

109TH CONGRESS  
1ST SESSION

# S. 2126

To limit the exposure of children to violent video games.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 16, 2005

Mrs. CLINTON (for herself, Mr. LIEBERMAN, and Mr. BAYH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To limit the exposure of children to violent video games.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Family Entertainment  
5       Protection Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

8               (1) Research shows that exposure to video  
9       games, television, movies, and other forms of media  
10       has powerful effects on the development of children  
11       and adolescents and that such effects can be positive

1 or negative depending on the nature and content of  
2 the media.

3 (2) Experimental research and longitudinal re-  
4 search conducted over the course of decades shows  
5 that exposure to higher levels of violence on tele-  
6 vision, in movies, and in other forms of media in  
7 adolescence causes people in the short-term and,  
8 after repeated exposure, even years later to exhibit  
9 higher levels of violent thoughts, anti-social and ag-  
10 gressive behavior, fear, anxiety, and hostility, and  
11 desensitization to the pain and suffering of others.

12 (3) This evidence is so strong, it has been rep-  
13 licated in so many populations, and it draws on such  
14 diverse methodologies that a 2003 comprehensive re-  
15 view of the literature concluded “the scientific de-  
16 bate over whether media violence increases aggres-  
17 sion and violence is essentially over” and 6 major  
18 medical and public health organizations, including  
19 the American Medical Association and the American  
20 Psychological Association, issued a Joint Statement  
21 to Congress in 2000 stating that research points  
22 “overwhelmingly to a causal connection between  
23 media violence and aggressive behavior”.

24 (4) New research shows that exposure to violent  
25 video games causes similar effects as does exposure

1 to violence in other media, including increased levels  
2 of aggression in both the short-term and long-term,  
3 and research shows that the uniquely interactive, en-  
4 gaging nature of video games may be especially pow-  
5 erful in shaping children's thoughts, feelings, and  
6 behaviors.

7 (5) Research shows that children are more like-  
8 ly to imitate the actions of a character with whom  
9 they identify, and in violent video games the player  
10 is often provided with a behavioral script where he  
11 or she takes the point of view of the shooter or per-  
12 petrator.

13 (6) Research shows that children are more like-  
14 ly to learn from behaviors that they repeat over and  
15 over again and behaviors that they are rewarded for  
16 taking, and in most video games, surveys show, play-  
17 ers repeat actions over and over again, aggression  
18 goes unpunished, and perpetrators are rewarded for  
19 taking aggressive action

20 (7) The video game industry, through the En-  
21 tertainment Software Ratings Board, has created a  
22 system of self-regulation, and a system to provide in-  
23 formation to parents about the nature and content  
24 of video games.

1           (8) The Entertainment Software Ratings Board  
2           has determined that certain video games contain in-  
3           tense violence and explicit sexual content that makes  
4           them inappropriate for minors, and has rated these  
5           games Mature and Adults-Only.

6           (9) Research shows that children whose parents  
7           monitor and control their access to violent media are  
8           less likely to demonstrate the negative effects of  
9           such media.

10          (10) Parents rely on the Entertainment Soft-  
11          ware Ratings Board ratings system to protect their  
12          children from inappropriate material yet, numerous  
13          studies have demonstrated that young people can ac-  
14          cess Mature-rated games with relative ease.

15          (11) There is a need to enact legislation to en-  
16          sure that the ratings system is meaningful.

17 **SEC. 3. DEFINITIONS.**

18          In this Act, the following definitions shall apply:

19           (1) BUSINESS.—The term “business” means  
20           any ongoing lawful activity that is conducted—

21                   (A) primarily for the purchase, sale, lease,  
22                   or rental of personal or real property, or for the  
23                   manufacture, processing, or marketing of prod-  
24                   ucts, commodities, or any other personal prop-  
25                   erty; or

1 (B) primarily for the sale of services to the  
2 public.

3 (2) COMMISSION.—The term “Commission”  
4 means the Federal Trade Commission.

5 (3) ENTERTAINMENT SOFTWARE RATINGS  
6 BOARD.—The term “Entertainment Software Rat-  
7 ings Board” means the independent rating system,  
8 or any successor ratings system—

9 (A) established by the Interactive Digital  
10 Software Association; and

11 (B) developed to provide information to  
12 consumers regarding the content of video and  
13 computer games.

14 (4) VIDEO GAME.—The term “video game”  
15 means an electronic object or device that—

16 (A) stores recorded data or instructions;

17 (B) receives data or instructions generated  
18 by the person who uses it; and

19 (C) by processing such data or instruc-  
20 tions, creates an interactive game capable of  
21 being played, viewed, or experienced on or  
22 through a computer, gaming system, console, or  
23 other technology.

1 **SEC. 4. PROHIBITION ON SALE OF VIOLENT VIDEO GAMES**  
2 **TO MINORS.**

3 (a) IN GENERAL.—No business shall sell or rent, or  
4 permit the sale or rental of any video game with a Mature,  
5 Adults-Only, or Ratings Pending rating from the Enter-  
6 tainment Software Ratings Board to any individual who  
7 has not attained the age of 17 years.

