

# HOUSE BILL No. 5089

August 10, 2005, Introduced by Reps. Lemmons, III and Lemmons, Jr. and referred to the Committee on Judiciary.

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

## 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           SEC. 143B. AS USED IN THIS SECTION AND SECTIONS 143A AND 143C:

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

18           (B) "VIDEO GAME" MEANS AN OBJECT OR DEVICE THAT STORES  
19 RECORDED DATA OR INSTRUCTIONS, RECEIVES DATA OR INSTRUCTIONS  
20 GENERATED BY ANYONE WHO USES IT, AND, BY PROCESSING THE DATA OR  
21 INSTRUCTIONS, CREATES AN INTERACTIVE GAME CAPABLE OF BEING PLAYED,  
22 VIEWED, OR EXPERIENCED ON OR THROUGH A COMPUTER, GAMING SYSTEM,  
23 CONSOLE, OR OTHER TECHNOLOGY.

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

26           (i) IT DEPICTS HUMAN-ON-HUMAN VIOLENCE IN WHICH THE PLAYER  
27 KILLS, SERIOUSLY INJURES, OR OTHERWISE CAUSES SERIOUS PHYSICAL HARM

1 TO A HUMAN OR CHARACTER WITH SUBSTANTIALLY HUMAN CHARACTERISTICS,  
2 INCLUDING, BUT NOT LIMITED TO, DEPICTIONS OF DEATH, DISMEMBERMENT,  
3 AMPUTATION, DECAPITATION, MAIMING, DISFIGUREMENT, MUTILATION OF  
4 BODY PARTS, OR CRIMINAL SEXUAL CONDUCT, IN A MANNER THAT IS  
5 ESPECIALLY HEINOUS, ATROCIOUS, OR CRUEL. A DEPICTION OF VIOLENCE  
6 IS ESPECIALLY HEINOUS, ATROCIOUS, OR CRUEL IF IT CONTAINS ALL OF  
7 THE FOLLOWING ELEMENTS:

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

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

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

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

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

22 SEC. 143C. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A  
23 PERSON SHALL NOT SELL OR RENT A VIOLENT VIDEO GAME TO A MINOR.  
24 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR  
25 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF  
26 NOT MORE THAN \$5,000.00, OR BOTH.

27 (2) IT IS AN AFFIRMATIVE DEFENSE TO A CHARGE UNDER SUBSECTION

1 (1) THAT THE PERSON ACTED IN GOOD FAITH. GOOD FAITH EXISTS IF ALL  
2 OF THE FOLLOWING CONDITIONS APPLIED AT THE TIME THE VIOLATION OF  
3 SUBSECTION (1) OCCURRED:

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

7 (B) THE PERSON DID NOT HAVE INDEPENDENT KNOWLEDGE THAT THE  
8 MINOR WAS UNDER 17 YEARS OF AGE.

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