

THE MEDIA COALITION INC

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Memorandum in Opposition to Connecticut Raised Bill 7248

The members of Media Coalition believe that Raised Bill 7248 potentially violates the First Amendment rights of creators of sound recordings and their customers. The members of Media Coalition represent most of the publishers, booksellers, librarians, recording, film and video game manufacturers, recording, video and video game retailers and film exhibitors in Connecticut and the rest of the United States.

Bill 7248 would require all public schools to ban students from bringing to school any sound recording that has lyrics with sexual or violent content. The administration of a school could use the Recording Industry Association of America's parental advisory label as sufficient basis for determining that a sound recording included the prohibited content.

Giving legal effect to the RIAA parental advisory label is likely an unconstitutional delegation of authority by the state. While voluntary ratings exist to help parents determine what is appropriate for their children, government cannot enforce or adopt an existing rating system. A recent decision barred Minnesota from enforcing the Entertainment Software Association's rating system for video games. *ESA v. Hatch*, 443 F. Supp. 2d 1065 (D. Minn. 2006) (granting permanent injunction (since re-captioned *ESA v. Swanson*)). Courts in nine different states have ruled it unconstitutional either to enforce the Motion Picture Association of America's rating system or to financially punish a movie that carries specific rating designations. *MPAA v. Specter*, 315 F. Supp. 824 (E.D. Pa. 1970), enjoined enforcement of a Pennsylvania statute that penalized exhibitors showing movies unsuitable for family or children viewing, as determined by CARA ratings. In *Eastern Federal Corporation v. Wasson*, 316 S.E. 2d 373 (S.C. 1984), the court ruled that a tax of 20% on all admissions to view movies rated either "X" or unrated was an unconstitutional delegation of legislative power to a private trade association. *See also, Swope v. Lubbers*, 560 F.Supp.1328 (W.B. Mich, S.D. 1983) (use of M.P.A.A. ratings was improper as a criteria for determination of constitutional protection), *Drive-In Theater v. Huskey*, 435 F.2d 228 (4th Cir. 1970) (sheriff enjoined from prosecuting exhibitors for obscenity based on "R" or "X" rating). Also, the U.S. Supreme Court has held that an enforcement scheme that gives even an implied effect to standards set outside the state's own criminal regulation of illegal conduct is just as improper as an express adoption of those standards. *See Bantam Books, Inc. v. Sullivan*, 372 U.S. 58 (1973).

Again, we ask you to please protect the First Amendment rights of all people of Connecticut and defeat this legislation.

The Media Coalition is a trade association that defends the First Amendment rights of publishers, booksellers, and librarians, recording, motion picture and video games producers, recording, video, and video game retailers, and motion picture exhibitors in the United States.

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Foundation for Free
Expression

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Publishers, Inc.

Comic Book Legal
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Entertainment Merchants
Association

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