

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 416

(As amended, September 7, 2005)

A bill to amend 1978 PA 33, entitled

"An act to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter to minors; to prohibit certain misrepresentations facilitating the dissemination of sexually explicit matter to minors; to provide penalties; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal certain acts and parts of acts,"

by amending the title and sections 1, 2, and 4 (MCL 722.671, 722.672, and 722.674), section 1 as amended by 2003 PA 192, and by adding section 12a, part II, and a heading for part I; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act to prohibit the dissemination, exhibiting, or

3

displaying of certain sexually explicit matter **AND ULTRA-VIOLENT**
<<EXPLICIT>>

Senate Bill No. 416 as amended September 7, 2005

1 **VIDEO GAMES** to minors; to prohibit certain misrepresentations
 2 facilitating the dissemination of sexually explicit matter **AND**
 3 **ULTRA-VIOLENT <<EXPLICIT>> VIDEO GAMES** to minors; to provide penalties
 4 **AND**
 5 **SANCTIONS**; to provide for declaratory judgments and injunctive
 6 relief in certain instances; to impose certain duties upon
 7 prosecuting attorneys and the circuit court; to preempt local units
 8 of government from proscribing certain conduct; and to repeal
 9 ~~certain~~ acts and parts of acts.

9 **PART I**

10 **SEXUALLY EXPLICIT MATTER**

11 Sec. 1. As used in this ~~act~~ **PART**:

12 (a) "Display" means to put or set out to view or to make
 13 visible.

14 (b) "Disseminate" means to sell, lend, give, exhibit, show, or
 15 allow to examine or to offer or agree to do the same.

16 (c) "Exhibit" means to do 1 or more of the following:

17 (i) Present a performance.

18 (ii) Sell, give, or offer to agree to sell or give a ticket to
 19 a performance.

20 (iii) Admit a minor to premises where a performance is being
 21 presented or is about to be presented.

22 (d) "Minor" means a person less than 18 years of age.

23 (e) "Restricted area" means any of the following:

24 (i) An area where sexually explicit matter is displayed only in
 25 a manner that prevents public view of the lower 2/3 of the matter's
 26 cover or exterior.

27 (ii) A building, or a distinct and enclosed area or room within

1 a building, if access by minors is prohibited, notice of the
2 prohibition is prominently displayed, and access is monitored to
3 prevent minors from entering.

4 (iii) An area with at least 75% of its perimeter surrounded by
5 walls or solid, nontransparent dividers that are sufficiently high
6 to prevent a minor in a nonrestricted area from viewing sexually
7 explicit matter within the perimeter if the point of access
8 provides prominent notice that access to minors is prohibited.

9 Sec. 2. As used in this ~~act~~ **PART**:

10 (a) "Nudity" means the lewd display of the human male or
11 female genitals or pubic area.

12 (b) "Sexual excitement" means the condition of human male or
13 female genitals when in a state of sexual stimulation or arousal.

14 (c) "Erotic fondling" means touching a person's clothed or
15 unclothed genitals, pubic area, buttocks, or, if the person is
16 female, breasts, for the purpose of sexual gratification or
17 stimulation.

18 (d) "Sadomasochistic abuse" means either of the following:

19 (i) Flagellation, or torture, for sexual stimulation or
20 gratification, by or upon a person who is nude or clad only in
21 undergarments or in a revealing or bizarre costume.

22 (ii) The condition of being fettered, bound, or otherwise
23 physically restrained for sexual stimulation or gratification, of a
24 person who is nude or clad only in undergarments or in a revealing
25 or bizarre costume.

26 (e) "Sexual intercourse" means intercourse, real or simulated,
27 whether genital-genital, oral-genital, anal-genital, or oral-anal,

1 whether between persons of the same or opposite sex or between a
2 human and an animal.

