
**Juvenile Justice & Family Law
Committee**

HB 1009

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

Sponsors: Representatives Dickerson, Delvin, Skinner, Kagi, Chase, Wood, Sommers, Miloscia, Conway, Cody, O'Brien, Kenney, Schual-Berke, McDermott and Lovick.

Brief Summary of Bill

- Provides that a person who sells, rents or permits to be sold or rented to a minor, a violent video game that depicts violence against a public law enforcement officer is guilty of a misdemeanor.

Hearing Date: 1/22/03

Staff: Sonja Hallum (786-7092).

Background:

Video games may include store-bought games, computer games downloaded from the internet, and hand-held game players. These games are a major industry and are very popular. The video games have become increasingly realistic and interactive. Many video games involve coordination and strategy and may have educational uses. Some video games have been criticized for their use of violence.

Some video games are rated by the Entertainment Software Rating Board (ESRB). The ESRB is an independent, self-regulatory entity supported by the entertainment industry which provides ratings for software titles, websites, and on-line games. The ratings are located on the front of the game packaging. There are 6 ratings: "Early Childhood," "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. It may include more intense violence, language, or mature sexual themes than the "Teen" rated games. 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.

Several states and municipalities have attempted to regulate minors' access to materials with violent themes. Many of these laws and ordinances have faced constitutional challenges based on the First Amendment. The U.S. Supreme Court has not addressed the issue of restricting a minor's access to violent materials. Therefore, there is no definitive ruling from the U.S. Supreme Court that governs what states must do when regulating this type of material.

Though the U.S. Supreme Court has not ruled on the issue, several lower courts have ruled on cases involving restrictions on minors' access to materials with violent themes. Many of the statutes and ordinances which have attempted to regulate this type of material have been found to be unconstitutional. The courts which have ruled the statutes and ordinances were unconstitutional have found that this material is protected under the First Amendment. Because this material is considered protected speech under the First Amendment, the court will carefully scrutinize a statute or ordinance that attempts to restrict such speech. The statute or ordinance restricting protected speech must be narrowly tailored to advance a compelling governmental interest.

Some of the courts that have considered these types of statutes and ordinances have found them to be too broad so that it is difficult to determine what type of video is being targeted by the law. Other statutes or ordinances have been struck down because the court found the government lacked proof that the ordinance was necessary to advance a compelling governmental interest. These courts found that there was not sufficient research showing the violent material caused harm to minors.

One court has recently upheld a county ordinance which restricts the sale of violent video games to minors. The court found that the First Amendment does not apply to video games because they are games and not speech. The First Amendment only protects speech. The court also found that even if video games were considered speech the ordinance in question would meet the requirements of the First Amendment and would not be unconstitutional.

An area of law which the Washington Supreme Court has ruled on is the legislature's delegation of authority. The Washington State Constitution vests the legislative authority of Washington in the legislature. The legislature cannot delegate this authority to a third party without also establishing standards and guidelines which define in general terms what is to be done and the instrumentality or administrative body which is to accomplish it. Additionally, the legislature must ensure that procedural safeguards exist to control arbitrary administrative action and any administrative abuse of discretionary power.

Summary of Bill:

It is a misdemeanor to sell, rent, or permit to be sold or rented, a violent video game or computer game to a minor under the age of 18. A violent video or computer game is defined as a video or computer game which contains realistic or photographic-like depictions of aggressive conflict in which the player kills, injures, or otherwise causes violence to a what appears to be a law enforcement officer and has been rated as "Mature," "For Adults

Only," or an equivalent rating by the manufacturer or entertainment rating board.

Appropriation: None.

Fiscal Note: Not Requested.

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