

MATERIALS HARMFUL TO MINORS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Hogue

LONG TITLE**General Description:**

This bill requires video game retailers to clearly label video games with their rating and to post a sign and provide information about the video game rating system.

Highlighted Provisions:

This bill:

- ▶ requires video game retailers to:
 - post a clearly legible sign in their retail establishment providing information about the video game rating system or notifying consumers that a rating system is available to aid in the selection of a game;
 - post the sign in close proximity to the area where the video games are displayed and in an area easily visible to video game consumers;
 - make available to consumers, upon request, written information that explains the video game rating system; and
 - clearly display on the outside of a video game cassette, case, jacket, or covering the rating for the video game, or if the video game has no rating, the video game shall be clearly and prominently marked as "not rated";
- ▶ provides a penalty;
- ▶ requires the attorney general to:
 - develop and publish on its web page a list of video games that are not recommended for children; and
 - encourage links to the attorney general's web page from other state and local



web pages; and

► authorizes the attorney general to develop a rating system for this state that reflects the values of Utah citizens.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

13-41-101, Utah Code Annotated 1953

13-41-102, Utah Code Annotated 1953

13-41-103, Utah Code Annotated 1953

13-41-104, Utah Code Annotated 1953

13-41-105, Utah Code Annotated 1953

13-41-106, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-41-101** is enacted to read:

CHAPTER 41. VIDEO GAME RATING INFORMATION

13-41-101. Title.

This chapter is known as "Video Game Rating Information."

Section 2. Section **13-41-102** is enacted to read:

13-41-102. Definitions.

As used in this section:

(1) "Rating system" means the rating of the Entertainment Software Rating Board.

(2) "Video game" means an object or device that stores recorded data or instructions, receives data or instructions generated by a person who uses it, and by processing the data or instructions, creates an interactive game capable of being played, viewed, or experienced on or through a computer, gaming system, or other technology.

(3) "Video game retailer" means a person who sells or rents video games to the public.

Section 3. Section **13-41-103** is enacted to read:

13-41-103. Posting a video game rating system.

(1) Every video game retailer shall post a sign providing information about the video game rating system or notifying consumers that information explaining the rating system is available to aid in the selection of a game.

(2) The sign shall be:

(a) posted within the retail establishment and in close proximity to the area where the video games are displayed;

(b) clearly visible to the video game consumers; and

(c) clearly legible to persons in near proximity to displayed video games.

(3) A video game retailer shall make available to consumers, upon request, written information that explains the video game rating system.

Section 4. Section **13-41-104** is enacted to read:

13-41-104. Display of video game rating labels.

(1) A video game retailer shall clearly display on the outside of a video game cassette, case, jacket, or covering the rating assigned by the Entertainment Software Rating Board for the video game.

(2) If the video game has no assigned rating, the video game shall be clearly and prominently marked as "not rated".

Section 5. Section **13-41-105** is enacted to read:

13-41-105. Attorney general to develop and publish a list of video games not recommended for children.

(1) The attorney general shall develop and maintain a current list of video games not appropriate for children, based on consideration of:

(a) the rating system of the Entertainment Software Rating Board;

(b) lists developed by parents, government groups, or other rating organizations;

(c) games that contain scenes or depictions of graphic violence;

(d) games that contain sexual themes, sexual violence, nudity, or partial nudity; or

(e) games that contain profanity, actions toward a specific group of persons, racist stereotypes, or derogatory language.

(2) The attorney general shall:

(a) publish its list of video games not appropriate for children on its web page and state

90 the reasons each game is not recommended; and

91 (b) encourage links to its web page from state and local school websites, and from the
92 Division of Consumer Protection's website.

93 (3) The attorney general may, if other rating systems are found to be inadequate,
94 develop a video game rating system for use in this state that reflects the values of Utah's
95 citizens.

96 Section 6. Section **13-41-106** is enacted to read:

97 **13-41-106. Private action.**

98 (1) A person who has purchased a video game from a video game retailer may bring an
99 action in any court of competent jurisdiction in this state against that video game retailer for
100 violations of Section 13-41-103 or 13-41-104.

101 (2) In an action under Subsection (1), a video game retailer may be liable to the person
102 who brings the action for:

103 (a) the lesser of:

104 (i) \$50 for each day the video game retailer violates Section 13-41-103 or 13-41-104;

105 or

106 (ii) \$500; and

107 (b) court costs and reasonable attorney fees as determined by the court.

108 (3) A person may not bring a class action under this chapter.

Legislative Review Note
as of 2-17-05 1:19 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0293

Materials Harmful to Minors

22-Feb-05

6:13 PM

State Impact

This bill can be handled within existing budgets. If the Attorney General finds that current rating systems do not reflect local values he may incur cost to develop a new system and rate games.

Individual and Business Impact

Retailers may need to increase signage.

Office of the Legislative Fiscal Analyst