3 Sec. 4. As used in this ~~act~~ **PART**:

4 (a) "Harmful to minors" means sexually explicit matter ~~which~~
5 **THAT** meets all of the following criteria:

6 (i) Considered as a whole, it appeals to the prurient interest
7 of minors as determined by contemporary local community standards.

8 (ii) It is patently offensive to contemporary local community
9 standards of adults as to what is suitable for minors.

10 (iii) Considered as a whole, it lacks serious literary,
11 artistic, political, educational, and scientific value for minors.

12 (b) "Local community" means the county in which the matter was
13 disseminated.

14 (c) "Prurient interest" means a lustful interest in sexual
15 stimulation or gratification. In determining whether sexually
16 explicit matter appeals to the prurient interest, the matter shall
17 be judged with reference to average 17-year-old minors. If it
18 appears from the character of the matter that it is designed to
19 appeal to the prurient interest of a particular group of persons,
20 including, but not limited to, homosexuals or sadomasochists, then
21 the matter shall be judged with reference to average 17-year-old
22 minors within the particular group for which it appears to be
23 designed.

24 **SEC. 12A. THIS PART DOES NOT APPLY TO ANY OF THE FOLLOWING:**

25 (A) A MEDIUM OF COMMUNICATION TO THE EXTENT REGULATED BY THE
26 FEDERAL COMMUNICATIONS COMMISSION.

27 (B) AN INTERNET SERVICE PROVIDER OR COMPUTER NETWORK SERVICE

1 PROVIDER THAT IS NOT SELLING THE SEXUALLY EXPLICIT MATTER BEING
2 COMMUNICATED BUT THAT PROVIDES THE MEDIUM FOR COMMUNICATION OF THE
3 MATTER. AS USED IN THIS SECTION, "INTERNET SERVICE PROVIDER" MEANS
4 A PERSON WHO PROVIDES A SERVICE THAT ENABLES USERS TO ACCESS
5 CONTENT, INFORMATION, ELECTRONIC MAIL, OR OTHER SERVICES OFFERED
6 OVER THE INTERNET OR A COMPUTER NETWORK.

7 (C) A PERSON PROVIDING A SUBSCRIPTION MULTICHANNEL VIDEO
8 SERVICE UNDER TERMS OF SERVICE THAT REQUIRE THE SUBSCRIBER TO MEET
9 BOTH OF THE FOLLOWING CONDITIONS:

10 (i) THE SUBSCRIBER IS NOT LESS THAN 18 YEARS OF AGE AT THE TIME
11 OF THE SUBSCRIPTION.

12 (ii) THE SUBSCRIBER PROVES THAT HE OR SHE IS NOT LESS THAN 18
13 YEARS OF AGE THROUGH THE USE OF A CREDIT CARD, THROUGH THE
14 PRESENTATION OF GOVERNMENT-ISSUED IDENTIFICATION, OR BY OTHER
15 REASONABLE MEANS OF VERIFYING THE SUBSCRIBER'S AGE.

16 PART II

17 ULTRA-VIOLENT EXPLICIT VIDEO GAMES

18 SEC. 15. IN LIGHT OF SECTION 51 OF ARTICLE IV OF THE STATE
19 CONSTITUTION OF 1963, WHICH DIRECTS THAT "THE PUBLIC HEALTH AND
20 GENERAL WELFARE OF THE PEOPLE OF THE STATE ARE HEREBY DECLARED TO
21 BE MATTERS OF PRIMARY PUBLIC CONCERN. THE LEGISLATURE SHALL PASS
22 SUITABLE LAWS FOR THE PROTECTION AND PROMOTION OF THE PUBLIC
23 HEALTH.", AND AFTER HEARING FROM EXPERT WITNESSES AND LAW
24 ENFORCEMENT OFFICIALS, CONSIDERING THE TESTIMONY OF EXPERT
25 WITNESSES BEFORE OTHER LEGISLATIVE BODIES, AND REVIEWING DOZENS OF
26 STUDIES AND METASTUDIES OF HUNDREDS OF STUDIES, THE LEGISLATURE
27 FINDS ALL OF THE FOLLOWING:

