

Regular Session, 2006

HOUSE BILL NO. 421

BY REPRESENTATIVE BURRELL

CRIME: Provides relative to video games harmful to minors

1 AN ACT

2 To amend and reenact R.S. 14:91.11(A)(2) and (3)(introductory paragraph) and (d) and (B)
3 and to enact R.S. 14:91.11(A)(4), relative to offenses affecting the health and morals
4 of minors; to provide with respect to the sale, exhibition, or distribution of material
5 harmful to minors; to provide for definitions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:91.11(A)(2) and (3)(introductory paragraph) and (d) and (B) are
8 hereby amended and reenacted and R.S. 14:91.11(A)(4) is hereby enacted to read as follows:

9 §91.11. Sale, exhibition, or distribution of material harmful to minors

10 A.

11 * * *

12 (2) "Material harmful to minors" ~~is defined as~~ means any paper, magazine,
13 book, newspaper, periodical, pamphlet, composition, publication, photograph,
14 drawing, picture, poster, motion picture film, video tape, video game, figure,
15 phonograph record, album, cassette, compact disc, wire or tape recording, or other
16 similar tangible work or thing which ~~exploits, for commercial gain, is either of the~~
17 following:

18 (a) Exploits, or is devoted to or principally consists of descriptions or
19 depictions of illicit sex or sexual immorality ~~for commercial gain~~, and when the trier
20 of fact determines that the average person applying contemporary community

1 standards would find that the work or thing is presented in a manner to provoke or
2 arouse lust, passion, or perversion or exploits sex.

3 (b) Provides for player participation in a video game in which the player
4 commits any of the following criminal offenses: the murder of a law enforcement
5 officer, first degree murder (R.S. 14:30), aggravated rape (R.S. 14:42), forcible rape
6 (R.S. 14:42.1), simple rape (R.S. 14:43), aggravated kidnapping (R.S. 14:44), second
7 degree kidnapping (R.S. 14:44.1), aggravated kidnapping of a child (R.S. 14:44.2),
8 simple kidnapping (R.S. 14:45), terrorism (R.S. 14:128.1), aggravated battery (R.S.
9 14:34) when the victim is a female, a male over the age of sixty-five or a minor
10 child, carjacking (R.S. 14:64.2), ritualistic torture or ritualistic sexual abuse (R.S.
11 14:107.1(C)), or a violation of the Uniform Controlled Dangerous Substances Law.

12 (3) For the purpose of this ~~section~~ Section, "descriptions or depictions of
13 illicit sex or sexual immorality" includes the depiction, display, description,
14 exhibition, or representation of:

15 * * *

16 (d) Actual, simulated, or animated touching, caressing, or fondling of, or
17 other similar physical contact with, a pubic area, anus, female breast nipple, covered
18 or exposed, whether alone or between ~~human~~* humans, animals or a human and an
19 animal, of the same or opposite sex, in an act of apparent sexual stimulation or
20 gratification; or

21 * * *

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

27 * * *

28 B.(1) It shall be unlawful to invite or permit any unmarried person under the
29 age of seventeen years of age to be in any commercial establishment that exhibits or

1 displays any item, material, work, or thing of any kind that is described in ~~Subsection~~
2 ~~A Subparagraph (A)(2)(a) of this section~~ Section.

3 (2) Lack of knowledge of age or marital status shall not constitute a defense,
4 unless the defendant shows that he had reasonable cause to believe that the minor
5 involved was either married or seventeen years of age or more and that the minor
6 exhibited to the defendant a draft card, driver's license, birth certificate, or other
7 official or apparently official document purporting to establish that such a minor was
8 either married or seventeen years of age or more.

9 (3) For the purpose of ~~Subsections A and B~~ of this ~~section~~ Section,
10 "exhibition or display" means the exhibition or display of material harmful to minors
11 as defined in ~~Subsection A Paragraph (A)(3) of this Section~~ so that, as displayed,
12 depictions and representations of illicit sex or sexual immorality are visible to
13 minors, or that an unmarried person under the age of seventeen years is permitted to
14 see or examine the contents of the material harmful to minors.

15 (4) A commercial establishment shall not be in violation of this ~~section~~
16 Section if the commercial establishment provides for a separate area for the
17 exhibition or display of material harmful to minors and designates said area "NOT
18 FOR MINORS" or similar words and the commercial establishment prohibits
19 unmarried minors under the age of seventeen years from seeing or examining the
20 contents of material harmful to minors.

21 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Burrell HB No. 421

Abstract: Amends the crime of sale, exhibition, or distribution of material harmful to minors to include video games.

Present law provides for the crime of sale, exhibition, or distribution of material harmful to minors, punishable by a fine of not less than \$100 nor more than \$2,000, imprisonment for not more than one year, or both. Provides for a definition of "material harmful to minors".

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

Proposed law amends the definition of "material that is harmful to minors" to include video games. Provides for a definition of "video game".

Proposed law defines material harmful to minors as any paper, magazine, book, newspaper, periodical, pamphlet, composition, publication, photograph, drawing, picture, poster, motion picture film, video tape, video game, figure, phonograph record, album, cassette, compact disc, wire or tape recording, or other similar tangible work or thing which, for commercial gain, is either of the following:

- (1) Exploits or is devoted to or principally consists of descriptions or depictions of illicit sex or sexual immorality and when the trier of fact determines that the average person applying contemporary community standards would find that the work or thing is presented in a manner to provoke or arouse lust, passion, or perversion or exploits sex.
- (2) Provides for player participation in a video game in which the player commits any of the following criminal offenses: the murder of a law enforcement officer, first degree murder (R.S. 14:30), aggravated rape (R.S. 14:42), forcible rape (R.S. 14:42.1), simple rape (R.S. 14:43), aggravated kidnapping (R.S. 14:44), second degree kidnapping (R.S. 14:44.1), aggravated kidnapping of a child (R.S. 14:44.2), simple kidnapping (R.S. 14:45), terrorism (R.S. 14:128.1), aggravated battery (R.S. 14:34) when the victim is a female, a male over the age of 65, or a minor child, carjacking (R.S. 14:64.2), ritualistic torture or ritualistic sexual abuse (R.S. 14:107.1(C)), or a violation of the Uniform Controlled Dangerous Substances Law.

(Amends R.S. 14:91.11(A)(2) and (3)(intro. para.) and (d) and (B); Adds R.S. 14:91.11(A)(4))