

(PRE-FILED)

By: **Delegate Ross**
 Requested: November 15, 2005
 Introduced and read first time: January 11, 2006
 Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection - Sales and Rentals of Violent Video Games to Minors -**
3 **Prohibited**

4 FOR the purpose of prohibiting the sale or rental of violent video games to minors;
5 providing a certain exception to the prohibition; requiring certain violent video
6 games to be labeled in a certain manner; providing that a person that violates
7 this Act is subject to a certain fine; providing for certain defenses; authorizing
8 the reporting and prosecution of a violation of this Act; defining certain terms;
9 making the provisions of this Act severable; and generally relating to the sale
10 and rental of violent video games to minors.

11 BY adding to
12 Article - Commercial Law
13 Section 14-3501 through 14-3505, inclusive, to be under the new subtitle
14 "Subtitle 35. Violent Video Games"
15 Annotated Code of Maryland
16 (2005 Replacement Volume)

17 Preamble

18 WHEREAS, Exposing minors to depictions of violence in video games, including
19 sexual and heinous violence, makes those minors more likely to experience feelings of
20 aggression, to experience a reduction of activity in the frontal lobes of the brain, and
21 to exhibit violent antisocial or aggressive behavior; and

22 WHEREAS, Even minors who do not commit acts of violence suffer
23 psychological harm from prolonged exposure to violent video games; and

24 WHEREAS, The State has a compelling interest in preventing violent,
25 aggressive, and antisocial behavior, and in preventing psychological or neurological
26 harm to minors who play violent video games; now, therefore,

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Commercial Law**

2 SUBTITLE 35. VIOLENT VIDEO GAMES.

3 14-3501.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.6 (B) "CRUEL" MEANS THAT THE PLAYER INTENDS TO VIRTUALLY INFLICT A
7 HIGH DEGREE OF PAIN BY TORTURE OR SERIOUS PHYSICAL ABUSE OF THE VICTIM IN
8 ADDITION TO KILLING THE VICTIM.9 (C) "DEPRAVED" MEANS THAT THE PLAYER RELISHES THE VIRTUAL KILLING
10 OR SHOWS INDIFFERENCE TO THE SUFFERING OF THE VICTIM, AS EVIDENCED BY
11 TORTURE OR SERIOUS PHYSICAL ABUSE OF THE VICTIM.

12 (D) "HEINOUS" MEANS THE DEPICTION OF A VIRTUAL KILLING THAT:

13 (1) IS SHOCKINGLY ATROCIOUS; AND

14 (2) INVOLVES ADDITIONAL ACTS OF TORTURE OR SERIOUS PHYSICAL
15 ABUSE OF THE VICTIM APART FROM OTHER KILLINGS.16 (E) "MINOR" HAS THE MEANING STATED IN ARTICLE 1, SECTION 24 OF THE
17 CODE.18 (F) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, FIRM, ASSOCIATION,
19 CORPORATION, LIMITED LIABILITY COMPANY, OR OTHER LEGAL ENTITY.20 (G) "SERIOUS PHYSICAL ABUSE" MEANS A SIGNIFICANT OR CONSIDERABLE
21 AMOUNT OF INJURY OR DAMAGE TO THE VICTIM'S BODY THAT:22 (1) INVOLVES A SUBSTANTIAL RISK OF DEATH, UNCONSCIOUSNESS,
23 EXTREME PHYSICAL PAIN, SUBSTANTIAL DISFIGUREMENT, OR SUBSTANTIAL
24 IMPAIRMENT OF THE FUNCTION OF A BODILY MEMBER, ORGAN, OR MENTAL
25 FACULTY;26 (2) IS INFLICTED ON A VICTIM WHO IS CONSCIOUS OR UNCONSCIOUS OF
27 THE ABUSE AT THE TIME IT IS INFLICTED; AND28 (3) THE PLAYER SPECIFICALLY INTENDS TO INFLICT APART FROM THE
29 KILLING.

30 (H) (1) "TORTURE" MEANS ABUSE THAT:

31 (I) IS INFLICTED ON A VICTIM WHO IS CONSCIOUS OF THE ABUSE
32 AT THE TIME IT IS INFLICTED;33 (II) INFLECTS SEVERE MENTAL OR PHYSICAL PAIN OR SUFFERING
34 ON THE VICTIM; AND

1 (III) THE PLAYER SPECIFICALLY INTENDS TO INFLICT APART FROM
2 THE KILLING.

3 (2) "TORTURE" INCLUDES MENTAL AS WELL AS PHYSICAL ABUSE OF THE
4 VICTIM.

5 (I) "VIDEO GAME" MEANS AN ELECTRONIC AMUSEMENT DEVICE THAT USES A
6 COMPUTER, MICROPROCESSOR, OR SIMILAR ELECTRONIC CIRCUITRY AND ITS OWN
7 MONITOR, OR IS DESIGNED TO BE USED WITH A TELEVISION SET OR A COMPUTER
8 MONITOR, THAT INTERACTS WITH THE USER OF THE DEVICE.