1 (A) PUBLISHED RESEARCH OVERWHELMINGLY FINDS THAT ULTRA-VIOLENT
2 EXPLICIT VIDEO GAMES ARE HARMFUL TO MINORS BECAUSE MINORS WHO PLAY
3 ULTRA-VIOLENT EXPLICIT VIDEO GAMES ARE CONSISTENTLY MORE LIKELY TO
4 EXHIBIT VIOLENT, ASOCIAL, OR AGGRESSIVE BEHAVIOR AND HAVE FEELINGS
5 OF AGGRESSION.

6 (B) SPOKESPERSONS FOR NOT LESS THAN 6 MAJOR NATIONAL HEALTH
7 ASSOCIATIONS HAVE CONCLUDED AND TESTIFIED THAT AFTER REVIEWING MORE
8 THAN 1,000 STUDIES, THE STUDIES "POINT OVERWHELMINGLY TO A CAUSAL
9 CONNECTION BETWEEN MEDIA VIOLENCE AND AGGRESSIVE BEHAVIOR IN SOME
10 CHILDREN", CONCLUDING THAT THE EFFECTS OF MEDIA VIOLENCE ON MINORS
11 "ARE MEASURABLE AND LONG-LASTING".

12 (C) LAW ENFORCEMENT OFFICERS TESTIFIED THAT RECENT STATEWIDE
13 TARGETED ENFORCEMENT EFFORTS REVEAL THAT MINORS ARE CAPABLE OF
14 PURCHASING, AND DO PURCHASE, ULTRA-VIOLENT EXPLICIT VIDEO GAMES.

15 (D) LAW ENFORCEMENT OFFICERS TESTIFIED ABOUT CASES OF MINORS
16 ACTING OUT ULTRA-VIOLENT EXPLICIT VIDEO GAME BEHAVIORS BY
17 VICTIMIZING OTHER CITIZENS.

18 (E) THE STATE HAS A LEGITIMATE AND COMPELLING INTEREST IN
19 SAFEGUARDING BOTH THE PHYSICAL AND PSYCHOLOGICAL WELL-BEING OF
20 MINORS.

21 (F) THE STATE HAS A LEGITIMATE AND COMPELLING INTEREST IN
22 PREVENTING VIOLENT, AGGRESSIVE, AND ASOCIAL BEHAVIOR FROM
23 MANIFESTING ITSELF IN MINORS.

24 (G) THE STATE HAS A LEGITIMATE AND COMPELLING INTEREST IN
25 DIRECTLY AND SUBSTANTIALLY ALLEVIATING THE REAL-LIFE HARMS
26 PERPETRATED BY MINORS WHO PLAY ULTRA-VIOLENT EXPLICIT VIDEO GAMES.

27 SEC. 16. AS USED IN THIS PART:

1 (A) "COMPUTER" MEANS ANY CONNECTED, DIRECTLY INTEROPERABLE OR
2 INTERACTIVE DEVICE, EQUIPMENT, OR FACILITY THAT USES A COMPUTER
3 PROGRAM OR OTHER INSTRUCTIONS TO PERFORM SPECIFIC OPERATIONS
4 INCLUDING LOGICAL, ARITHMETIC, OR MEMORY FUNCTIONS WITH OR ON
5 COMPUTER DATA OR A COMPUTER PROGRAM AND THAT CAN STORE, RETRIEVE,
6 ALTER, OR COMMUNICATE THE RESULTS OF THE OPERATIONS TO A PERSON,
7 COMPUTER PROGRAM, COMPUTER, COMPUTER SYSTEM, OR COMPUTER NETWORK.

8 (B) "COMPUTER NETWORK" MEANS THE INTERCONNECTION OF HARDWARE
9 OR WIRELESS COMMUNICATION LINES WITH A COMPUTER THROUGH REMOTE
10 TERMINALS, OR A COMPLEX CONSISTING OF 2 OR MORE INTERCONNECTED
11 COMPUTERS.

