek injunctive relief to enforce
18 compliance with this section.

19 2. Impose a civil penalty for each violation of this
20 section. If the person against whom the civil penalty is
21 sought is a person who possesses managerial responsibility for
22 a business entity selling, renting, or playing a violent video
23 game, the civil penalty may be in an amount of not more than
24 \$1,000 per violation. If the person against whom the civil
25 penalty is sought is an employee of the business entity
26 selling, renting, or playing a violent video game, the civil
27 penalty may be in an amount of not more than \$250 per
28 violation.

29 (b) If a civil penalty is assessed in any litigation,
30 the enforcing authority is entitled to reasonable attorney's
31 fees and costs.

1 (c) If a civil penalty is collected, the penalty shall
2 accrue to the state and be deposited into the General Revenue
3 Fund.

4 (8)(a) A person who violates this section commits a
5 misdemeanor of the second degree, punishable as provided in s.
6 775.082 or s. 775.083, Florida Statutes.

7 (b) A person who commits a second or subsequent
8 violation of this section commits a misdemeanor of the first
9 degree, punishable as provided in s. 775.082 or s. 775.083,
10 Florida Statutes.

11 Section 2. This act shall take effect October 1, 2006.

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14 SENATE SUMMARY

15 Prohibits a person from selling or renting a video game
16 to a minor, or allowing a minor to play a video game in a
17 video arcade, if the video game has been labeled as a
18 violent video game. Provides that having requested
19 identification from a person purchasing or renting a
20 video game is an affirmative defense to any action filed
21 under the act. Requires that each violent video game
22 imported into or distributed in this state for retail
23 sale, rental, or playing in a video arcade be labeled in
24 a specified manner. Authorizes an enforcing authority to
25 commence a civil action to seek injunctive relief to
26 restrain or enjoin a person from violating the act or to
27 impose a civil penalty. Provides that a violation of the
28 act is a misdemeanor.
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