

CHAMBER ACTION

1 The Business Regulation Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to violent video games; providing
7 legislative intent; providing definitions; prohibiting a
8 person from selling or renting a video game to a minor, or
9 allowing a minor to play a video game in a video arcade,
10 if the video game has been labeled as a violent video
11 game; providing that having requested identification from
12 a person purchasing a video game or playing a video game
13 in a video arcade is an affirmative defense to any action
14 filed under the act; providing exceptions; requiring that
15 each violent video game that is imported into or
16 distributed in this state for retail sale, rental, or
17 playing in a video arcade be labeled in a specified
18 manner; authorizing an enforcing authority to commence a
19 civil action to seek injunctive relief to restrain or
20 enjoin a person from violating the act or to impose a
21 civil penalty; providing for a civil penalty applicable to
22 a person who possesses managerial responsibility for a
23 business entity selling, renting, or playing a violent

Page 1 of 7

HB 647

2006
CS

24 video game; providing that attorney's fees and costs may
25 be awarded under certain circumstances; directing that any
26 civil penalty recovered be deposited into the General
27 Revenue Fund; providing that a violation of the act is a
28 misdemeanor; providing an effective date.

29

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

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

34 (1) The Legislature finds that:

35 (a) Minors who are exposed to depictions of violence in
36 video games are more likely to experience feelings of
37 aggression, to experience a reduction of activity in the frontal
38 lobes of the brain, and to exhibit violent antisocial or
39 aggressive behavior.

40 (b) Even minors who do not commit acts of violence suffer
41 psychological harm from prolonged exposure to violent video
42 games.

43 (c) This state has a compelling interest in preventing
44 violent, aggressive, and antisocial behavior and in preventing
45 psychological or neurological harm to minors who play violent
46 video games.

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

48 (a) "Cruel" means the intention to virtually inflict a
49 high degree of pain by torture or serious physical abuse of the
50 image of a victim in addition to killing the image of the
51 victim.

HB 647

2006
CS

52 | (b) "Depraved" means pleasure in the virtual killing or
53 | indifference to the suffering of the image of the victim, as
54 | evidenced by torture or serious physical abuse of the image of a
55 | victim.

56 | (c) "Enforcing authority" means a county or municipal
57 | attorney, the state attorney, the Department of Legal Affairs if
58 | a violation of this section occurs in more than one judicial
59 | circuit, or anyone aggrieved by a violation of this section.

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

64 | (e) "Minor" has the same meaning as in s. 1.01, Florida
65 | Statutes.

66 | (f) "Person" has the same meaning as in s. 1.01, Florida
67 | Statutes.

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

78 | (h) "Torture" includes mental as well as physical abuse of
79 | the image of a victim. In either case, the victim must be

HB 647

2006
CS

80 depicted as conscious of the abuse at the time it is inflicted,
81 and the player must specifically intend to virtually inflict
82 severe mental or physical pain or suffering upon the victim,
83 apart from killing the image of the victim.

84 (i) "Victim" means a life-like depiction of a human being
85 or character having substantially human characteristics.

86 (j) "Video arcade" means any premises where 10 or more
87 video game machines or devices are operated and where minors are
88 legally permitted to enter.

89 (k) "Video game" means any electronic amusement device
90 that uses a computer, microprocessor, or similar electronic
91 circuitry and its own monitor, or a device that is designed to
92 be used with a television set or a computer monitor, which
93 interacts with the user of the device.

94 (l) "Violent video game" means a video game in which the
95 options available to a player include killing, maiming,
96 dismembering, or sexually assaulting an image of a human being,
97 if those acts are depicted in the game in a manner that:

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

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

102 c. Lacks serious literary, artistic, political, or
103 scientific value for minors; or

104 2. Enables the player to virtually inflict serious injury
105 upon images of human beings or characters having substantially
106 human characteristics in a manner that is especially heinous,

HB 647

2006
CS

107 cruel, or depraved in that it involves torture or serious
108 physical abuse to the image of a victim.

109
110 Pertinent factors in determining whether a killing depicted in a
111 video game is especially heinous, cruel, or depraved include
112 infliction of gratuitous violence upon the image of a victim
113 beyond that necessary to commit the killing, needless mutilation
114 of the image of a victim's body, and helplessness of the image
115 of a victim.

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

119 (4) Proof that a person, or his or her employee or agent,
120 demanding, was shown, and reasonably relied upon evidence that a
121 purchaser or renter of a violent video game, or the player of a
122 violent video game in a video arcade, was not a minor, or that
123 the manufacturer failed to label a violent video game as
124 required by subsection (6), is an affirmative defense to any
125 action brought under this section. Evidence of majority
126 includes, but need not be limited to, a driver's license or an
127 identification card issued to the purchaser, renter, or player
128 by a state or by the Armed Forces of the United States.

129 (5) This section does not apply if the violent video game
130 is sold or rented to a minor by the minor's parent, grandparent,
131 aunt, uncle, or legal guardian or is purchased or rented over
132 the Internet with a credit card.

133 (6) Each violent video game that is imported into or
134 distributed in this state for retail sale, rental, or playing in

HB 647

2006
CS

135 a video arcade must be labeled with a solid white "18" outlined
136 in black of not less than 2 inches by 2 inches. The "18" must be
137 displayed on the front face of the video game package.

138 (7) (a) An enforcing authority may institute a civil action
139 in order to:

140 1. Seek injunctive relief to immediately restrain or
141 enjoin any person from engaging in any activity in violation of
142 this section or to seek injunctive relief to enforce compliance
143 with this section.

144 2. Impose a civil penalty for each violation of this
145 section. If the person against whom the civil penalty is sought
146 is a person who possesses managerial responsibility for a
147 business entity selling, renting, or playing a violent video
148 game, the civil penalty may be in an amount of not more than
149 \$1,000 per violation.

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

153 (c) If a civil penalty is collected, the penalty shall
154 accrue to the state and be deposited into the General Revenue
155 Fund.

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

159 (b) A person who commits a second or subsequent violation
160 of subsection (3) or subsection (6) commits a misdemeanor of the
161 first degree, punishable as provided in s. 775.082 or s.
162 775.083, Florida Statutes.

HB 647

2006
CS

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