

Assembly Bill No. 1179

CHAPTER 638

An act to add Title 1.2A (commencing with Section 1746) to Part 4 of Division 3 of the Civil Code, relating to violent video games.

[Approved by Governor October 7, 2005. Filed with
Secretary of State October 7, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1179, Yee. Violent video games: sales to minors.

Existing law regulates the sale of certain merchandise, such as political items and sports memorabilia.

This bill would require violent video games to be labeled as specified and would prohibit the sale or rental of those violent video games, as defined, to minors. The bill would provide that a person who violates the act shall be liable in an amount of up to \$1,000 for each violation.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Exposing minors to depictions of violence in video games, including sexual and heinous violence, makes those minors more likely to experience feelings of aggression, to experience a reduction of activity in the frontal lobes of the brain, and to exhibit violent antisocial or aggressive behavior.

(b) Even minors who do not commit acts of violence suffer psychological harm from prolonged exposure to violent video games.

(c) The state has a compelling interest in preventing violent, aggressive, and antisocial behavior, and in preventing psychological or neurological harm to minors who play violent video games.

SEC. 2. Title 1.2A (commencing with Section 1746) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.2A. VIOLENT VIDEO GAMES

1746. For purposes of this title, the following definitions shall apply:

(a) "Minor" means any natural person who is under 18 years of age.

(b) "Person" means any natural person, partnership, firm, association, corporation, limited liability company, or other legal entity.

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

(d) (1) “Violent video game” means a video game in which the range of options available to a player includes killing, maiming, dismembering, or sexually assaulting an image of a human being, if those acts are depicted in the game in a manner that does either of the following:

(A) Comes within all of the following descriptions:

(i) A reasonable person, considering the game as a whole, would find appeals to a deviant or morbid interest of minors.

(ii) It is patently offensive to prevailing standards in the community as to what is suitable for minors.

(iii) It causes the game, as a whole, to lack serious literary, artistic, political, or scientific value for minors.

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

(2) For purposes of this subdivision, the following definitions apply:

(A) “Cruel” means that the player intends to virtually inflict a high degree of pain by torture or serious physical abuse of the victim in addition to killing the victim.

(B) “Depraved” means that the player relishes the virtual killing or shows indifference to the suffering of the victim, as evidenced by torture or serious physical abuse of the victim.

(C) “Heinous” means shockingly atrocious. For the killing depicted in a video game to be heinous, it must involve additional acts of torture or serious physical abuse of the victim as set apart from other killings.

(D) “Serious physical abuse” means a significant or considerable amount of injury or damage to the victim’s body which involves a substantial risk of death, unconsciousness, extreme physical pain, substantial disfigurement, or substantial impairment of the function of a bodily member, organ, or mental faculty. Serious physical abuse, unlike torture, does not require that the victim be conscious of the abuse at the time it is inflicted. However, the player must specifically intend the abuse apart from the killing.

(E) “Torture” includes mental as well as physical abuse of the victim. In either case, the virtual victim must be conscious of the abuse at the time it is inflicted; and the player must specifically intend to virtually inflict severe mental or physical pain or suffering upon the victim, apart from killing the victim.

(3) Pertinent factors in determining whether a killing depicted in a video game is especially heinous, cruel, or depraved include infliction of gratuitous violence upon the victim beyond that necessary to commit the killing, needless mutilation of the victim’s body, and helplessness of the victim.

1746.1. (a) A person may not sell or rent a video game that has been labeled as a violent video game to a minor.

(b) Proof that a defendant, or his or her employee or agent, demanded, was shown, and reasonably relied upon evidence that a purchaser or renter

of a violent video game was not a minor or that the manufacturer failed to label a violent video game as required pursuant to Section 1746.2 shall be an affirmative defense to any action brought pursuant to this title. That evidence may include, but is not limited to, a driver's license or an identification card issued to the purchaser or renter by a state or by the Armed Forces of the United States.

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

1746.2. Each violent video game that is imported into or distributed in California for retail sale shall be labeled with a solid white "18" outlined in black. The "18" shall have dimensions of no less than 2 inches by 2 inches. The "18" shall be displayed on the front face of the video game package.

1746.3. Any person who violates any provision of this title shall be liable in an amount of up to one thousand dollars (\$1,000), or a lesser amount as determined by the court. However, this liability shall not apply to any person who violates those provisions if he or she is employed solely in the capacity of a salesclerk or other, similar position and he or she does not have an ownership interest in the business in which the violation occurred and is not employed as a manager in that business.

1746.4. A suspected violation of this title may be reported to a city attorney, county counsel, or district attorney by a parent, legal guardian, or other adult acting on behalf of a minor to whom a violent video game has been sold or rented. A violation of this title may be prosecuted by any city attorney, county counsel, or district attorney.

1746.5. The provisions of this title are severable. If any provision of this title or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.