8 (b) AFFIRMATIVE DEFENSES.—

9 (1) IN GENERAL.—It shall be a defense to any  
10 prosecution for a violation of the prohibition under  
11 subsection (a) that a business—

12 (A) was shown an identification document,  
13 which the business reasonably believed to be  
14 valid, indicating that the individual purchasing  
15 or renting the video game had attained the age  
16 of 17 years or older; or

17 (B) had an established ratings enforcement  
18 policy—

19 (i) as evidenced by—

20 (I) cash register prompts remind-  
21 ing employees of that business to  
22 check for identification stating that a  
23 customer is of an appropriate age to  
24 purchase or rent a video game, or an  
25 established video game age identifica-

1                   tion training program for employees  
2                   of that business;

3                   (II) clear labels indicating the  
4                   rating on each video game sold or  
5                   rented by that business; and

6                   (III) signs on the wall of the  
7                   business property explaining, in sim-  
8                   ple, easy-to-understand language, the  
9                   ratings enforcement policy of that  
10                  business; or

11                  (ii) as evidenced by an online age  
12                  verification system, in the case of online  
13                  sales.

14                  (2) LIMITATION.—If a business is found to re-  
15                  peatedly violate the prohibition in subsection (a) de-  
16                  spite the adoption by such business of an established  
17                  ratings policy as described in paragraph (1)(B),  
18                  such business shall be prohibited in any prosecution  
19                  for a violation of this section from using any of the  
20                  defenses listed in subsection (b).

21                  (c) PENALTY.—The manager or agent of the man-  
22                  ager acting in a managerial capacity of a business found  
23                  to be in violation of the prohibition under subsection (a)  
24                  shall be subject to a civil penalty, community service, or  
25                  both not to exceed—

1           (1) \$1,000 or 100 hours of community service  
2           for the first violation; and

3           (2) \$5,000 or 500 hours of community service  
4           for each subsequent violation.

5 **SEC. 5. ANNUAL ANALYSIS TO PREVENT RATINGS SLIP-**  
6 **PAGE.**

7           (a) **IN GENERAL.**—The Commission shall contract  
8 with an organization with expertise in evaluating video  
9 game content and that has no financial or personal inter-  
10 est, connection, or tie with the video game industry, to  
11 determine, in a written report, on an annual basis, wheth-  
12 er the ratings established by the Entertainment Software  
13 Ratings Board remain consistent and reliable over time.

14           (b) **CONTENT OF ANALYSIS.**—Each annual analysis  
15 report required under subsection (a) shall—

16           (1) evaluate a random sample of video games,  
17 representing the full menu of Entertainment Soft-  
18 ware Ratings Board ratings;

19           (2) determine whether each such rating has es-  
20 sentially the same meaning from year to year; and

21           (3) compare Entertainment Software Ratings  
22 Board ratings to independent, valid, and reliable rat-  
23 ing systems ratings.

1 **SEC. 6. AUTHORITY TO CONDUCT SECRET AUDITS.**

2 The Commission shall conduct, and make public the  
3 results of, an annual secret audit of businesses to deter-  
4 mine how frequently minors who attempt to purchase  
5 video games with a Mature, Adults-Only, or Rating Pend-  
6 ing rating are able to do so successfully.

7 **SEC. 7. AUTHORITY TO INVESTIGATE MISLEADING RAT-**  
8 **INGS.**

9 (a) IN GENERAL.—The Commission shall conduct, to  
10 the extent practicable, an investigation into embedded con-  
11 tent in video games that can be accessed through a key-  
12 stroke combination, pass-code, or other technological  
13 means to estimate—

14 (1) what proportion of video games contain em-  
15 bedded content that is inconsistent with the rating  
16 given to such games, and what proportion of the do-  
17 mestic market such games represent;

18 (2) what proportion of video games containing  
19 embedded content that is inconsistent with the rat-  
20 ing given to such games are known to the video  
21 game manufacturer at the time of the commercial  
22 release of the game to contain embedded content,  
23 and what proportion of the domestic market such  
24 games represent; and

25 (3) whether video game manufacturers have the  
26 capacity to ensure that video games do not contain

1 embedded content that is inconsistent with the rat-  
2 ings given to such games.

3 (b) SENSE OF CONGRESS.—It is the sense of Con-  
4 gress that whenever the Commission determines that the  
5 content of a video game, either immediately accessible or  
6 embedded but accessible through a keystroke combination,  
7 pass-code, or other technological means, is inconsistent  
8 with the rating given to such game, the Commission shall  
9 take appropriate action under its authority to regulate un-  
10 fair or deceptive acts or practices in or affecting commerce  
11 as authorized under section 5 of the Federal Trade Com-  
12 mission Act (15 U.S.C. 45).

13 (c) TIMING OF REPORT.—Not later than 1 year after  
14 the date of enactment of this Act, the Commission shall  
15 report to Congress the findings of its investigation under  
16 subsection (a).

17 **SEC. 8. AUTHORITY TO REGISTER COMPLAINTS.**

18 (a) IN GENERAL.—The Bureau of Consumer Protec-  
19 tion of the Federal Trade Commission shall ensure that  
20 consumers can file complaints alleging that content-de-  
21 scriptions or labels on a video game are misleading or de-  
22 ceptive using the same Commission Consumer Complaint  
23 procedure by which the Bureau of Consumer Protection  
24 accepts complaints concerning other forms of unfair, de-

1 ceptive, or fraudulent advertising, including through an  
2 easily accessible online filing system.

3 (b) REPORT TO CONGRESS.—The Bureau of Con-  
4 sumer Protection shall tabulate and report to Congress,  
5 on an annual basis, the number of complaints under sub-  
6 section (a) levied against each video game manufacturer  
7 and business.

8 **SEC. 9. EFFECTIVE DATE.**

9 This Act shall become effective 120 days after the  
10 date of enactment of this Act.

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