

SUBSTITUTE FOR  
SENATE BILL NO. 249

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
(MCL 750.1 to 750.568) by adding section 143a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 143A. (1) THE LEGISLATURE FINDS THAT MINORS WHO PLAY  
2        VIOLENT VIDEO GAMES ARE MORE LIKELY TO DO 1 OR MORE OF THE  
3        FOLLOWING:

4            (A) EXHIBIT VIOLENT, ASOCIAL, OR AGGRESSIVE BEHAVIOR TOWARD  
5        OTHERS, INCLUDING OTHER MINORS.

6            (B) EXPERIENCE FEELINGS OF AGGRESSION.

7            (C) EXPERIENCE A REDUCTION OF ACTIVITY IN THE FRONTAL LOBES OF  
8        THE BRAIN, WHICH ARE RESPONSIBLE FOR CONTROLLING BEHAVIOR.

1           (2) ALTHOUGH THE VIDEO GAME INDUSTRY HAS ADOPTED ITS OWN  
2 VOLUNTARY STANDARDS DESCRIBING WHICH GAMES ARE APPROPRIATE FOR  
3 MINORS, THOSE STANDARDS ARE NOT ADEQUATELY ENFORCED. MINORS ARE  
4 CAPABLE OF PURCHASING, AND DO PURCHASE, VIOLENT VIDEO GAMES.

5           (3) THIS STATE HAS ALL OF THE FOLLOWING COMPELLING INTERESTS:

6           (A) PREVENTING VIOLENT, AGGRESSIVE, AND ASOCIAL BEHAVIOR.

7           (B) PREVENTING PSYCHOLOGICAL HARM TO MINORS WHO PLAY VIOLENT  
8 VIDEO GAMES.

9           (C) PREVENTING PHYSICAL HARM TO THE VICTIMS OF VIOLENT MINORS,  
10 INCLUDING OTHER MINORS.

11           (D) ELIMINATING ANY SOCIETAL FACTORS THAT MAY INHIBIT THE  
12 PSYCHOLOGICAL AND NEUROLOGICAL DEVELOPMENT OF ITS YOUTH.

13           (E) FACILITATING THE HEALTHY MATURATION OF THE YOUTH OF THIS  
14 STATE INTO WELL-MEANING, PRODUCTIVE ADULTS.

15           (4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5), A PERSON  
16 SHALL NOT SELL OR RENT A VIOLENT VIDEO GAME TO A MINOR.

17 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR  
18 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF  
19 NOT MORE THAN \$5,000.00, OR BOTH.

20           (5) IT IS AN AFFIRMATIVE DEFENSE TO A CHARGE UNDER SUBSECTION  
21 (4) THAT THE PERSON ACTED IN GOOD FAITH. GOOD FAITH EXISTS IF ALL  
22 OF THE FOLLOWING CONDITIONS APPLIED AT THE TIME THE VIOLATION OF  
23 SUBSECTION (4) OCCURRED:

24           (A) THE MINOR SHOWED THE PERSON IDENTIFICATION THAT APPEARED  
25 TO BE VALID AND THAT CONTAINED A PHOTOGRAPH AND A DATE OF BIRTH  
26 PURPORTING TO SHOW THAT THE MINOR WAS 17 YEARS OF AGE OR OLDER.

27           (B) THE PERSON DID NOT HAVE INDEPENDENT KNOWLEDGE THAT THE

1 MINOR WAS UNDER 17 YEARS OF AGE.

2 (C) BASED UPON SUBDIVISIONS (A) AND (B), THE PERSON COMPLIED  
3 WITH THE VIDEO GAME RATINGS ESTABLISHED BY THE ENTERTAINMENT  
4 SOFTWARE RATING BOARD.

5 (6) AS USED IN THIS SECTION:

6 (A) "MINOR" MEANS AN INDIVIDUAL WHO IS LESS THAN 17 YEARS OF  
7 AGE.

8 (B) "VIDEO GAME" MEANS AN OBJECT OR DEVICE THAT STORES  
9 RECORDED DATA OR INSTRUCTIONS, RECEIVES DATA OR INSTRUCTIONS  
10 GENERATED BY ANYONE WHO USES IT, AND, BY PROCESSING THE DATA OR  
11 INSTRUCTIONS, CREATES AN INTERACTIVE GAME CAPABLE OF BEING PLAYED,  
12 VIEWED, OR EXPERIENCED ON OR THROUGH A COMPUTER, GAMING SYSTEM,  
13 CONSOLE, OR OTHER TECHNOLOGY.

14 (C) "VIOLENT VIDEO GAME" MEANS A VIDEO GAME TO WHICH ALL OF  
15 THE FOLLOWING DESCRIPTIONS APPLY:

16 (i) IT DEPICTS HUMAN-ON-HUMAN VIOLENCE IN WHICH THE PLAYER  
17 KILLS, SERIOUSLY INJURES, OR OTHERWISE CAUSES SERIOUS PHYSICAL HARM  
18 TO A HUMAN OR CHARACTER WITH SUBSTANTIALLY HUMAN CHARACTERISTICS,  
19 INCLUDING, BUT NOT LIMITED TO, DEPICTIONS OF DEATH, DISMEMBERMENT,  
20 AMPUTATION, DECAPITATION, MAIMING, DISFIGUREMENT, MUTILATION OF  
21 BODY PARTS, OR CRIMINAL SEXUAL CONDUCT, IN A MANNER THAT IS  
22 ESPECIALLY HEINOUS, ATROCIOUS, OR CRUEL. A DEPICTION OF VIOLENCE  
23 IS ESPECIALLY HEINOUS, ATROCIOUS, OR CRUEL IF IT CONTAINS ALL OF  
24 THE FOLLOWING ELEMENTS:

25 (A) IT DEPICTS EXCEPTIONAL PAIN OR SUFFERING ON THE PART OF  
26 THE VICTIM AND IS ACCOMPANIED BY A GRAPHIC DEPICTION OF THE  
27 VICTIM'S INJURIES.

1 (B) THE VIOLENCE IS ACCOMPLISHED IN THE COMMISSION OF AN ACT  
2 THAT WOULD BE PUNISHABLE AS A CRIME IF IT WERE COMMITTED IN  
3 REALITY.

4 (C) THE CIRCUMSTANCES SURROUNDING THE VIOLENCE INDICATE THAT  
5 IT IS COMMITTED WITHOUT CONSCIENCE, PITY, OR EMPATHY.

6 (D) IT IS ACCOMPANIED BY AUDITORY OR OTHER SENSORY ELEMENTS  
7 THAT SERVE TO ENHANCE THE REALISM OF THE VISUAL DEPICTION.

8 (ii) TAKEN AS A WHOLE, IT LACKS SERIOUS LITERARY, ARTISTIC,  
9 POLITICAL, AND SCIENTIFIC VALUE FOR MINORS, AND THE AVERAGE PERSON,  
10 APPLYING CONTEMPORARY STATEWIDE VALUES, FINDS IT APPEALS TO MINORS'  
11 MORBID INTEREST IN VIOLENCE.

12 Enacting section 1. This amendatory act does not take effect  
13 unless all of the following bills of the 93rd Legislature are  
14 enacted into law:

15 (a) Senate Bill No. 416.

16 (b) Senate Bill No. 463.

17 (c) Senate Bill No. 464.

18 (d) House Bill No. 4702.

19 (e) House Bill No. 4703.