
SENATE BILL No. 135

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4-14.

Synopsis: Adult video games. Requires a video game retailer to place a warning label on violent or sexually explicit video games. Prohibits the sale or rental of violent or sexually explicit video games by means of a scanning device that has not been programmed to prompt the sales clerk to ask the purchaser to show identification. Prohibits the sale or rental of a violent or sexually explicit video game to a child less than 18 years of age. Provides affirmative defenses if: (1) certain relatives of the child were involved in the sale or rental; (2) the child used false identification to buy or rent the video game; or (3) the video game was rated appropriate for children less than 18 years of age by the Entertainment Software Rating System. Provides an affirmative defense for a video game retailer if a sales clerk, knowing that the purchaser was a child less than 18 years of age, intentionally sold a violent or sexually explicit video game to a child less than 18 years of age.

Effective: July 1, 2006.

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January 9, 2006, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

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SENATE BILL No. 135



A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-4-14 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2006]:

4 **Chapter 14. Violent and Sexually Explicit Video Games**

5 **Sec. 1. As used in this chapter, "age label" means a label:**

6 (1) **containing the numeral "18" in solid white outlined in**
7 **black;**

8 (2) **in which the numeral "18" measures at least two (2) inches**
9 **by two (2) inches; and**

10 (3) **that is affixed to the front of a video game package.**

11 **Sec. 2. As used in this chapter, "character" means a depiction**
12 **or simulation of a human being that may be played, viewed, or**
13 **experienced as part of a video game.**

14 **Sec. 3. As used in this chapter, "nudity" has the meaning set**
15 **forth in IC 35-49-1-5.**

16 **Sec. 4. As used in this chapter, "sales clerk" means a person**
17 **who:**



- 1 (1) transacts the rental or sale of a video game with the
- 2 general public; and
- 3 (2) is not the owner, operator, or manager of a video game
- 4 retailer.

5 Sec. 5. As used in this chapter, "sexual conduct" has the
6 meaning set forth in IC 35-49-1-9.

7 Sec. 6. As used in this chapter, "video game" means an object or
8 device that:

- 9 (1) stores recorded data or instructions;
- 10 (2) receives data or instructions generated by a person; and
- 11 (3) processes the data or instructions;
- 12 to create an interactive game that may be played, viewed, or
- 13 experienced on a computer, gaming system, console, or other
- 14 technology.

15 Sec. 7. As used in this chapter, "video game retailer" means a
16 person who sells or rents a video game to the general public. The
17 term does not include a sales clerk.

18 Sec. 8. As used in this chapter, "violent or sexually explicit video
19 game" means a video game that:

- 20 (1) depicts a character that appears to:
 - 21 (A) kill;
 - 22 (B) dismember;
 - 23 (C) decapitate;
 - 24 (D) maim;
 - 25 (E) disfigure;
 - 26 (F) mutilate;
 - 27 (G) cause serious bodily harm to; or
 - 28 (H) rape;
- 29 another character; or
- 30 (2) the average person, applying contemporary community
31 standards with respect to minors, would find:
 - 32 (A) is designed to appeal to the prurient interest; and
 - 33 (B) depicts or simulates:
 - 34 (i) sexual conduct; or
 - 35 (ii) nudity;
 - 36 in a manner patently offensive to minors.

37 Sec. 9. A video game retailer shall affix an age label to every
38 violent or sexually explicit video game available for sale or rental
39 by the video game retailer. A video game retailer that does not
40 affix an age label to a violent or sexually explicit video game
41 commits a Class C infraction. However, the offense is a Class B
42 infraction if the video game retailer has three (3) or more prior

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unrelated violations of this section.

Sec. 10. A video game retailer who sells, rents, or permits another person to sell or rent a violent or sexually explicit video game to a child less than eighteen (18) years of age commits a Class B infraction.

Sec. 11. A video game retailer who sells, rents, or permits another person to sell or rent a violent or sexually explicit video game by means of an electronic scanner that has not been programmed to prompt a sales clerk to ask the purchaser for identification commits a Class B infraction.

Sec. 12. A video game retailer who sells, rents, or permits the sale or rental of a violent or sexually explicit video game by means of a self-scanning checkout device that does not require the intervention of a sales clerk commits a Class B infraction.

Sec. 13. A sales clerk who knowingly or intentionally sells or rents a violent or sexually explicit video game to a child less than eighteen (18) years of age, knowing that the child is less than eighteen (18) years of age, commits a Class B infraction.

Sec. 14. It is an affirmative defense to an action brought under section 10 or 13 of this chapter that:

(1) the person who sold, rented, or caused another person to sell or rent a violent or sexually explicit video game to a child less than eighteen (18) years of age is:

- (A) a parent;**
- (B) a grandparent;**
- (C) a sibling;**
- (D) an aunt;**
- (E) an uncle; or**
- (F) a first cousin;**

of the child; or

(2) the child less than eighteen (18) years of age who purchased or rented the violent or sexually explicit video game offered a false identification card purporting to show that the child was at least eighteen (18) years of age, if the false identification card could reasonably be mistaken for a valid identification card.

Sec. 15. It is an affirmative defense to an action brought under section 10 of this chapter that:

(1) the sales clerk who sold or rented a violent or sexually explicit video game to a child less than eighteen (18) years of age knowingly or intentionally sold or rented the violent or sexually explicit video game to the child less than eighteen (18)

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1 years of age, knowing that the child was less than eighteen
2 (18) years of age; and
3 (2) the video game retailer was unaware of the age of the child
4 described in subdivision (1) at the time of the sale or rental.

5 Sec. 16. It is an affirmative defense to an action brought under
6 section 10, 11, 12, or 13 of this chapter that the violent or sexually
7 explicit video game sold or rented to a child less than eighteen (18)
8 years of age was prepackaged and rated EC, E10+, E, or T by the
9 Entertainment Software Ratings Board.

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