12 (C) "COMPUTER PROGRAM" MEANS A SERIES OF INTERNAL OR EXTERNAL
13 INSTRUCTIONS COMMUNICATED IN A FORM ACCEPTABLE TO A COMPUTER THAT
14 DIRECTS THE FUNCTIONING OF A COMPUTER, COMPUTER SYSTEM, OR COMPUTER
15 NETWORK IN A MANNER DESIGNED TO PROVIDE OR PRODUCE PRODUCTS OR
16 RESULTS FROM THE COMPUTER, COMPUTER SYSTEM, OR COMPUTER NETWORK.

17 (D) "COMPUTER SYSTEM" MEANS A SET OF RELATED, CONNECTED OR
18 UNCONNECTED, COMPUTER EQUIPMENT, DEVICES, SOFTWARE, OR HARDWARE.

19 (E) "DEVICE" INCLUDES, BUT IS NOT LIMITED TO, AN ELECTRONIC,
20 MAGNETIC, ELECTROCHEMICAL, BIOCHEMICAL, HYDRAULIC, OPTICAL, OR
21 ORGANIC OBJECT THAT PERFORMS INPUT, OUTPUT, OR STORAGE FUNCTIONS BY
22 THE MANIPULATION OF ELECTRONIC, MAGNETIC, OR OTHER IMPULSES.

23 (F) "DISSEMINATE" MEANS TO SELL, LEND, GIVE, EXHIBIT, SHOW, OR
24 ALLOW TO EXAMINE OR TO OFFER OR AGREE TO DO THE SAME.

25 (G) "EXTREME AND LOATHSOME VIOLENCE" MEANS REAL OR SIMULATED
26 GRAPHIC DEPICTIONS OF PHYSICAL INJURIES OR PHYSICAL VIOLENCE
27 AGAINST PARTIES WHO REALISTICALLY APPEAR TO BE HUMAN BEINGS,

1 INCLUDING ACTIONS CAUSING DEATH, INFLECTING CRUELTY, DISMEMBERMENT,
2 DECAPITATION, MAIMING, DISFIGUREMENT, OR OTHER MUTILATION OF BODY
3 PARTS, MURDER, CRIMINAL SEXUAL CONDUCT, OR TORTURE.

4 (H) "HARMFUL TO MINORS" MEANS HAVING ALL OF THE FOLLOWING
5 CHARACTERISTICS:

6 (i) CONSIDERED AS A WHOLE, APPEALS TO THE MORBID INTEREST IN
7 ASOCIAL, AGGRESSIVE BEHAVIOR OF MINORS AS DETERMINED BY
8 CONTEMPORARY LOCAL COMMUNITY STANDARDS.

9 (ii) IS PATENTLY OFFENSIVE TO CONTEMPORARY LOCAL COMMUNITY
10 STANDARDS OF ADULTS AS TO WHAT IS SUITABLE FOR MINORS.

11 (iii) CONSIDERED AS A WHOLE, LACKS SERIOUS LITERARY, ARTISTIC,
12 POLITICAL, EDUCATIONAL, OR SCIENTIFIC VALUE FOR MINORS.

13 (I) "LOCAL COMMUNITY" MEANS THE COUNTY IN WHICH THE VIDEO GAME
14 WAS DISSEMINATED.

15 (J) "MINOR" MEANS A PERSON LESS THAN 17 YEARS OF AGE.