9 (J) "VIOLENT VIDEO GAME" MEANS A VIDEO GAME IN WHICH THE RANGE OF
10 OPTIONS AVAILABLE TO A PLAYER INCLUDES KILLING, MAIMING, DISMEMBERING,
11 OR SEXUALLY ASSAULTING AN IMAGE OF A HUMAN BEING, IF THOSE ACTS ARE
12 DEPICTED IN THE GAME IN A MANNER THAT:

13 (1) (I) A REASONABLE INDIVIDUAL, CONSIDERING THE GAME AS A
14 WHOLE, WOULD FIND APPEALS TO A DEVIANT OR MORBID INTEREST OF MINORS;

15 (II) IS PATENTLY OFFENSIVE TO PREVAILING STANDARDS IN THE
16 COMMUNITY AS TO WHAT IS SUITABLE FOR MINORS; AND

17 (III) CAUSES THE GAME, AS A WHOLE, TO LACK SERIOUS LITERARY,
18 ARTISTIC, POLITICAL, OR SCIENTIFIC VALUE FOR MINORS; OR

19 (2) ENABLES THE PLAYER TO VIRTUALLY INFLICT SERIOUS INJURY ON
20 IMAGES OF HUMAN BEINGS OR CHARACTERS WITH SUBSTANTIALLY HUMAN
21 CHARACTERISTICS IN A MANNER THAT IS ESPECIALLY HEINOUS, CRUEL, OR
22 DEPRAVED IN THAT IT INVOLVES TORTURE OR SERIOUS PHYSICAL ABUSE TO THE
23 VICTIM.

24 14-3502.

25 (A) A PERSON MAY NOT SELL OR RENT TO A MINOR A VIDEO GAME THAT HAS
26 BEEN LABELED AS A VIOLENT VIDEO GAME.

27 (B) PERTINENT FACTORS IN DETERMINING WHETHER A KILLING DEPICTED
28 IN A VIDEO GAME IS ESPECIALLY HEINOUS, CRUEL, OR DEPRAVED FOR PURPOSES OF
29 § 14-3501(J)(2) OF THIS SUBTITLE INCLUDE THE:

30 (1) INFLICTION OF GRATUITOUS VIOLENCE ON THE VICTIM BEYOND
31 THAT NECESSARY TO COMMIT THE KILLING;

32 (2) NEEDLESS MUTILATION OF THE VICTIM'S BODY; AND

33 (3) HELPLESSNESS OF THE VICTIM.

34 (C) (1) PROOF THAT A DEFENDANT OR A DEFENDANT'S EMPLOYEE OR
35 AGENT DEMANDED, WAS SHOWN, AND REASONABLY RELIED ON EVIDENCE THAT A
36 PURCHASER OR RENTER OF A VIOLENT VIDEO GAME WAS NOT A MINOR, OR THAT

1 THE MANUFACTURER FAILED TO LABEL A VIOLENT VIDEO GAME AS REQUIRED
2 UNDER § 14-3503 OF THIS SUBTITLE, SHALL BE AN AFFIRMATIVE DEFENSE TO ANY
3 ACTION BROUGHT UNDER THIS SUBTITLE.

4 (2) EVIDENCE RELIED ON UNDER PARAGRAPH (1) OF THIS SUBSECTION
5 MAY INCLUDE:

6 (I) A DRIVER'S LICENSE ISSUED TO THE PURCHASER OR RENTER
7 BY A STATE OR THE ARMED FORCES OF THE UNITED STATES; OR

8 (II) AN IDENTIFICATION CARD ISSUED TO THE PURCHASER OR
9 RENTER BY A STATE OR THE ARMED FORCES OF THE UNITED STATES.

10 (D) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY IF THE VIOLENT
11 VIDEO GAME IS SOLD OR RENTED TO A MINOR BY THE MINOR'S PARENT,
12 GRANDPARENT, AUNT, UNCLE, OR LEGAL GUARDIAN.

13 14-3503.

14 (A) EACH VIOLENT VIDEO GAME THAT IS IMPORTED INTO OR DISTRIBUTED IN
15 THE STATE FOR RETAIL SALE OR RENTAL SHALL BE LABELED WITH A SOLID WHITE
16 "18" OUTLINED IN BLACK.

17 (B) THE NUMBER "18" SHALL:

18 (1) HAVE DIMENSIONS OF NO LESS THAN 2 INCHES BY 2 INCHES; AND

19 (2) BE DISPLAYED ON THE FRONT FACE OF THE VIDEO GAME PACKAGE.

20 14-3504.

21 (A) A PERSON THAT VIOLATES ANY PROVISION OF THIS SUBTITLE IS SUBJECT
22 TO A FINE NOT EXCEEDING \$1,000.

23 (B) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL
24 WHO:

25 (1) IS EMPLOYED SOLELY IN THE CAPACITY OF A SALESCLERK OR
26 OTHER SIMILAR POSITION IN THE BUSINESS IN WHICH THE VIOLATION OCCURRED;

27 (2) DOES NOT HAVE AN OWNERSHIP INTEREST IN THE BUSINESS IN
28 WHICH THE VIOLATION OCCURRED; AND

29 (3) IS NOT EMPLOYED AS A MANAGER IN THE BUSINESS IN WHICH THE
30 VIOLATION OCCURRED.

31 14-3505.

32 (A) A SUSPECTED VIOLATION OF THIS SUBTITLE MAY BE REPORTED TO THE
33 APPROPRIATE AUTHORITIES BY A PARENT, LEGAL GUARDIAN, OR OTHER ADULT

1 ACTING ON BEHALF OF A MINOR TO WHOM A VIOLENT VIDEO GAME HAS BEEN SOLD
2 OR RENTED.

3 (B) A VIOLATION OF THIS SUBTITLE MAY BE PROSECUTED BY THE
4 APPROPRIATE AUTHORITIES.

5 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
6 Act or the application thereof to any person or circumstance is held invalid for any
7 reason in a court of competent jurisdiction, the invalidity does not affect other
8 provisions or any other application of this Act which can be given effect without the
9 invalid provision or application, and for this purpose the provisions of this Act are
10 declared severable.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2006.