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STATE REGULATION OF VIOLENT VIDEO GAMES

CALIFORNIA VIOLENT VIDEO GAME LEGISLATION

A.B. 1179 (2005)

ENTERTAINMENT SOFTWARE ASS'N V. BLAGOJEVICH

404 F. Supp. 2d 1051 (N.D. Ill. 2005)

VIDEO SOFTWARE DEALERS ASS'N V. SCHWARZENEGGER

401 F. Supp. 2d 1034 (N.D. Cal. 2005)

Recent district court decisions in both California and Illinois have indicated the likely futility of state legislation attempting to regulate the sale of violent video games to minors.

In *Entertainment Software Ass'n v. Blagojevich*, the District Court for the Northern District of Illinois found unconstitutional Illinois statutes that attempted to restrict minors' access to violent and sexually explicit video games. The statutes required that such games be labeled with a two-inch square label reading "18," and prohibited their sale or rental to minors under age 18. Applying strict scrutiny review, the court found that the laws were unconstitutional because the state lacked substantial evidence that violent games were sufficiently harmful to minors, and because the statutes were vague.

In 2005, the California legislature enacted Assembly Bill 1179 (A.B. 1179), codified at Cal. Civ. Code §§ 1746-1746.5, which, like the Illinois statutes, regulated the sale and rental of violent video games to minors, and imposed labeling requirements on distributors of violent video games. The bill was intended to reduce perceived negative emotional and psychological effects caused by exposure to violent video games, including tendencies toward aggression. To qualify as a "violent video game" under A.B. 1179, the game must appeal to a deviant or morbid interest of minors in the eyes of a reasonable person, be patently offensive to the standards of the community, and lack "serious literary, artistic, political, or scientific value" for minors. Video game industry groups sued to invalidate the law on First Amendment grounds. In *Video Software Dealers Association v. Schwarzenegger*, the District Court for the Northern District of California granted a preliminary injunction against its enforcement, reasoning that potential detrimental effects on First Amendment rights and costs of im-

plementing A.B. 1179 outweighed a short delay in the enforcement of the law.