16 (K) "MORBID INTEREST IN ASOCIAL, AGGRESSIVE BEHAVIOR" MEANS A
17 MORBID INTEREST IN COMMITTING UNCONTROLLED AGGRESSION AGAINST AN
18 INDIVIDUAL. IN DETERMINING WHETHER AN ULTRA-VIOLENT EXPLICIT VIDEO
19 GAME APPEALS TO THIS INTEREST, THE VIDEO GAME SHALL BE JUDGED WITH
20 REFERENCE TO AVERAGE 16-YEAR-OLD MINORS. IF IT APPEARS FROM THE
21 CHARACTER OF THE VIDEO GAME THAT IT IS DESIGNED TO APPEAL TO THIS
22 INTEREST OF A PARTICULAR GROUP OF PERSONS, THEN THE VIDEO GAME
23 SHALL BE JUDGED WITH REFERENCE TO AVERAGE 16-YEAR-OLD MINORS WITHIN
24 THE PARTICULAR GROUP FOR WHICH IT APPEARS TO BE DESIGNED.

25 (L) "ULTRA-VIOLENT EXPLICIT VIDEO GAME" MEANS A VIDEO GAME THAT
26 CONTINUALLY AND REPETITIVELY DEPICTS EXTREME AND LOATHSOME
27 VIOLENCE.

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1 (M) "VIDEO GAME" MEANS <<AN OBJECT OR DEVICE THAT STORES RECORDED
2 DATA OR INSTRUCTIONS GENERATED BY A PERSON WHO USES IT, AND BY
3 PROCESSING THE DATA OR INSTRUCTIONS CREATES AN INTERACTIVE GAME CAPABLE
4 OF BEING PLAYED, VIEWED, OR EXPERIENCED ON OR THROUGH A COMPUTER, GAMING
5 SYSTEM, GAME CONSOLE, OR OTHER TECHNOLOGY.>>

6 SEC. 17. (1) A PERSON SHALL NOT KNOWINGLY DISSEMINATE TO A
7 MINOR AN ULTRA-VIOLENT EXPLICIT VIDEO GAME THAT IS HARMFUL TO
8 MINORS. EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3), A PERSON WHO
9 VIOLATES THIS SUBSECTION IS RESPONSIBLE FOR A STATE CIVIL
10 INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN
11 \$5,000.00.

12 (2) A PERSON WHO VIOLATES SUBSECTION (1) AND WHO HAS 1 PRIOR
13 DETERMINATION OF RESPONSIBILITY UNDER THIS SECTION IS RESPONSIBLE
14 FOR A STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE
15 OF NOT MORE THAN \$15,000.00.

16 (3) A PERSON WHO VIOLATES SUBSECTION (1) AND WHO HAS 2 OR MORE
17 PRIOR DETERMINATIONS OF RESPONSIBILITY UNDER THIS SECTION IS
18 RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY
19 A CIVIL FINE OF NOT MORE THAN \$40,000.00. IN IMPOSING A FINE UNDER
20 THIS SUBSECTION, THE COURT SHALL CONSIDER THE SCOPE OF THE
21 DEFENDANT'S COMMERCIAL ACTIVITY IN DISSEMINATING ULTRA-VIOLENT
22 EXPLICIT VIDEO GAMES TO MINORS.

23 SEC. 18. SECTION 17 DOES NOT APPLY TO THE DISSEMINATION OF AN
24 ULTRA-VIOLENT EXPLICIT VIDEO GAME TO A MINOR BY ANY OF THE
25 FOLLOWING:

26 (A) A PARENT OR GUARDIAN WHO DISSEMINATES AN ULTRA-VIOLENT
27 EXPLICIT VIDEO GAME TO HIS OR HER CHILD OR WARD.

1 (B) AN IMMEDIATE FAMILY MEMBER OF THE MINOR WHO DISSEMINATES
2 AN ULTRA-VIOLENT EXPLICIT VIDEO GAME TO THE MINOR IN THE IMMEDIATE
3 FAMILY MEMBER'S RESIDENCE OR THE MINOR'S RESIDENCE.

4 (C) AN INDIVIDUAL WHO DISSEMINATES AN ULTRA-VIOLENT VIDEO GAME
5 TO A MINOR WHO IS A GUEST IN THE INDIVIDUAL'S RESIDENCE.

