

FINAL BILL REPORT

ESHB 1009

C 365 L 03

Synopsis as Enacted

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

Sponsors: By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Dickerson, Delvin, Skinner, Kagi, Chase, Wood, Sommers, Miloscia, Conway, Cody, O'Brien, Kenney, Schual-Berke, McDermott and Lovick).

House Committee on Juvenile Justice & Family Law
Senate Committee on Children & Family Services & Corrections

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 six ratings: "Early Childhood," "Everyone," "Teen," "Mature," "Adults Only," and "Rating Pending."

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. Supreme Court has not addressed the issue of restricting a minors' 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.

While there is no definitive ruling from the U.S. Supreme Court, 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 further 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.

Several other courts have ruled on cases involving restrictions on minors' access to

materials with violent themes. In most of these cases, the statutes and ordinances which have attempted to regulate this type of material have been found to be unconstitutional. These courts found that this material is protected under the First Amendment.

When a court finds that materials are protected speech under the First Amendment, the court carefully scrutinizes the statute or ordinance that attempts to restrict such speech. To be found constitutional, a 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.

Summary:

The Legislature finds that there is a compelling interest in curbing hostile and antisocial behavior in youth and fostering respect for public law enforcement officers. Retailers and parents are encouraged to utilize the industry rating system for video games.

It is a class I civil infraction for a retailer to sell, rent, or permit to be sold or rented, a violent video or computer game he or she knows to be a violent video or computer game to a minor under the age of 17. This class I civil infraction is punishable by a fine of up to \$500.

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 physical harm to a human form which appears to be a law enforcement officer.

Votes on Final Passage:

House 81 16
Senate 42 7

Effective: July 27, 2003