

S. 753

A. 2288

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

January 15, 2009

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IN SENATE -- Introduced by Sen. ADAMS -- read twice and ordered printed,  
and when printed to be committed to the Committee on Consumer  
Protection

IN ASSEMBLY -- Introduced by M. of A. GREENE -- 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 containing racist stereotypes,  
derogatory language and/or actions toward specific groups of persons

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, 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 RATING CONTAINING RACIST STEREOTYPES, DEROGATORY LANGUAGE  
7     AND/OR ACTIONS TOWARD A SPECIFIC GROUP OR GROUPS OF PERSONS. SUCH VIDEO  
8     GAMES MAY CONTAIN, BUT SHALL NOT BE LIMITED TO, PROFANE SLANG, PROFANE  
9     RELIGIOUS EXCLAMATIONS, OBSCENE SLANG, OBSCENE REFERENCES TO BODY PARTS,  
10    CHARACTER OR RELIGIOUS SLURS, PROFANE CHARACTER SLURS, OR RACIAL SLURS  
11    OR VIOLENT BEHAVIOR TOWARD SPECIFIC PERSONS OR GROUPS OF PERSONS BASED  
12    UPON RACE.  
13    2. EVERY PERSON, PARTNERSHIP OR CORPORATION ENGAGED IN THE RETAIL SALE  
14    OR RENTAL OF VIDEO GAMES SHALL STORE AND DISPLAY SUCH VIDEO GAMES  
15    CONTAINING CONTENTS LISTED IN SUBDIVISION ONE OF THIS SECTION IN A  
16    LOCATION DESIGNATED FOR PERSONS OVER THE AGE OF EIGHTEEN, IN A MANNER  
17    WHICH RESTRICTS ACCESS TO SUCH VIDEO GAMES.  
18    3. SALE OR RENTAL OF ANY VIDEO GAME THAT CONTAINS ANY CONTENTS LISTED  
19    IN SUBDIVISION ONE OF THIS SECTION, SHALL BE MADE ONLY TO AN INDIVIDUAL  
20    WHO DEMONSTRATES, THROUGH (A) A VALID DRIVER'S LICENSE OR NON-DRIVER'S

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

LBD00169-02-9

1 IDENTIFICATION AND ISSUED BY THE COMMISSIONER OF MOTOR VEHICLES, THE  
2 FEDERAL GOVERNMENT, ANY UNITED STATES TERRITORY, COMMONWEALTH OR  
3 POSSESSION, THE DISTRICT OF COLUMBIA, A STATE GOVERNMENT WITHIN THE  
4 UNITED STATES OR A PROVINCIAL GOVERNMENT OF THE DOMINION OF CANADA; OR  
5 (B) A VALID PASSPORT ISSUED BY THE UNITED STATES GOVERNMENT OR ANY OTHER  
6 COUNTRY; OR (C) AN IDENTIFICATION CARD ISSUED BY THE UNITED STATES,  
7 INDICATING THAT THE INDIVIDUAL IS AT LEAST EIGHTEEN YEARS OF AGE. SUCH  
8 IDENTIFICATION NEED NOT BE REQUIRED OF ANY INDIVIDUAL WHO REASONABLY  
9 APPEARS TO BE AT LEAST THIRTY YEARS OF AGE, PROVIDED, HOWEVER, THAT SUCH  
10 APPEARANCE SHALL NOT CONSTITUTE A DEFENSE IN ANY PROCEEDING INVOLVING  
11 SALE OR RENTAL OF ANY VIDEO GAME, TO AN INDIVIDUAL UNDER EIGHTEEN YEARS  
12 OF AGE.

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

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

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

41 S 3. This act shall take effect on the first of November next succeed-  
42 ing the date on which it shall have become a law.