6 (D) AN INDIVIDUAL WHO DISSEMINATES AN ULTRA-VIOLENT EXPLICIT
7 VIDEO GAME FOR A LEGITIMATE MEDICAL, SCIENTIFIC, GOVERNMENTAL, OR
8 JUDICIAL PURPOSE.

9 SEC. 19. (1) A PERSON SHALL NOT KNOWINGLY MAKE A FALSE
10 REPRESENTATION THAT HE OR SHE IS THE PARENT OR GUARDIAN OF A MINOR,
11 OR THAT A MINOR IS 17 YEARS OF AGE OR OLDER, WITH THE INTENT TO
12 FACILITATE THE DISSEMINATION TO THE MINOR OF AN ULTRA-VIOLENT
13 EXPLICIT VIDEO GAME THAT IS HARMFUL TO MINORS. A PERSON KNOWINGLY
14 MAKES A FALSE REPRESENTATION AS TO THE AGE OF A MINOR OR AS TO THE
15 STATUS OF BEING THE PARENT OR GUARDIAN OF A MINOR IF THE PERSON
16 EITHER IS AWARE THAT THE REPRESENTATION IS FALSE OR RECKLESSLY
17 DISREGARDS A SUBSTANTIAL RISK THAT THE REPRESENTATION IS FALSE.

18 (2) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A
19 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR
20 A FINE OF NOT MORE THAN \$15,000.00, OR BOTH.

21 SEC. 20. A PERSON WHO POSSESSES MANAGERIAL RESPONSIBILITY FOR
22 A BUSINESS ENTERPRISE RENTING OR SELLING ULTRA-VIOLENT EXPLICIT
23 VIDEO GAMES THAT ARE HARMFUL TO MINORS SHALL NOT KNOWINGLY PERMIT A
24 MINOR WHO IS NOT ACCOMPANIED BY A PARENT OR GUARDIAN TO PLAY OR
25 VIEW THE PLAYING OF AN ULTRA-VIOLENT EXPLICIT VIDEO GAME THAT IS
26 HARMFUL TO MINORS. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF
27 A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS

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1 OR A FINE OF NOT MORE THAN \$25,000.00, OR BOTH.

2 SEC. 21. (1) A PERSON KNOWINGLY DISSEMINATES AN ULTRA-VIOLENT
3 EXPLICIT VIDEO GAME TO A MINOR IF THE PERSON KNOWS BOTH THE NATURE
4 OF THE VIDEO GAME AND THE STATUS OF THE MINOR TO WHOM THE VIDEO
5 GAME IS DISSEMINATED.

6 (2) A PERSON KNOWS THE NATURE OF THE <<ULTRA-VIOLENT EXPLICIT>>
7 VIDEO GAME IF THE PERSON
8 EITHER IS AWARE OF ITS CHARACTER AND CONTENT OR RECKLESSLY
9 DISREGARDS CIRCUMSTANCES SUGGESTING ITS CHARACTER AND CONTENT.

10 (3) A PERSON KNOWS THE STATUS OF A MINOR IF THE PERSON EITHER
11 IS AWARE THAT THE PERSON TO WHOM THE DISSEMINATION IS MADE IS A
12 MINOR OR RECKLESSLY DISREGARDS A SUBSTANTIAL RISK THAT THE PERSON
13 TO WHOM THE DISSEMINATION IS MADE IS A MINOR.

14 SEC. 22. A CONVICTION, SENTENCE, OR DETERMINATION OF
15 RESPONSIBILITY FOR A VIOLATION OF THIS PART DOES NOT PRECLUDE A
16 CONVICTION, SENTENCE, OR DETERMINATION OF RESPONSIBILITY FOR A
17 VIOLATION OF ANY OTHER LAW OF THIS STATE ARISING FROM THE SAME
18 TRANSACTION.

