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By: **Delegates Kach and Ross**

Introduced and read first time: February 6, 2006

Assigned to: Judiciary

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Committee Report: Favorable

House action: Adopted

Read second time: February 21, 2006

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CHAPTER\_\_\_\_\_

1 AN ACT concerning

2 **Crimes - Obscene Video Games - Prohibition on Sale, Display, or Rental to**  
3 **Minor**

4 FOR the purpose of prohibiting a person from willfully or knowingly displaying or  
5 exhibiting to a minor an obscene video game; prohibiting a person from willfully  
6 or knowingly engaging in the business of displaying, exhibiting, selling,  
7 showing, advertising for sale, distributing, or renting to a minor an obscene  
8 video game; establishing criminal penalties for a violation of this Act; and  
9 generally relating to selling, displaying, or renting video games to minors.

10 BY repealing and reenacting, with amendments,  
11 Article - Criminal Law  
12 Section 11-203  
13 Annotated Code of Maryland  
14 (2002 Volume and 2005 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Criminal Law**

18 11-203.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) "Distribute" includes to rent.

21 (3) "Illicit sex" means:

- 1 (i) human genitals in a state of sexual stimulation or arousal;
- 2 (ii) acts of human masturbation, sexual intercourse, or sodomy; or
- 3 (iii) fondling or other erotic touching of human genitals.
- 4 (4) "Item" means a:
- 5 (i) still picture or photograph;
- 6 (ii) book, pocket book, pamphlet, or magazine;
- 7 (iii) videodisc, videotape, VIDEO GAME, film, or computer disc; or
- 8 (iv) recorded telephone message.
- 9 (5) "Obscene" means:
- 10 (i) that the average adult applying contemporary community
- 11 standards would find that the work, taken as a whole, appeals to the prurient
- 12 interest;
- 13 (ii) that the work depicts sexual conduct specified in subsection (b)
- 14 of this section in a way that is patently offensive to prevailing standards in the adult
- 15 community as a whole with respect to what is suitable material; and
- 16 (iii) that the work, taken as a whole, lacks serious artistic,
- 17 educational, literary, political, or scientific value.
- 18 (6) "Partially nude figure" means a figure with:
- 19 (i) less than completely and opaquely covered human genitals,
- 20 pubic region, buttocks, or female breast below a point immediately above the top of
- 21 the areola; or
- 22 (ii) human male genitals in a discernibly turgid state, even if
- 23 completely and opaquely covered.
- 24 (b) (1) A person may not willfully or knowingly display or exhibit to a minor
- 25 an item:
- 26 (i) the cover or content of which is principally made up of an
- 27 obscene description or depiction of illicit sex; or
- 28 (ii) that consists of an obscene picture of a nude or partially nude
- 29 figure.
- 30 (2) A person may not willfully or knowingly engage in the business of
- 31 displaying, exhibiting, selling, showing, advertising for sale, or distributing to a
- 32 minor an item:

1 (i) the cover or content of which is principally made up of an  
2 obscene description or depiction of illicit sex; or

3 (ii) that consists of an obscene picture of a nude or partially nude  
4 figure.

5 (3) If a newsstand or other place of business is frequented by minors, the  
6 owner, operator, franchisee, manager, or an employee with managerial responsibility  
7 may not openly and knowingly display at the place of business an item whose sale,  
8 display, exhibition, showing, or advertising is prohibited by paragraph (2) of this  
9 subsection.

10 (c) The provision of services or facilities by a telephone company under a tariff  
11 approved by the Public Service Commission is not a violation of subsection (b) of this  
12 section relating to recorded telephone messages.

13 (d) A person who violates this section is guilty of a misdemeanor and on  
14 conviction is subject to:

15 (1) for a first violation, imprisonment not exceeding 1 year or a fine not  
16 exceeding \$1,000 or both; and

17 (2) for each subsequent violation, imprisonment not exceeding 3 years or  
18 a fine not exceeding \$5,000 or both.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
20 effect October 1, 2006.