



Tuesday, July 29, 2008

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S T A T E O F N E W Y O R K

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I N A S S E M B L Y

June 20, 2008

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Lentol) --
read once and referred to the Committee on Codes

AN ACT to amend the general business law and the executive law, in
relation to rating video games and disseminating violent and indecent
video games to minors

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The general business law is amended by adding a new
2 section 396-kk to read as follows:

3 S 396-KK. SALE OF VIDEO GAME CONSOLES. 1. FOR PURPOSES OF THIS
4 SECTION:

5 (A) "VIDEO GAME" MEANS AN INTERACTIVE ELECTRONIC AMUSEMENT DEVICE,
6 DISK, CARTRIDGE OR OTHER OBJECT THAT UTILIZES A COMPUTER, MICROPROCESSOR
7 OR SIMILAR ELECTRONIC CIRCUITRY AND ITS OWN MONITOR, A TELEVISION SET OR
8 A COMPUTER MONITOR, AND SUCH DEVICE OR OBJECT IS DESIGNED TO ALLOW A
9 PERSON TO MANIPULATE THE IMAGES PRESENTED BY SUCH DEVICE OR OBJECT.

10 (B) "VIDEO GAME CONSOLE" MEANS AN INTERACTIVE ELECTRONIC AMUSEMENT
11 DEVICE THAT USES A DEDICATED COMPUTER, MICROPROCESSOR OR SIMILAR ELEC-
12 TRONIC CIRCUITRY AND ITS OWN MONITOR, A TELEVISION SET OR A COMPUTER
13 MONITOR TO ENABLE A PERSON TO INTERACT WITH A VIDEO GAME. SUCH TERMS
14 SHALL NOT INCLUDE A PERSONAL COMPUTER, NOR SHALL THEY INCLUDE A HANDHELD
15 DEVICE IN WHICH SUCH ENTIRE DEVICE, INCLUDING THE VIEWING SCREEN, IS
16 DESIGNED TO BE HELD IN ONE`S HAND.

17 2. EVERY NEW VIDEO GAME CONSOLE SOLD AT RETAIL IN THIS STATE SHALL
18 INCLUDE A MECHANISM, DEVICE OR CONTROL SYSTEM THAT ALLOWS AN OWNER,
19 THROUGH THE USE OF A PERSONAL IDENTIFICATION NUMBER, PASSWORD OR SIMILAR
20 TECHNOLOGY, TO PREVENT THE DISPLAY ON SUCH VIDEO GAME CONSOLE OF VIDEO
21 GAMES, OR PORTIONS THEREOF, CONTAINING CERTAIN CONTENT OR HAVING CERTAIN
22 RATINGS, AS SUCH TERM IS DEFINED IN SUBDIVISION TWO OF SECTION SIX
23 HUNDRED ELEVEN OF THIS CHAPTER.

24 3. WHENEVER THERE SHALL BE A VIOLATION OF THIS SECTION, AN APPLICATION
25 MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE
26 STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A SPECIAL
27 PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF
28 NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH

29 VIOLATION; AND IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR
30 JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS SECTION, AN

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
{ } is old law to be omitted.

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1 INJUNCTION MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND
2 RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY
3 PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN ANY SUCH
4 PROCEEDING, THE COURT MAY MAKE ALLOWANCES TO THE ATTORNEY GENERAL AS
5 PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHTY-THREE
6 HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES, AND DIRECT RESTITU-
7 TION. WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION OF THIS
8 SECTION HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL PENALTY OF NOT MORE
9 THAN FIVE HUNDRED DOLLARS FOR A SINGLE VIOLATION AND NOT MORE THAN FIFTY
10 THOUSAND DOLLARS FOR MULTIPLE VIOLATIONS RESULTING FROM A SINGLE ACT OR
11 INCIDENT. IN CONNECTION WITH ANY SUCH PROPOSED APPLICATION, THE ATTORNEY
12 GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE
13 RELEVANT FACTS AND TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRAC-
14 TICE LAW AND RULES.

