



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 416 (Substitute S-1)
Sponsor: Senator Alan L. Cropsey
Committee: Judiciary

Date Completed: 5-9-05

CONTENT

The bill would amend the Michigan Penal Code to do all of the following:

- Prohibit a person from selling or renting a violent video game to a person who was under 17 years old.**
- Provide that acting in good faith would be an affirmative defense to a prosecution.**
- List legislative findings and compelling interests of the State.**

Selling/Renting Violent Video Games

A person who sold or rented a violent video game to a minor (a person under 17) would be guilty of a misdemeanor punishable by up to one year's imprisonment, a maximum fine of \$5,000, or both.

"Video game" would mean an object or device that stores recorded data or instructions, receives data or instructions generated by anyone who uses it, and, by processing the data or instructions, creates an interactive game capable of being played, viewed, or experienced on or through a computer, gaming system, console, or other technology.

"Violent video game" would mean a video game to which both of the following apply:

- It depicts human-on-human violence in which the player kills, seriously injures, or otherwise causes serious physical harm to a human or character with substantially human characteristics, including depictions of death, dismemberment, amputation, decapitation, maiming, disfigurement, mutilation of body parts, or criminal sexual conduct, in a manner that is especially heinous, atrocious, or cruel.
- Taken as a whole, it lacks serious literary, artistic, political, and scientific value for minors, and the average person, applying contemporary statewide values, finds it appeals to minors' morbid interest in violence.

A depiction of violence would be especially heinous, atrocious, or cruel under the definition of "violent video game" if it contains all of the following elements:

- It depicts exceptional pain or suffering on the part of the victim and is accompanied by a graphic depiction of the victim's injuries.
- The violence is accomplished in the commission of an act that would be punishable as a crime if it were committed in reality.
- The circumstances surrounding the violence indicate that it is committed without conscience, pity, or empathy.
- It is accompanied by auditory or other sensory elements that serve to enhance the realism of the visual depiction.

Affirmative Defense

It would be an affirmative defense to a charge under the bill that the person acted in good faith. Good faith would exist if all of the following conditions applied at the time the violation occurred:

- The minor showed the person identification that appeared to be valid and that contained a photograph and a date of birth purporting to show that the minor was at least 17 years old.
- The person did not have independent knowledge that the minor was under 17.
- The person complied with the video game ratings established by the Entertainment Software Rating Board.

(An affirmative defense is new matter that constitutes a defense to a complaint, or evidence that outweighs the evidence against the defense.)

Legislative Findings & Compelling State Interests

The bill states, "The legislature finds that minors who play violent video games are more likely to do one or more of the following:

- (a) Exhibit violent, asocial, or aggressive behavior toward others, including other minors.
- (b) Experience feelings of aggression.
- (c) Experience a reduction of activity in the frontal lobes of the brain, which are responsible for controlling behavior."

The bill also states, "Although the video game industry has adopted its own voluntary standards describing which games are appropriate for minors, those standards are not adequately enforced. Minors are capable of purchasing, and do purchase, violent video games."

The bill specifies, "This state has all of the following compelling interests:

- (a) Preventing violent, aggressive, and asocial behavior.
- (b) Preventing psychological harm to minors who play violent video games.
- (c) Preventing physical harm to the victims of violent minors, including other minors.
- (d) Eliminating any societal factors that may inhibit the psychological and neurological development of its youth.
- (e) Facilitating the healthy maturation of the youth of this state into well-meaning, productive adults."

Proposed MCL 750.143a-750.143c

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

There are no data to indicate how many offenders would be convicted of the proposed crime. Local units would incur the costs of misdemeanor probation or incarceration in a local facility, which vary by county. Public libraries would benefit from any additional penal fine revenue.

Fiscal Analyst: Bethany Wicksall

S0506\sb416sb

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.