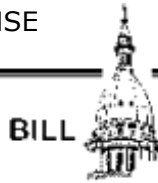




Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 464 (Substitute S-2 as reported by the Committee of the Whole)
Sponsor: Senator Laura M. Toy
Committee: Judiciary

CONTENT

The bill would amend Public Act 33 of 1978, which prohibits disseminating, exhibiting, or displaying sexually explicit matter to minors, to specify that it would be an affirmative defense that a person acted in good faith. The bill also specifies that the prohibition would not apply to a medium licensed and regulated by the Federal Communications Commission.

Except as provided below, good faith would exist if, at the time the charged offense occurred, all of the following conditions were satisfied:

- The minor showed the person identification that appeared to be valid and that contained a photograph and date of birth purporting to show that the minor was at least 17 years old, or an internet provider required a purchaser or renter to be at least 17 and the material was purchased or rented over the internet, with a credit card, and sent to the purchaser's or renter's home.
- The person did not have independent knowledge that the minor was under 17.
- The person complied with a rating system established by the pertinent entertainment industry that did not conflict with the Act, including the rating system for video games created by the Entertainment Software Rating Board or the rating system for motion pictures created by the Motion Picture Association of America.

For a person with managerial responsibility for a business enterprise, good faith would exist if, at the time the charged offense occurred, the business had a policy that its employees were required to comply with a rating system described above, trained its employees to follow that policy, and enforced the policy.

The bill is tie-barred to Senate Bills 249, 416, and 463 and House Bills 4702 and 4703. (Senate Bill 249 (S-4) would amend the Michigan Penal Code to prohibit selling or renting a violent video game to a minor. Senate Bill 416 (S-4) would amend Public Act 33 of 1978 to prohibit disseminating to a minor ultra-violent explicit visual matter or an ultra-violent video game that is harmful to minors. Senate Bill 463 and House Bill 4702 (H-1) would add video games to the definitions of "sexually explicit performance" and "sexually explicit visual material" in Public Act 33. House Bill 4703 (H-1) would require video game retailers to post signs regarding a rating system.)

Proposed MCL 722.682a & 722.682b

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 5-11-05

Fiscal Analyst: Bethany Wicksall

[floor\sb464](#)

Analysis available @ <http://www.michiganlegislature.org>

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.