15 S 2. The executive law is amended by adding a new section 554 to read
16 as follows:

17 S 554. ADVISORY COUNCIL ON INTERACTIVE MEDIA AND YOUTH VIOLENCE. 1.
18 THERE IS HEREBY CREATED UNDER THE BOARD AN ADVISORY COUNCIL ON INTERAC-
19 TIVE MEDIA AND YOUTH VIOLENCE TO MAKE RECOMMENDATIONS ON INTERACTIVE
20 MEDIA AND YOUTH VIOLENCE RELATED ISSUES; ADDRESS THE POTENTIAL IMPACT OF
21 INTERACTIVE MEDIA AND SIMILAR ENTERTAINMENT DEVICES ON MINORS WITH
22 PARTICULAR ATTENTION FOCUSED ON ANY RELATIONSHIP BETWEEN THE USE OF SUCH
23 DEVICES AND VIOLENT TENDENCIES AND RELATED ISSUES; REVIEW THE ENTER-
24 TAINMENT SOFTWARE RATING BOARD'S VIDEO GAME RATING SYSTEM AND MAKE
25 RECOMMENDATIONS THEREON AS TO THE EFFECTIVENESS OF SUCH SYSTEM IN RATING
26 VIDEO GAMES AND THE ACCURACY OF SUCH SYSTEM IN IDENTIFYING VIOLENT OR
27 SEXUAL CONTENT, INCLUDING BUT NOT LIMITED TO RACIALLY- AND GENDER-MOTI-
28 VATED VIOLENCE AND VIOLENCE AGAINST LAW ENFORCEMENT; AND STUDY THE
29 POTENTIAL OF ESTABLISHING A PARENT-TEACHER VIOLENCE AWARENESS PROGRAM TO
30 IDENTIFY AND APPROPRIATELY ASSIST STUDENTS WHO MAY HAVE A PROPENSITY
31 TOWARD VIOLENCE. THE ADVISORY COUNCIL SHALL ASSIST IN THE DEVELOPMENT OF
32 APPROPRIATE POLICIES AND PRIORITIES FOR EFFECTIVE INTERVENTION, PUBLIC
33 EDUCATION AND ADVOCACY AGAINST YOUTH VIOLENCE, INCLUDING BUT NOT LIMITED
34 TO RACIALLY- AND GENDER-MOTIVATED VIOLENCE AND VIOLENCE AGAINST LAW
35 ENFORCEMENT, AND TO FACILITATE AND ASSURE COMMUNICATION AND COORDINATION
36 OF EFFORTS AMONG STATE AGENCIES AND BETWEEN DIFFERENT LEVELS OF GOVERN-
37 MENT, STATE, FEDERAL, AND MUNICIPAL, FOR THE PREVENTION OF YOUTH
38 VIOLENCE.

39 2. THE ADVISORY COUNCIL SHALL CONSIST OF SIXTEEN MEMBERS. EACH MEMBER
40 SHALL BE APPOINTED BY THE GOVERNOR TO SERVE A TERM OF THREE YEARS AND
41 SHALL CONTINUE IN OFFICE UNTIL A SUCCESSOR IS APPOINTED. A MEMBER
42 APPOINTED TO FILL A VACANCY SHALL BE APPOINTED FOR THE UNEXPIRED TERM OF
43 THE MEMBER HE OR SHE IS TO SUCCEED. THE MEMBERS SHALL INCLUDE INDIVID-
44 UALS WITH EXPERTISE IN THE AREA OF THE YOUTH VIOLENCE, ONE REPRESENT-
45 TATIVE FROM THE VIDEO GAME MANUFACTURING INDUSTRY AND ONE REPRESENTATIVE
46 FROM A TRADE ASSOCIATION REPRESENTING VIDEO GAME RETAILERS. FOUR
47 MEMBERS SHALL BE APPOINTED BY THE GOVERNOR. TWO MEMBERS SHALL BE
48 APPOINTED BY THE GOVERNOR UPON THE RECOMMENDATION OF THE TEMPORARY PRES-
49 IDENT OF THE SENATE, TWO MEMBERS SHALL BE APPOINTED BY THE GOVERNOR UPON
50 THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY, ONE MEMBER SHALL BE
51 APPOINTED BY THE GOVERNOR UPON THE RECOMMENDATION OF THE MINORITY LEADER
52 OF THE SENATE, ONE MEMBER SHALL BE APPOINTED BY THE GOVERNOR UPON THE

53 RECOMMENDATION OF THE MINORITY LEADER OF THE ASSEMBLY, AND THE GOVERNOR
54 SHALL APPOINT ONE MEMBER EACH UPON THE RECOMMENDATION OF THE EXECUTIVE
55 DIRECTOR OF THE BOARD, COMMISSIONER OF THE EDUCATION DEPARTMENT, COMMIS-
56 SIONER OF THE OFFICE OF MENTAL HEALTH, COMMISSIONER OF THE OFFICE OF

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1 CHILDREN AND FAMILY SERVICES, COMMISSIONER OF THE DIVISION OF CRIMINAL
2 JUSTICE SERVICES, AND THE CHAIR OF THE COUNCIL ON THE ARTS. THE CHAIR
3 OF THE ADVISORY COUNCIL SHALL BE DESIGNATED BY THE GOVERNOR.

