



# States might play part in restricting access to violent games

by Ilene K. Grossman

Is violence an acquired behavior that children can learn from video games? Some state and provincial policymakers think so, and have responded by sponsoring legislation to prevent stores from renting or selling games with violent or other mature content to children.

The Illinois General Assembly recently passed the Safe Games Act, which bans the sale or rental of violent or sexually explicit video games to minors. A legislative priority of Democratic Gov. Rod Blagojevich this session, the measure subjects retailers who sell or rent such games to minors to a \$1,000 fine.

In addition, retailers must make sure the games include ratings labels and are required to post signs explaining the labeling system. They would face a \$500 fine for the first three violations of these requirements and a \$1,000 fine for subsequent infractions.

Illinois Rep. Linda Chapa LaVia, a Democrat from Aurora and House sponsor of the legislation, says the measure targets the sale of games that are “graphic, offensive and intended for adults, not children.”

“I know how difficult it can be to control what your children see on a daily basis,” the mother of two young children says. “It’s troubling to think that a 14-year-old can legally buy a video game where gang members, prostitutes and criminals are the main characters.”

“We’re not saying, ‘Mom and Dad, you can’t go out and buy these games for your kids,’” she adds. “We’re saying the kids can’t buy them without you.”

With Blagojevich’s signature, Illinois will become the first state in the nation to pass legislation controlling minors’ access to violent or sexually explicit games. Legislation also is advancing in Michigan, and several Canadian provinces already have enacted similar statutes. Laws in Manitoba and Ontario took effect earlier this year.

## Rating games, legislation

Opponents of this kind of legislation challenge the authority of states to control access to video games, except in very specific circumstances. They cite court rulings that have found computer and video games to be constitutionally protected speech.

Game makers already mark packaging with a voluntary rating from the Entertainment Software Ratings Board. According to the Entertainment Software Association, 53 percent of all computer and video games sold in 2004 had an E rating (suitable for everyone), 30 percent had a T rating (suitable for teenagers), and 16 percent carried an M rating (suitable for ages 17 and older).

Games with M ratings often show death, mutilation, sexual activity, and drug and alcohol consumption. And while minors are not supposed to have access to M-rated games, there hasn’t been a method to penalize stores that rent or sell these products to children.

Earlier this year, Illinois Republican Rep. Paul Froehlich of Schaumburg and the Illinois Crime Commission conducted an investigation to find out how easy it was for a minor to purchase M-rated video games in suburban Chicago.

A 15-year-old boy was able to buy them at 11 of the 15 retail stores he visited. Language on a box to one of the games warned that it included “intense violence” and “strong sexual conduct.” A 2003 Federal Trade Commission study found that nearly 70 percent of teenagers could purchase M-rated video games. The FTC also noted that these products are often marketed to teenage boys.

In fact, the popularity of video games among young people is one reason proponents say legislation like that in Illinois is needed. According to the National Institute on Media and the Family, 92 percent of all children, up to age 17, play video games and spend an average of nine hours a week doing so. The institute also found that more than 85 percent of pre-teen and teenage boys were playing games with an M rating.

Still, some believe the restrictions are unwarranted and unjust.

“It’s very good politics, but very bad law,” says David Vite, president and chief executive officer of the Illinois Retail Merchants Association.

He adds that the Illinois bill will put retailers at a competitive disadvantage with Internet sellers because the latter will not be regulated.

“Why is the retailer the person who is responsible for being the editorial police for parents?” asks Vite, noting that retailers already post signs in their stores describing the software industry’s voluntary rating system.

He also believes some of the recent reports on the accessibility of inappropriate games to minors have been misleading. For example, Vite says, the video game industry has found that the “sell-through rate” (the rate at which age-appropriate sales are made) for video games is 64 percent, which is similar to the rate for movies (68 percent).

## Constitutional concerns

Rep. Chapin Rose was one of a small number of

Illinois House members who opposed the legislation due to concerns about its constitutionality.

“I have no problem, and frankly support, regulating some of the more extreme video games,” the Republican from Mahomet says. “But the Illinois legislation regulates not just extreme acts of violence, but what would be considered socially acceptable games as well.”

He points out that the Seventh Circuit Court of Appeals overturned similar legislation in Indianapolis several years ago. Judge Richard Posner affirmed that children have First Amendment rights. The court found that “states can and should regulate speech that rises to the level of graphic violence,” Rose says.



Bills introduced in Illinois and Michigan this year seek to better control minors’ access to violent and sexually explicit video games.

The constitutional problem with the Illinois bill is that it does not distinguish between different types of games, he believes.

In drafting the legislation, Rep. Chapa LaVia says, she and other lawmakers used the lessons learned from other states and local governments that have tried to enact similar laws. Consequently, she believes the Illinois measure, as crafted, will survive court scrutiny.

“We’ve taken all the mistakes and the good qualities of the legislation drafted by other governments, and we’ve capitalized on that to make sure the legislation will withstand constitutional challenge under the First Amendment,” she says.

The Michigan measure, which has received bipartisan legislative support and is backed by Democratic Gov. Jennifer Granholm, recently passed the state Senate. Its penalties are stiffer than those in the Illinois bill. Under the proposal, individuals who sell or rent a violent video game to a minor (under 17) could receive up to one year in prison and/or a maximum fine of \$5,000. The House has yet to consider the bill.

“Businesses that are already behaving responsibly toward our children have nothing to fear,” says Democratic Sen. Hansen Clarke of Detroit, the sponsor of the bill.

Another measure approved by the Michigan Senate would make sexually explicit video games subject to the same restrictions as books, movies and other materials with similar content.

“We have a responsibility to do all we can to protect our children from the graphic images in these games,” says Sen. Gerald Van Woerkom, a Republican from Norton Shores, who introduced the legislation. ✦