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CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 1179**

**Introduced by Assembly Member Yee**

**(Coauthors: Assembly Members Coto, Leslie, Levine, Mountjoy,  
Mullin, and Vargas)**

**(Coauthors: Senators Florez and Kuehl)**

February 22, 2005

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An act to add ~~Section 1507.25 to the Health and Safety Code, relating to community care facilities. Title 1.2A (commencing with Section 1746) to Part 4 of Division 3 of the Civil Code, relating to violent video games.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 1179, as amended, Yee. ~~Community care facilities: foster children: injections. Violent video games: sales to minors.~~

*Existing law regulates the sale of certain merchandise, such as political items and sports memorabilia.*

*This bill would require violent video games to be labeled as specified and would prohibit the sale or rental of those violent video games, as defined, to minors. The bill would provide that a person who violates the act shall be liable in an amount of up to \$1,000 for each violation.*

~~Existing law regulates the licensure of community care facilities by the State Department of Social Services and authorizes a community care facility to provide certain incidental medical services.~~

~~Existing law authorizes facility staff who are not licensed health care professionals to provide incidental medical services in a community care facility for adults if, among other things, they are trained by a licensed health care professional and supervised according to an individualized health care plan for clients which is prepared by a health care team and reassessed at least every 12 months or as more frequently determined by the client's physician or nurse practitioner.~~

~~Existing law separately provides for the provision of specialized in-home health care services for foster children with designated medical conditions.~~

~~This bill would require the department to permit designated foster care providers to administer emergency medical assistance and injections for diabetes and anaphylactic shock, or subcutaneous injections of other prescribed medication, to a foster child, if the provider is trained to administer injections by a licensed health care professional. The bill would require the licensed health care professional to periodically review, correct, or update this training as the health care professional deems necessary and appropriate.~~

~~This bill would prohibit a child's need to receive injections pursuant to the bill from being the sole basis for determining that the child has a medical condition requiring specialized in-home health care, notwithstanding existing law.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes-no. State-mandated local program: no.~~

*The people of the State of California do enact as follows:*

- 1     SECTION 1. The Legislature finds and declares all of the
- 2     following:
- 3     (a) Exposing minors to depictions of violence in video games,
- 4     including sexual and heinous violence, makes those minors more
- 5     likely to experience feelings of aggression, to experience a
- 6     reduction of activity in the frontal lobes of the brain, and to
- 7     exhibit violent antisocial or aggressive behavior.

1     ***(b) Even minors who do not commit acts of violence suffer***  
2     ***psychological harm from prolonged exposure to violent video***  
3     ***games.***

4     ***(c) The state has a compelling interest in preventing violent,***  
5     ***aggressive, and antisocial behavior, and in preventing***  
6     ***psychological or neurological harm to minors who play violent***  
7     ***video games.***

8     ***SEC. 2. Title 1.2A (commencing with Section 1746) is added***  
9     ***to Part 4 of Division 3 of the Civil Code, to read:***

10  
11                   ***TITLE 1.2A. VIOLENT VIDEO GAMES***  
12

13     ***1746. For purposes of this title, the following definitions shall***  
14     ***apply:***

15     ***(a) "Minor" means any natural person who is under 18 years***  
16     ***of age.***

17     ***(b) "Person" means any natural person, partnership, firm,***  
18     ***association, corporation, limited liability company, or other***  
19     ***legal entity.***

20     ***(c) "Video game" means any electronic amusement device***  
21     ***that utilizes a computer, microprocessor, or similar electronic***  
22     ***circuitry and its own monitor, or is designed to be used with a***  
23     ***television set or a computer monitor, that interacts with the user***  
24     ***of the device.***

25     ***(d) (1) "Violent video game" means a video game in which***  
26     ***the range of options available to a player includes killing,***  
27     ***maiming, dismembering, or sexually assaulting an image of a***  
28     ***human being, if those acts are depicted in the game in a manner***  
29     ***that does either of the following:***

30     ***(A) Comes within all of the following descriptions:***

31     ***(i) A reasonable person, considering the game as a whole,***  
32     ***would find appeals to a deviant or morbid interest of minors.***

33     ***(ii) It is patently offensive to prevailing standards in the***  
34     ***community as to what is suitable for minors.***

35     ***(iii) It causes the game, as a whole, to lack serious literary,***  
36     ***artistic, political, or scientific value for minors.***

