

**SUBSTITUTE FOR  
SENATE BILL NO. 464**

A bill to amend 1978 PA 33, entitled

"An act to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter to minors; to prohibit certain misrepresentations facilitating the dissemination of sexually explicit matter to minors; to provide penalties; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal certain acts and parts of acts,"

(MCL 722.671 to 722.684) by adding sections 12a and 12b.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           **SEC. 12A. (1) IT IS AN AFFIRMATIVE DEFENSE TO A CHARGE UNDER**  
2           **THIS PART THAT THE PERSON ACTED IN GOOD FAITH. EXCEPT AS PROVIDED**  
3           **IN SUBSECTION (2), GOOD FAITH EXISTS IF AT THE TIME THE CHARGED**  
4           **OFFENSE OCCURRED ALL OF THE FOLLOWING CONDITIONS WERE SATISFIED:**

5           **(A) THE MINOR SHOWED THE PERSON IDENTIFICATION THAT APPEARED**

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1 TO BE VALID AND THAT CONTAINED A PHOTOGRAPH AND A DATE OF BIRTH  
2 PURPORTING TO SHOW THAT THE MINOR WAS 17 YEARS OF AGE OR OLDER<<,  
OR THE SERVICE TERMS OF THE INTERNET PROVIDER OF A SELLER OR RENTAL  
ENTERPRISE THAT SELLS OR RENTS ULTRA-VIOLENT EXPLICIT MATTER OVER THE  
INTERNET REQUIRE A PURCHASER OR RENTER TO BE 17 YEARS OF AGE OR OLDER IF  
ALL OF THE FOLLOWING CONDITIONS ARE MET:

(i) THE ULTRA-VIOLENT EXPLICIT MATTER IS PURCHASED OR RENTED OVER  
THE INTERNET.

(ii) THE ULTRA-VIOLENT EXPLICIT MATTER IS SENT TO THE PURCHASER'S OR  
RENTER'S HOME OR PLACE OF RESIDENCE <<OR OTHERWISE MADE DIRECTLY  
AVAILABLE THROUGH THE INTERNET TO THE PURCHASER OR RENTER>>.

(iii) THE PURCHASER OR RENTER OF THE ULTRA-VIOLENT EXPLICIT MATTER  
USES A CREDIT CARD TO PURCHASE OR RENT THE ULTRA-VIOLENT EXPLICIT  
MATTER>>.

3 (B) THE PERSON DID NOT HAVE INDEPENDENT KNOWLEDGE THAT THE  
4 MINOR WAS UNDER 17 YEARS OF AGE.

5 (C) RELYING UPON INFORMATION DESCRIBED IN SUBDIVISIONS (A) AND  
6 (B), THE PERSON COMPLIED WITH A RATING SYSTEM ESTABLISHED BY THE  
7 PERTINENT ENTERTAINMENT INDUSTRY THAT DOES NOT CONFLICT WITH THIS  
8 PART, INCLUDING, BUT NOT LIMITED TO, THE RATING SYSTEM FOR VIDEO  
9 GAMES CREATED BY THE ENTERTAINMENT SOFTWARE RATING BOARD OR THE  
10 RATING SYSTEM FOR MOTION PICTURES CREATED BY THE MOTION PICTURE  
11 ASSOCIATION OF AMERICA.

12 (2) IF THE PERSON POSSESSES MANAGERIAL RESPONSIBILITY FOR A  
13 BUSINESS ENTERPRISE, GOOD FAITH EXISTS IF AT THE TIME THE CHARGED  
14 OFFENSE OCCURRED THE BUSINESS ENTERPRISE SATISFIED ALL OF THE  
15 FOLLOWING CONDITIONS:

16 (A) THE BUSINESS ENTERPRISE HAD IN EXISTENCE A POLICY THAT ITS  
17 EMPLOYEES ARE REQUIRED TO COMPLY WITH A RATING SYSTEM ESTABLISHED  
18 BY THE PERTINENT ENTERTAINMENT INDUSTRY THAT DOES NOT CONFLICT WITH  
19 THIS PART, INCLUDING, BUT NOT LIMITED TO, THE RATING SYSTEM FOR  
20 VIDEO GAMES CREATED BY THE ENTERTAINMENT SOFTWARE RATING BOARD OR  
21 THE RATING SYSTEM FOR MOTION PICTURES CREATED BY THE MOTION PICTURE  
22 ASSOCIATION OF AMERICA.

23 (B) THE BUSINESS ENTERPRISE TRAINS ITS EMPLOYEES TO FOLLOW THE  
24 POLICY DESCRIBED IN SUBDIVISION (A).

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25 (C) THE BUSINESS ENTERPRISE ENFORCES THE POLICY DESCRIBED IN  
26 SUBDIVISION (A) .

27 SEC. 12B. THIS PART DOES NOT APPLY TO <<ANY OF THE FOLLOWING:

(A) A MEDIUM OF COMMUNICATION TO THE EXTENT REGULATED BY THE  
FEDERAL COMMUNICATIONS COMMISSION.

(B) AN INTERNET SERVICE PROVIDER OR COMPUTER NETWORK SERVICE  
PROVIDER WHO IN GOOD FAITH, AND WITHOUT KNOWLEDGE OF THE CONTENT OF THE  
MATTER BEING COMMUNICATED, PROVIDES THE MEDIUM FOR COMMUNICATION OF THE  
MATTER. AS USED IN THIS SECTION, "INTERNET SERVICE PROVIDER" MEANS A  
PERSON WHO PROVIDES A SERVICE THAT ENABLES USERS TO ACCESS CONTENT,  
INFORMATION, ELECTRONIC MAIL, OR OTHER SERVICES OFFERED OVER THE INTERNET  
OR A COMPUTER NETWORK.

(C) A PERSON PROVIDING A SUBSCRIPTION MULTICHANNEL VIDEO SERVICE  
WHOSE TERMS OF SERVICE REQUIRE THAT THE PURCHASER OR RENTER OF THE  
SERVICE BE AT LEAST 17 YEARS OF AGE OR OLDER AND WHICH SERVICE IS  
PROVIDED ONLY UPON A SHOWING OF PROPER IDENTIFICATION THROUGH THE  
PURCHASER'S OR RENTER'S USE OF A CREDIT CARD TO PURCHASE OR RENT THE  
SERVICE OR BY PROVIDING GOVERNMENT-ISSUED IDENTIFICATION OR OTHER  
REASONABLE MEANS FOR VERIFICATION OF THE PURCHASER'S OR RENTER'S  
IDENTITY.

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Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 249.

(b) Senate Bill No. 416.

(c) Senate Bill No. 463.

(d) House Bill No. 4702.

(e) House Bill No. 4703.