19 SEC. 23. (1) IT IS AN AFFIRMATIVE DEFENSE TO AN ALLEGED
20 VIOLATION UNDER THIS PART THAT THE PERSON ACTED IN GOOD FAITH.
21 EXCEPT AS PROVIDED IN SUBSECTION (2), GOOD FAITH EXISTS IF AT THE
22 TIME THE ALLEGED VIOLATION OCCURS ALL OF THE FOLLOWING CONDITIONS
23 ARE SATISFIED:

24 (A) THE MINOR SHOWS THE PERSON IDENTIFICATION THAT APPEARS TO
25 BE VALID AND THAT CONTAINS A PHOTOGRAPH AND A DATE OF BIRTH
26 PURPORTING TO SHOW THAT THE MINOR IS 17 YEARS OF AGE OR OLDER, OR
27 THE SERVICE TERMS OF THE INTERNET PROVIDER OF A SELLER OR RENTAL
ENTERPRISE THAT SELLS OR RENTS ULTRA-VIOLENT EXPLICIT VIDEO GAMES

1 OVER THE INTERNET REQUIRE A PURCHASER OR RENTER TO BE 17 YEARS OF
2 AGE OR OLDER IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

3 (i) THE ULTRA-VIOLENT EXPLICIT VIDEO GAME IS PURCHASED OR
4 RENTED OVER THE INTERNET.

5 (ii) THE ULTRA-VIOLENT EXPLICIT VIDEO GAME IS SENT TO THE
6 PURCHASER'S OR RENTER'S HOME OR PLACE OF RESIDENCE OR OTHERWISE
7 MADE DIRECTLY AVAILABLE THROUGH THE INTERNET TO THE PURCHASER OR
8 RENTER.

9 (iii) THE PURCHASER OR RENTER OF THE ULTRA-VIOLENT EXPLICIT
10 VIDEO GAME USES A CREDIT CARD TO PURCHASE OR RENT THE ULTRA-VIOLENT
11 EXPLICIT VIDEO GAME.

12 (B) THE PERSON DOES NOT HAVE INDEPENDENT KNOWLEDGE THAT THE
13 MINOR IS UNDER 17 YEARS OF AGE.

14 (C) RELYING UPON INFORMATION DESCRIBED IN SUBDIVISIONS (A) AND
15 (B), THE PERSON COMPLIES WITH A RATING SYSTEM ESTABLISHED BY THE
16 PERTINENT ENTERTAINMENT INDUSTRY THAT DOES NOT CONFLICT WITH THIS
17 PART.

18 (2) IF THE PERSON POSSESSES MANAGERIAL RESPONSIBILITY FOR A
19 BUSINESS ENTERPRISE, GOOD FAITH EXISTS IF AT THE TIME THE ALLEGED
20 VIOLATION OCCURS THE BUSINESS ENTERPRISE SATISFIES ALL OF THE
21 FOLLOWING CONDITIONS:

22 (A) THE BUSINESS ENTERPRISE HAS IN EXISTENCE A POLICY THAT ITS
23 EMPLOYEES ARE REQUIRED TO COMPLY WITH A RATING SYSTEM ESTABLISHED
24 BY THE PERTINENT ENTERTAINMENT INDUSTRY THAT DOES NOT CONFLICT WITH
25 THIS PART.

26 (B) THE BUSINESS ENTERPRISE TRAINS ITS EMPLOYEES TO FOLLOW THE
27 POLICY DESCRIBED IN SUBDIVISION (A).

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1 (C) THE BUSINESS ENTERPRISE ENFORCES THE POLICY DESCRIBED IN
2 SUBDIVISION (A).

3 Enacting section 1. This amendatory act takes effect <<December 1,
4 2005.>>

5 Enacting section 2. This amendatory act does not take effect
6 unless all of the following bills of the 93rd Legislature are
7 enacted into law:

8 (a) Senate Bill No. 463.

9 (b) House Bill No. 4702.

10 (c) House Bill No. 4703.