4 3. THE ADVISORY COUNCIL SHALL SUBMIT A WRITTEN REPORT TO THE GOVERNOR
5 AND LEGISLATURE ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND NINE
6 AND ANNUALLY THEREAFTER, SETTING FORTH THE RECOMMENDATIONS AND ACTIV-
7 ITIES OF THE ADVISORY COUNCIL ON MATTERS WITHIN THE SCOPE OF ITS POWERS
8 AND DUTIES AS SET FORTH IN THIS SECTION, AND DESCRIBING THE PROGRESS
9 MADE REGARDING POLICIES AND PRIORITIES FOR EFFECTIVE INTERVENTION,
10 PUBLIC EDUCATION AND ADVOCACY AGAINST YOUTH VIOLENCE.

11 4. THE ADVISORY COUNCIL SHALL MEET AS OFTEN AS DEEMED NECESSARY BY THE
12 CHAIR BUT IN NO EVENT LESS THAN TWO TIMES PER YEAR.

13 5. THE MEMBERS OF THE ADVISORY COUNCIL SHALL RECEIVE NO SALARY OR
14 OTHER COMPENSATION FOR THEIR SERVICES BUT SHALL BE ENTITLED TO
15 REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORM-
16 ANCE OF THEIR DUTIES WITHIN AMOUNTS MADE AVAILABLE BY APPROPRIATION
17 THEREFOR SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET.

18 S 3. Subdivision 2 of section 611 of the general business law, as
19 added by chapter 289 of the laws of 1989, is amended and a new subdivi-
20 sion 1-a is added to read as follows:

21 1-A. "VIDEO GAME" MEANS ELECTRONIC OR COMPUTERIZED GAME SOFTWARE THAT
22 USERS MANIPULATE THROUGH INTERACTIVE DEVICES TO GENERATE IMAGES ON A
23 DISPLAY SCREEN.

24 2. "Rating" means a standardized designation commonly used to inform
25 parents about VIDEO GAMES OR motion pictures in RETAIL OR theatrical
26 release, RESPECTIVELY, regarding viewing OR PLAYING by their children.

27 S 4. Section 612 of the general business law, as added by chapter 289
28 of the laws of 1989, is amended to read as follows:

29 S 612. Sale and rental of VIDEO GAMES AND films. 1. No person, part-
30 nership or corporation shall sell or rent at retail or attempt to sell
31 or rent at retail a VIDEO GAME OR film unless {the} A VIDEO GAME rating
32 {of} OR the RATING OF THE motion picture from which {it} THE FILM was
33 copied is clearly displayed on the outside of the case, jacket or other
34 cover of the VIDEO GAME OR film.

35 2. This section shall not apply to a "mail order business" as defined
36 in section three hundred ninety-six-m of this chapter or to any film
37 which is a reproduction of a motion picture, concert, musical production
38 or other video event, OR ANY VIDEO GAME, which has not been given a
39 rating, nor shall it apply to any motion picture OR VIDEO GAME which has
40 been altered subsequent to receiving a rating.

41 3. A violation of subdivision one of this section shall be punishable
42 by a civil penalty of not more than one hundred dollars.

43 S 5. Severability. If any clause, sentence, paragraph, subdivision or
44 part of this act, or the application thereof to any person or circum-
45 stance, shall be adjudged by any court of competent jurisdiction to be
46 invalid or unconstitutional, such judgment shall not affect, impair or
47 invalidate the remainder thereof, but shall be confined in its operation
48 to the clause, sentence, paragraph, subdivision or part of this act, or
49 in its application to the person or circumstance, directly involved in
50 the controversy in which such judgment shall have been rendered.

51 S 6. This act shall take effect immediately; provided, however, that
52 sections three and four of this act shall take effect on the one hundred
53 twentieth day after it shall have become a law; and section one of this
54 act shall take effect September 1, 2010.

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