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BILL ANALYSIS

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Senate Bill 249 (Substitute S-4 as reported)
Sponsor: Senator Hansen Clarke
Committee: Judiciary

CONTENT

The bill would amend the Michigan Penal Code to prohibit a person from selling or renting a violent video game to a minor (person under 17 years old); provide that acting in good faith would be an affirmative defense to a prosecution; and list legislative findings and compelling State interests. Selling or renting a violent video game to a minor would be a misdemeanor punishable by up to one year's imprisonment, a maximum fine of \$5,000, or both.

"Violent video game" would mean a video game to which both of the following apply:

- It depicts human-on-human violence in which the player kills, seriously injures, or otherwise causes serious physical harm to a human or character with substantially human characteristics, including depictions of death, dismemberment, amputation, decapitation, maiming, disfigurement, mutilation of body parts, or criminal sexual conduct, in a manner that is especially heinous, atrocious, or cruel.
- Taken as a whole, it lacks serious literary, artistic, political, and scientific value for minors, and the average person, applying contemporary statewide values, finds it appeals to minors' morbid interest in violence.

It would be an affirmative defense to a charge under the bill that the person acted in good faith. Good faith would exist if the minor showed the person identification that appeared to be valid and contained a photograph and a date of birth purporting to show that the minor was at least 17; the person did not have independent knowledge that the minor was under 17; and the person complied with the video game ratings established by the Entertainment Software Rating Board.

The bill is tie-barred to Senate Bills 416, 463, and 464 and House Bills 4702 and 4703. (Senate Bill 416 (S-4) would prohibit disseminating to a minor ultra-violent explicit visual matter or an ultra-violent video game that is harmful to minors. Senate Bill 463 and House Bill 4702 (H-1) would add video games to the definitions of "sexually explicit performance" and "sexually explicit visual material". Senate Bill 464 (S-2) would provide an affirmative defense to a charge of disseminating, exhibiting, or displaying sexually explicit matter to a minor. House Bill 4703 (H-1) would require video game retailers to post signs providing information about a rating system or notify customers that a rating system is available.)

Proposed MCL 750.143a-750.143c

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

There are no data to indicate how many offenders would be convicted of the proposed crime. Local units would incur the costs of misdemeanor probation or incarceration in a local facility, which vary by county. Public libraries would benefit from any additional penal fine revenue.

Date Completed: 5-11-05

Fiscal Analyst: Bethany Wicksall