

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 2
Corrected Copy 1/28/05
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Short Title: No Violent/Obscene Video Game Sales to Minor. (Public)

Sponsors: Senators Boseman, Rand; Albertson, Berger of Franklin, Clodfelter, Dalton, Dannelly, Garrou, Graham, Hagan, Holloman, Hoyle, Jenkins, Kerr, Lucas, Malone, Purcell, Snow, Soles, Swindell, Thomas, and Weinstein.

Referred to: Commerce.

January 27, 2005

A BILL TO BE ENTITLED

1
2 AN ACT TO PROHIBIT THE DISSEMINATION OF OBSCENE AND
3 GRAPHICALLY VIOLENT VIDEO GAMES TO MINORS AND TO REQUIRE
4 VIDEO GAME RETAILERS TO INFORM CONSUMERS THAT A VIDEO
5 GAME RATING SYSTEM IS AVAILABLE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 14-190.13 reads as rewritten:

8 "**§ 14-190.13. Definitions for certain offenses concerning minors.**

9 The following definitions apply to G.S. 14-190.14, displaying material harmful to
10 minors; G.S. 14-190.15, disseminating or exhibiting to minors harmful material or
11 performances; G.S. 14-190.16, first degree sexual exploitation of a minor;
12 G.S. 14-190.17, second degree sexual exploitation of a minor; G.S. 14-190.17A, third
13 degree sexual exploitation of a minor; G.S. 14-190.18, promoting prostitution of a
14 minor; and G.S. 14-190.19, participating in prostitution of a minor.

15 (1) Harmful to Minors. – That quality of any material or performance that
16 depicts sexually explicit nudity or sexual activity and that, taken as a
17 whole, has the following characteristics:

- 18 a. The average adult person applying contemporary community
19 standards would find that the material or performance has a
20 predominant tendency to appeal to a prurient interest of minors
21 in sex; and
22 b. The average adult person applying contemporary community
23 standards would find that the depiction of sexually explicit
24 nudity or sexual activity in the material or performance is

- 1 patently offensive to prevailing standards in the adult
2 community concerning what is suitable for minors; and
3 c. The material or performance lacks serious literary, artistic,
4 political, or scientific value for minors.
- 5 (2) Material. – Pictures, drawings, video recordings, video games, films or
6 other visual depictions or representations but not material consisting
7 entirely of written words.
- 8 (3) Minor. – An individual who is less than 18 years old and is not
9 married or judicially emancipated.
- 10 (4) Prostitution. – Engaging or offering to engage in sexual activity with
11 or for another in exchange for anything of value.
- 12 (5) Sexual Activity. – Any of the following acts:
- 13 a. Masturbation, whether done alone or with another human or an
14 animal.
- 15 b. Vaginal, anal, or oral intercourse, whether done with another
16 human or with an animal.
- 17 c. Touching, in an act of apparent sexual stimulation or sexual
18 abuse, of the clothed or unclothed genitals, pubic area, or
19 buttocks of another person or the clothed or unclothed breasts
20 of a human female.
- 21 d. An act or condition that depicts torture, physical restraint by
22 being fettered or bound, or flagellation of or by a person clad in
23 undergarments or in revealing or bizarre costume.
- 24 e. Excretory functions; provided, however, that this
25 sub-subdivision shall not apply to G.S. 14-190.17A.
- 26 f. The insertion of any part of a person's body, other than the male
27 sexual organ, or of any object into another person's anus or
28 vagina, except when done as part of a recognized medical
29 procedure.
- 30 (6) Sexually Explicit Nudity. – The showing of:
- 31 a. Uncovered, or less than opaquely covered, human genitals,
32 pubic area, or buttocks, or the nipple or any portion of the
33 areola of the human female breast, except as provided in
34 G.S. 14-190.9(b); or
- 35 b. Covered human male genitals in a discernibly turgid state.
- 36 (7) Video Games. – An object or device that stores recorded data or
37 instructions, receives data or instructions generated by a person who
38 uses it, and, by processing the data or instructions, creates an
39 interactive game capable of being played, viewed, or experienced on
40 or through a computer, gaming system, console, or other technology."

41 **SECTION 2.** Article 39 of Chapter 14 of the General Statutes is amended by
42 adding the following new sections to read:

43 **"§ 14-317.1. Disseminating a graphically violent video game to a minor.**

- 44 (a) Definitions. – The following definitions apply in this section:

1 (1) "Graphically violent" means the visual depiction of serious injury to
2 human beings, actual or virtual, including aggravated assault,
3 decapitation, dismemberment, or death.

4 (2) "Video game" means an object or device that stores recorded data or
5 instructions, receives data or instructions generated by a person who
6 uses it, and, by processing the data or instructions, creates an
7 interactive game capable of being played, viewed, or experienced on
8 or through a computer, gaming system, console, or other technology.

9 (b) Offense. – It is unlawful for a person to sell, rent, or otherwise disseminate
10 for consideration to a minor a graphically violent video game if the person knows the
11 character or content of the video game.

12 (c) Penalty. – A violation of this section is a Class 1 misdemeanor.

13 **§ 14-317.2. Video game retailer must inform customer that video game ratings**
14 **are available.**

15 (a) The following definitions apply in this section:

16 (1) "Video game retailer" means a person who sells or rents video games
17 to the public.

18 (2) "Video game" is as defined in G.S. 14-317.2(a)(2).

19 (b) Every video game retailer shall post a sign providing information to
20 consumers about a video game rating system or notifying consumers that a rating
21 system is available to aid in the selection of a game. The sign shall be posted within the
22 retail establishment in a prominent area.

23 (c) A video game retailer shall make available to consumers, upon request,
24 information that explains the video game rating system."

25 **SECTION 3.** If any provision of this act or its application is held invalid, the
26 invalidity does not affect other provisions or applications of this act that can be given
27 effect without the invalid provisions or application, and to this end the provisions of this
28 act are severable.

29 **SECTION 4.** This act becomes effective December 1, 2005, and applies to
30 offenses committed on or after that date.