

A bill to be entitled

An act relating to violent video games; providing legislative intent; providing definitions; prohibiting a person from selling or renting a video game to a minor, or allowing a minor to play a video game in a video arcade, if the video game has been labeled as a violent video game; providing that having requested identification from a person purchasing a video game or playing a video game in a video arcade is an affirmative defense to any action filed under the act; requiring that each violent video game that is imported into or distributed in this state for retail sale, rental, or playing in a video arcade be labeled in a specified manner; authorizing an enforcing authority to commence a civil action to seek injunctive relief to restrain or enjoin a person from violating the act or to impose a civil penalty; limiting the amount of civil penalties; providing that attorney's fees and costs may be awarded under certain circumstances; directing that any civil penalty recovered be deposited into the General Revenue Fund; providing that a violation of the act is a misdemeanor; providing an effective date.

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

Section 1. Distribution of violent video games to minors prohibited; penalties.--

(1) The Legislature finds that:

(a) Minors who are exposed to depictions of violence in

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29 video games are more likely to experience feelings of
30 aggression, to experience a reduction of activity in the frontal
31 lobes of the brain, and to exhibit violent antisocial or
32 aggressive behavior.

33 (b) Even minors who do not commit acts of violence suffer
34 psychological harm from prolonged exposure to violent video
35 games.

36 (c) This state has a compelling interest in preventing
37 violent, aggressive, and antisocial behavior and in preventing
38 psychological or neurological harm to minors who play violent
39 video games.

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

41 (a) "Cruel" means the intention to virtually inflict a
42 high degree of pain by torture or serious physical abuse of the
43 image of a victim in addition to killing the image of the
44 victim.

45 (b) "Depraved" means pleasure in the virtual killing or
46 indifference to the suffering of the image of the victim, as
47 evidenced by torture or serious physical abuse of the image of a
48 victim.

49 (c) "Enforcing authority" means a county or municipal
50 attorney, the state attorney, the Department of Legal Affairs if
51 a violation of this section occurs in more than one judicial
52 circuit, or anyone aggrieved by a violation of this section.

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

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57 (e) "Minor" has the same meaning as in s. 1.01, Florida
58 Statutes.

59 (f) "Person" has the same meaning as in s. 1.01, Florida
60 Statutes.

61 (g) "Serious physical abuse" means a significant or
62 considerable amount of injury or damage to the image of a
63 victim's body suggesting substantial risk of death,
64 unconsciousness, extreme physical pain, substantial
65 disfigurement, or substantial impairment of the function of a
66 bodily member, organ, or mental faculty. Serious physical abuse,
67 unlike torture, does not require that the victim be depicted as
68 conscious of the abuse at the time it is inflicted. However, the
69 player must specifically intend the abuse apart from the
70 killing.

71 (h) "Torture" includes mental as well as physical abuse of
72 the image of a victim. In either case, the victim must be
73 depicted as conscious of the abuse at the time it is inflicted,
74 and the player must specifically intend to virtually inflict
75 severe mental or physical pain or suffering upon the victim,
76 apart from killing the image of the victim.

77 (i) "Video arcade" means any premises where 10 or more
78 video game machines or devices are operated and where minors are
79 legally permitted to enter.

80 (j) "Video game" means any electronic amusement device
81 that uses a computer, microprocessor, or similar electronic
82 circuitry and its own monitor, or a device that is designed to
83 be used with a television set or a computer monitor, which
84 interacts with the user of the device.

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

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

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

93 c. Lacks serious literary, artistic, political, or
94 scientific value for minors; or

95 2. Enables the player to virtually inflict serious injury
96 upon images of human beings or characters having substantially
97 human characteristics in a manner that is especially heinous,
98 cruel, or depraved in that it involves torture or serious
99 physical abuse to the image of a victim.

100
101 Pertinent factors in determining whether a killing depicted in a
102 video game is especially heinous, cruel, or depraved include
103 infliction of gratuitous violence upon the image of a victim
104 beyond that necessary to commit the killing, needless mutilation
105 of the image of a victim's body, and helplessness of the image
106 of a victim.

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

110 (4) Proof that a person, or his or her employee or agent,
111 demanding, was shown, and reasonably relied upon evidence that a
112 purchaser or renter of a violent video game, or the player of a

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113 violent video game in a video arcade, was not a minor, or that
114 the manufacturer failed to label a violent video game as
115 required by subsection (6), is an affirmative defense to any
116 action brought under this section. Evidence of majority
117 includes, but need not be limited to, a driver's license or an
118 identification card issued to the purchaser, renter, or player
119 by a state or by the Armed Forces of the United States.

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

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

128 (7) (a) An enforcing authority may institute a civil action
129 in order to:

130 1. Seek injunctive relief to immediately restrain or
131 enjoin any person from engaging in any activity in violation of
132 this section or to seek injunctive relief to enforce compliance
133 with this section.

134 2. Impose a civil penalty for each violation of this
135 section. If the person against whom the civil penalty is sought
136 is a person who possesses managerial responsibility for a
137 business entity selling, renting, or playing a violent video
138 game, the civil penalty may be in an amount of not more than
139 \$1,000 per violation. If the person against whom the civil
140 penalty is sought is an employee of the business entity selling,

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141 renting, or playing a violent video game, the civil penalty may
142 be in an amount of not more than \$250 per violation.

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

146 (c) If a civil penalty is collected, the penalty shall
147 accrue to the state and be deposited into the General Revenue
148 Fund.

149 (8) (a) A person who violates subsection (3) or subsection
150 (6) commits a misdemeanor of the second degree, punishable as
151 provided in s. 775.082 or s. 775.083, Florida Statutes.

152 (b) A person who commits a second or subsequent violation
153 of subsection (3) or subsection (6) commits a misdemeanor of the
154 first degree, punishable as provided in s. 775.082 or s.
155 775.083, Florida Statutes.

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