

JAN 25 2006

S.B. NO. 3204

A BILL FOR AN ACT

RELATING TO VIOLENT VIDEO GAMES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that exposing minors to
2 depictions of violence in video games, including sexual and
3 heinous violence, makes those minors more likely to experience
4 feelings of aggression, to experience a reduction of activity in
5 the frontal lobes of the brain, and to exhibit violent
6 antisocial or aggressive behavior. Even minors who do not
7 commit acts of violence suffer psychological harm from prolonged
8 exposure to violent video games. The State has a compelling
9 interest in preventing violent, aggressive, and antisocial
10 behavior and in preventing psychological or neurological harm to
11 minors who play violent video games.

12 SECTION 2. The Hawaii Revised Statutes is amended by
13 adding a new chapter to be appropriately designated and to read
14 as follows:

"CHAPTER

VIOLENT VIDEO GAMES

17 § -1 **Definitions.** For purposes of this chapter:



1 "Cruel" means that the player intends to virtually inflict
2 a high degree of pain by torture or serious physical abuse of
3 the virtual victim in addition to killing the victim.

4 "Depraved" means that the player relishes the virtual
5 killing or shows indifference to the suffering of the virtual
6 victim, as evidenced by torture or serious physical abuse of the
7 victim.

8 "Heinous" means shockingly atrocious; provided that for the
9 killing depicted in a video game to be "heinous", it means that
10 the killing involves additional acts of torture or serious
11 physical abuse of the virtual victim as set apart from other
12 killings.

13 "Minor" means any natural person who is under eighteen
14 years of age.

15 "Person" means any natural person, partnership, firm,
16 association, corporation, limited liability company, or other
17 legal entity.

18 "Serious physical abuse" means a significant or
19 considerable amount of injury or damage to the virtual victim's
20 body that involves a substantial risk of death, unconsciousness,
21 extreme physical pain, substantial disfigurement, or substantial
22 impairment of the function of a bodily member, organ, or mental



1 faculty; provided that serious physical abuse, unlike torture,
2 does not require that the virtual victim be conscious of the
3 abuse at the time it is inflicted, but the player must
4 specifically intend the abuse apart from the killing.

5 "Torture" includes mental as well as physical abuse of the
6 victim; provided that in either case, the virtual victim is
7 conscious of the abuse at the time it is inflicted and the
8 player specifically intends to virtually inflict severe mental
9 or physical pain or suffering upon the victim, apart from
10 killing the victim.

11 "Video game" means any electronic amusement device that
12 utilizes a computer, microprocessor, or similar electronic
13 circuitry and its own monitor, or is designed to be used with a
14 television set or a computer monitor, that interacts with the
15 user of the device.

16 § -2 **Violent video game; factors.** (a) A video game in
17 which the range of options available to a player includes
18 killing, maiming, dismembering, or sexually assaulting an image
19 of a human being is a violent video game for purposes of this
20 chapter, if those acts are depicted in the game in a manner that
21 does either of the following:

22 (1) Comes within all of the following descriptions:



1 (A) A reasonable person, considering the game as a
2 whole, would find that it appeals to a deviant or
3 morbid interest of minors;

4 (B) It is patently offensive to prevailing standards
5 in the community as to what is suitable for
6 minors; and

7 (C) It causes the game, as a whole, to lack serious
8 literary, artistic, political, or scientific
9 value for minors; or

10 (2) Enables the player to virtually inflict serious injury
11 upon images of human beings or characters with
12 substantially human characteristics in a manner that
13 is especially heinous, cruel, or depraved in that it
14 involves torture or serious physical abuse to the
15 victim.

16 (b) Pertinent factors in determining whether a killing
17 depicted in a video game is especially heinous, cruel, or
18 depraved include infliction of gratuitous violence upon the
19 virtual victim beyond that necessary to commit the killing,
20 needless mutilation of the victim's body, and helplessness of
21 the victim.



1 § -3 **Sale or rental of violent video game to a minor**
2 **prohibited.** (a) A person may not sell or rent to a minor a
3 video game that has been labeled as a violent video game.

4 (b) Proof that a defendant, or the defendant's employee or
5 agent, demanded, was shown, and reasonably relied upon evidence
6 that a purchaser or renter of a violent video game was not a
7 minor or that the manufacturer failed to label a violent video
8 game as required pursuant to section -4 shall be an
9 affirmative defense to any action brought pursuant to this
10 section. That evidence may include, but is not limited to, a
11 driver's license or an identification card issued to the
12 purchaser or renter by a state or by any of the armed forces of
13 the United States.

14 (c) This section shall not apply if the violent video game
15 is sold or rented to a minor by the minor's parent, grandparent,
16 aunt, uncle, or legal guardian.

17 § -4 **Labeling of violent video games required.** Each
18 violent video game that is imported into or distributed in this
19 State for retail sale shall be labeled with a solid white "18"
20 outlined in black. The "18" shall have dimensions of no less
21 than two inches by two inches. The "18" shall be displayed on
22 the front face of the video game package.

1 § **-5 Penalty.** (a) Any person who violates any
2 provision of this chapter shall be fined in an amount of up to
3 \$1,000, as determined by the court.

4 (b) This section shall not apply to any person who is
5 employed solely in the capacity of a salesclerk or other,
6 similar position, does not have an ownership interest in the
7 business in which the violation occurred, and is not employed as
8 a manager in that business.

9 § **-6 Enforcement.** A suspected violation of this chapter
10 may be reported by a parent, legal guardian, or other adult
11 acting on behalf of a minor to whom a violent video game has
12 been sold or rented. Any corporation counsel or county
13 attorney, prosecuting attorney, or the attorney general may
14 prosecute a violation of this chapter."

15 SECTION 3. If any provision of this Act, or the
16 application thereof to any person or circumstance is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act, which can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.



S.B. NO. 3204

1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 5. This Act shall take effect on January 1, 2007.

5

INTRODUCED BY: *Shianne Chun Oatland*



Report Title:

Children; Violence; Video Games

SB. NO. 3204

Description:

Requires violent video games to be labeled as specified and prohibits the sale or rental of those violent video games to minors. Provides that a person who violates the law shall be fined up to \$1,000 for each violation.

