
Juvenile Justice & Family Law Committee

HB 2363

Brief Description: Prohibiting sale of violent computer and video games to minors.

Sponsors: Representatives Dickerson, Delvin, Hurst, O'Brien, Tokuda, Lovick, Edwards, Kagi, Sommers and Schual-Berke.

Brief Summary of Bill

- The selling, renting or permitting to be sold or rented to a minor, a video game with a rating of Mature– or For Adults Only– that depicts violence against a public law enforcement officer is guilty of a misdemeanor.

Hearing Date: 1/23/02

Staff: Tracey Taylor (786-7196).

Background:

Since the introduction of "Pong" in 1972, video games have become more and more sophisticated. The advent of the personal computer has promoted the development and increased the prevalence of interactive games. Many games have assisted in introducing to and familiarizing children with computer technology; however, some interactive video and computer games have come under increased scrutiny and study by researchers, educators, and parents due to the depictions of violence.

The Entertainment Software Ratings Board ("ESRB") is an independent, self-regulatory entity that provides the ratings for software titles, websites, and on-line games. The ratings are located on the front of the game packaging. There are 7 ratings: "Early Childhood," "Kids to Adults," "Everyone," "Teen," "Mature," "Adults Only," and "Rating Pending."

A rating of "Mature" indicates that the content may be suitable for persons age 17 and older and may include more intense violence or language than the "Teen" rated games. The game may also include mature sexual themes. A title rated "Adults Only" has content suitable only for adults and is not intended for persons under the age of 18. The game may include graphic depictions of sex and/or violence.

The U.S. Supreme Court has declared that the First Amendment prohibits the government from regulating speech based on its content. However, there are some categories of speech that are unprotected or are less protected by the First Amendment, such as obscenity, defamation, and incitement or illegal activity. If a law regulates speech based on content, it is presumptively invalid. The government must demonstrate that the law is narrowly tailored to promote a compelling state interest in order to overcome the presumption and be constitutional.

Laws attempting to prohibit the dissemination of materials to minors are also subject to First Amendment constraints; however, there are narrow and well-defined circumstances in which the government may bar the public dissemination of otherwise protected materials to minors. For example, the Court upheld a New York law limiting a minor's access to "girlie picture magazines," which were not considered obscene for adults.

The U.S. Supreme Court has not addressed the issue of restricting a minor's access to violent materials. Several states and municipalities have attempted to regulate minors' access to materials with violent themes. These laws and ordinances have faced constitutional challenges based on the First Amendment. The U.S. Court of Appeals for the Second Circuit invalidated a county law prohibiting the sale to minors any training card that depicts a heinous crime, an element of a heinous crime or a heinous criminal because it was not narrowly tailored to serve a compelling state interest. The Court of Appeals for the Seventh Circuit enjoined the enforcement of a city ordinance that limited a minor's access to video games depicting violence by giving violent materials similar treatment to obscene materials. The Court of Appeals for the Eighth Circuit found a law prohibiting the sale or rental to minors videos containing violent depictions unconstitutional because the law was vague; it was not narrowly tailored to promote a compelling state interest; and it imposed strict liability.

Summary of Bill:

The selling, renting, or permitting the sale or rental of a violent video or computer game to a minor under the age of 18 years is a misdemeanor punishable by up to 90 days in county jail and/or a fine up to \$1,000. A violent video or computer game is defined as a game rated "Mature" or "Adults Only" by ERSB, the manufacturer or other industry board, containing realistic or photographic-like depictions of aggressive conflict in which the player kills, injures, or otherwise causes violence to a public law enforcement officer.

Appropriation: None.

Fiscal Note: Requested on January 21, 2002.

Effective Date: Ninety days after adjournment of session in which bill is passed.