

By the Committee on Judiciary; and Senators Diaz de la Portilla, King, Jones, Bennett, Smith, Baker, Alexander, Atwater, Dockery, Fasano, Crist, Webster, Sebesta, Margolis, Bullard, Clary, Posey, Wilson, Saunders, Pruitt and Lawson

590-2195-06

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 exceptions to the

9           prohibition; providing that having requested

10          identification from a person purchasing a video

11          game or playing a video game in a video arcade

12          is an affirmative defense to any action filed

13          under the act; requiring that each violent

14          video game that is imported into or distributed

15          in this state for retail sale, rental, or

16          playing in a video arcade, be labeled in a

17          specified manner; authorizing an enforcing

18          authority to commence a civil action to seek

19          injunctive relief to restrain or enjoin a

20          person from violating the act or to impose a

21          civil penalty; providing that attorney's fees

22          may be awarded under certain circumstances;

23          directing that any civil penalty recovered be

24          deposited into the General Revenue Fund;

25          providing that a violation of the act is a

26          misdemeanor; providing an effective date.

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

30           Section 1. Distribution of violent video games to

31 minors prohibited; penalties.--

1           (1) The Legislature finds that:

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

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

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

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

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

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

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

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

- 1           (e) "Minor" has the same meaning as in s. 1.01.  
2           (f) "Person" has the same meaning as in s. 1.01.  
3           (g) "Serious physical abuse" means a significant or  
4 considerable amount of injury or damage to the image of a  
5 victim's body suggesting substantial risk of death,  
6 unconsciousness, extreme physical pain, substantial  
7 disfigurement, or substantial impairment of the function of a  
8 bodily member, organ, or mental faculty. Serious physical  
9 abuse, unlike torture, does not require that the victim be  
10 depicted as conscious of the abuse at the time it is  
11 inflicted. However, the player must specifically intend the  
12 abuse apart from the killing.  
13           (h) "Torture" includes mental as well as physical  
14 abuse of the image of a victim. In either case, the victim  
15 must be depicted as conscious of the abuse at the time it is  
16 inflicted, and the player must specifically intend to  
17 virtually inflict severe mental or physical pain or suffering  
18 upon the victim, apart from killing the image of the victim.  
19           (i) "Victim" means a life-like depiction of a human  
20 being or a character having substantially human  
21 characteristics.  
22           (j) "Video arcade" means any premises where 10 or more  
23 video game machines or devices are operated, and where minors  
24 are legally permitted to enter.  
25           (k) "Video game" means any electronic amusement device  
26 that uses a computer, microprocessor, or similar electronic  
27 circuitry and its own monitor, or a device that is designed to  
28 be used with a television set or a computer monitor, which  
29 interacts with the user of the device.  
30           (l) "Violent video game" means a video game in which  
31 the options available to a player include killing, maiming,

1 dismembering, or sexually assaulting an image of a human  
2 being, if those acts are depicted in the game in a manner  
3 that:  
4       1.a. A reasonable person, considering the game as a  
5 whole, would find appeals to a deviant or morbid interest of  
6 minors;  
7       b. Is patently offensive to prevailing standards in  
8 the community concerning what is suitable for minors; and  
9       c. Lacks serious literary, artistic, political, or  
10 scientific value for minors; or  
11       2. Enables the player to virtually inflict serious  
12 injury upon images of human beings or characters having  
13 substantially human characteristics in a manner that is  
14 especially heinous, cruel, or depraved in that it involves  
15 torture or serious physical abuse to the image of a victim.  
16  
17 Pertinent factors in determining whether a killing depicted in  
18 a video game is especially heinous, cruel, or depraved include  
19 infliction of gratuitous violence upon the image of a victim  
20 beyond that necessary to commit the killing, needless  
21 mutilation of the image of a victim's body, and helplessness  
22 of the image of a victim.  
23       (3) A person may not sell or rent a video game to a  
24 minor, or allow a minor to play a video game in a video  
25 arcade, if the video game has been labeled as a violent video  
26 game.  
27       (4) Proof that a person, or his or her employee or  
28 agent, demanded, was shown, and reasonably relied upon  
29 evidence that a purchaser or renter of a violent video game,  
30 or the player of a violent video game in a video arcade, was  
31 not a minor, or that the manufacturer failed to label a

1 violent video game as required by subsection (6), is an  
2 affirmative defense to any action brought under this section.  
3 Evidence of majority includes, but need not be limited to, a  
4 driver's license or an identification card issued to the  
5 purchaser, renter, or player by a state or by the Armed Forces  
6 of the United States.

7 (5) This section does not apply if the violent video  
8 game is sold or rented to a minor by the minor's parent,  
9 grandparent, aunt, uncle, or legal guardian or is purchased or  
10 rented on-line using a credit card.

11 (6) Each violent video game that is imported into or  
12 distributed in this state for retail sale, rental, or playing  
13 in a video arcade must be labeled with a solid white "18"  
14 outlined in black of not less than 2 inches by 2 inches. The  
15 "18" must be displayed on the front face of the video game  
16 package.

17 (7)(a) An enforcing authority may institute a civil  
18 action in order to:

19 1. Seek injunctive relief to immediately restrain or  
20 enjoin any person from engaging in any activity in violation  
21 of this section or to seek injunctive relief to enforce  
22 compliance with this section.

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

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

6 (c) If a civil penalty is collected, the penalty shall  
7 accrue to the state and be deposited into the General Revenue  
8 Fund.

9 (8)(a) A person who violates this section commits a  
10 misdemeanor of the second degree, punishable as provided in s.  
11 775.082 or s. 775.083, Florida Statutes.

12 (b) A person who commits a second or subsequent  
13 violation of this section commits a misdemeanor of the first  
14 degree, punishable as provided in s. 775.082 or s. 775.083,  
15 Florida Statutes.

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

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18 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
19 COMMITTEE SUBSTITUTE FOR  
20 Senate Bill 492

21 The substantial changes made by the committee substitute to  
22 the underlying bill:

- 23 -- Add the term "victim" and its definition to the defined  
24 -- Provide that the restrictions on the sale or rental of  
25 video games made by the bill do not apply to video games  
26 purchased or rented on-line with a credit card.  
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