

1474

2009-2010 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2009

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Introduced by M. of A. WRIGHT -- read once and referred to the Committee  
on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to prohibiting  
sale of certain video games to minors

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

- 1     Section 1. The general business law is amended by adding a new section  
2     391-q to read as follows:  
3     S 391-Q. SALE OF CERTAIN VIDEO GAMES TO MINORS PROHIBITED. 1. NO  
4     PERSON, PARTNERSHIP OR CORPORATION SHALL SELL OR RENT OR OFFER TO SELL  
5     OR RENT TO ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS ANY VIDEO GAME  
6     THAT HAS A MATURE OR VIOLENT RATING. SUCH VIDEOS MAY CONTAIN, BUT SHALL  
7     NOT BE LIMITED TO, DEPICTIONS DESCRIPTIVE OF, ADVOCATING OR GLAMORIZING  
8     COMMISSION OF A VIOLENT CRIME, SUICIDE, SODOMY, RAPE, INCEST, BESTIALI-  
9     TY, SADOMASOCHISM, ANY FORM OF SEXUAL ACTIVITY IN A VIOLENT CONTEXT, OR  
10    ADVOCATING OR ENCOURAGING MURDER, VIOLENT RACISM, RELIGIOUS VIOLENCE,  
11    MORBID VIOLENCE OR THE ILLEGAL USE OF DRUGS OR ALCOHOL.  
12    2. EVERY PERSON, PARTNERSHIP OR CORPORATION ENGAGED IN THE RETAIL SALE  
13    OR RENTAL OF VIDEO GAMES SHALL STORE AND DISPLAY SUCH VIDEO GAMES  
14    CONTAINING CONTENTS LISTED IN SUBDIVISION ONE OF THIS SECTION IN A  
15    LOCATION DESIGNATED FOR PERSONS OVER THE AGE OF EIGHTEEN, IN A MANNER  
16    WHICH RESTRICTS ACCESS TO SUCH VIDEO GAMES.  
17    3. SALE OR RENTAL OF ANY VIDEO GAME THAT CONTAINS ANY CONTENTS LISTED  
18    IN SUBDIVISION ONE OF THIS SECTION, SHALL BE MADE ONLY TO AN INDIVIDUAL  
19    WHO DEMONSTRATES, THROUGH (A) A VALID DRIVER'S LICENSE OR NON-DRIVER'S  
20    IDENTIFICATION AND ISSUED BY THE COMMISSIONER OF MOTOR VEHICLES, THE  
21    FEDERAL GOVERNMENT, ANY UNITED STATES TERRITORY, COMMONWEALTH OR  
22    POSSESSION, THE DISTRICT OF COLUMBIA, A STATE GOVERNMENT WITHIN THE  
23    UNITED STATES OR A PROVINCIAL GOVERNMENT OF THE DOMINION OF CANADA; OR  
24    (B) A VALID PASSPORT ISSUED BY THE UNITED STATES GOVERNMENT OR ANY OTHER

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

LBD00169-01-9

1 COUNTRY; OR (C) AN IDENTIFICATION CARD ISSUED BY THE UNITED STATES,  
2 INDICATING THAT THE INDIVIDUAL IS AT LEAST EIGHTEEN YEARS OF AGE. SUCH  
3 IDENTIFICATION NEED NOT BE REQUIRED OF ANY INDIVIDUAL WHO REASONABLY  
4 APPEARS TO BE AT LEAST THIRTY YEARS OF AGE, PROVIDED, HOWEVER, THAT SUCH  
5 APPEARANCE SHALL NOT CONSTITUTE A DEFENSE IN ANY PROCEEDING INVOLVING  
6 SALE OR RENTAL OF ANY VIDEO GAME, TO AN INDIVIDUAL UNDER EIGHTEEN YEARS  
7 OF AGE.

8 4. IN ANY PROCEEDING PURSUANT TO THIS SECTION, IT SHALL BE AN AFFIRMA-  
9 TIVE DEFENSE THAT A PERSON PURCHASING OR RENTING OR ATTEMPTING TO  
10 PURCHASE OR RENT ANY VIDEO GAME DESCRIBED IN SUBDIVISION ONE OF THIS  
11 SECTION PRODUCED A DRIVER'S LICENSE OR A NON-DRIVER IDENTIFICATION CARD  
12 APPARENTLY ISSUED BY A GOVERNMENT ENTITY OR OTHER IDENTIFICATION PURSU-  
13 ANT TO SUBDIVISION THREE OF THIS SECTION, SUCCESSFULLY COMPLETED THE  
14 TRANSACTION, AND THAT THE VIDEO GAME SOLD OR RENTED TO SUCH PERSON WAS  
15 REASONABLE RELIANCE UPON SUCH IDENTIFICATION AND TRANSACTION. IN EVALU-  
16 ATING THE APPLICABILITY OF SUCH AFFIRMATIVE DEFENSE, CONSIDERATION SHALL  
17 BE GIVEN TO ANY WRITTEN POLICY ADOPTED AND IMPLEMENTED BY THE SELLER TO  
18 EFFECTUATE THE PROVISIONS OF THIS SECTION. USE OF ANY METHOD OF AN ELEC-  
19 TRONIC TRANSACTION SCAN SHALL NOT EXCUSE ANY PERSON OPERATING A PLACE OF  
20 BUSINESS WHEREIN VIDEO GAMES ARE SOLD OR RENTED, OR THE AGENT OR EMPLOY-  
21 EE OF SUCH PERSON, FROM THE EXERCISE OF DUE DILIGENCE. NOTWITHSTANDING  
22 THE PROVISIONS OF THIS SUBDIVISION, ANY SUCH AFFIRMATIVE DEFENSE SHALL  
23 NOT BE APPLICABLE IN ANY CIVIL OR CRIMINAL PROCEEDING, OR IN ANY OTHER  
24 FORUM.

25 5. FOR THE PURPOSES OF THIS SECTION "RATING" MEANS THE STANDARDIZED  
26 DESIGNATION COMMONLY USED TO INFORM PARENTS ABOUT VIDEO GAMES REGARDING  
27 LISTENING AND VIEWING BY THEIR CHILDREN.

28 S 2. Severability. If any clause, sentence, paragraph, subdivision or  
29 part of this act, or the application thereof to any person or circum-  
30 stance, shall be adjudged by any court of competent jurisdiction to be  
31 invalid or unconstitutional, such judgment shall not affect, impair or  
32 invalidate the remainder thereof, but shall be confined in its operation  
33 to the clause, sentence, paragraph, subdivision or part of this act, or  
34 in its application to the person or circumstance, directly involved in  
35 the controversy in which such judgment shall have been rendered.

36 S 3. This act shall take effect on the one hundred twentieth day after  
37 it shall have become a law.