37     ***(B) Enables the player to virtually inflict serious injury upon***  
38     ***images of human beings or characters with substantially human***  
39     ***characteristics in a manner which is especially heinous, cruel, or***

1 *depraved in that it involves torture or serious physical abuse to*  
2 *the victim.*

3 *(2) For purposes of this subdivision, the following definitions*  
4 *apply:*

5 *(A) “Cruel” means that the player intends to virtually inflict a*  
6 *high degree of pain by torture or serious physical abuse of the*  
7 *victim in addition to killing the victim.*

8 *(B) “Depraved” means that the player relishes the virtual*  
9 *killing or shows indifference to the suffering of the victim, as*  
10 *evidenced by torture or serious physical abuse of the victim.*

11 *(C) “Heinous” means shockingly atrocious. For the killing*  
12 *depicted in a video game to be heinous, it must involve additional*  
13 *acts of torture or serious physical abuse of the victim as set apart*  
14 *from other killings.*

15 *(D) “Serious physical abuse” means a significant or*  
16 *considerable amount of injury or damage to the victim’s body*  
17 *which involves a substantial risk of death, unconsciousness,*  
18 *extreme physical pain, substantial disfigurement, or substantial*  
19 *impairment of the function of a bodily member, organ, or mental*  
20 *faculty. Serious physical abuse, unlike torture, does not require*  
21 *that the victim be conscious of the abuse at the time it is inflicted.*  
22 *However, the player must specifically intend the abuse apart*  
23 *from the killing.*

24 *(E) “Torture” includes mental as well as physical abuse of the*  
25 *victim. In either case, the virtual victim must be conscious of the*  
26 *abuse at the time it is inflicted; and the player must specifically*  
27 *intend to virtually inflict severe mental or physical pain or*  
28 *suffering upon the victim, apart from killing the victim.*

29 *(3) Pertinent factors in determining whether a killing depicted*  
30 *in a video game is especially heinous, cruel, or depraved include*  
31 *infliction of gratuitous violence upon the victim beyond that*  
32 *necessary to commit the killing, needless mutilation of the*  
33 *victim’s body, and helplessness of the victim.*

34 *1746.1. (a) A person may not sell or rent a video game that*  
35 *has been labeled as a violent video game to a minor.*

36 *(b) Proof that a defendant, or his or her employee or agent,*  
37 *demanding, was shown, and reasonably relied upon evidence that*  
38 *a purchaser or renter of a violent video game was not a minor or*  
39 *that the manufacturer failed to label a violent video game as*  
40 *required pursuant to Section 1746.2 shall be an affirmative*

1 defense to any action brought pursuant to this title. That evidence  
2 may include, but is not limited to, a driver's license or an  
3 identification card issued to the purchaser or renter by a state or  
4 by the Armed Forces of the United States.

5 (c) This section shall not apply if the violent video game is  
6 sold or rented to a minor by the minor's parent, grandparent,  
7 aunt, uncle, or legal guardian.

8 1746.2. Each violent video game that is imported into or  
9 distributed in California for retail sale shall be labeled with a  
10 solid white "18" outlined in black. The "18" shall have  
11 dimensions of no less than 2 inches by 2 inches. The "18" shall  
12 be displayed on the front face of the video game package.

13 1746.3. Any person who violates any provision of this title  
14 shall be liable in an amount of up to one thousand dollars  
15 (\$1,000), or a lesser amount as determined by the court.  
16 However, this liability shall not apply to any person who violates  
17 those provisions if he or she is employed solely in the capacity of  
18 a salesclerk or other, similar position and he or she does not  
19 have an ownership interest in the business in which the violation  
20 occurred and is not employed as a manager in that business.

21 1746.4. A suspected violation of this title may be reported to  
22 a city attorney, county counsel, or district attorney by a parent,  
23 legal guardian, or other adult acting on behalf of a minor to  
24 whom a violent video game has been sold or rented. A violation  
25 of this title may be prosecuted by any city attorney, county  
26 counsel, or district attorney.

27 1746.5. The provisions of this title are severable. If any  
28 provision of this title or its application is held to be invalid, that  
29 invalidity shall not affect other provisions or applications that  
30 can be given effect without the invalid provision or application.

31 ~~SECTION 1. The Legislature finds and declares all of the~~  
32 ~~following:~~

33 ~~(a) Anaphylaxis is a severe allergic reaction that involves the~~  
34 ~~entire body. It can result in breathing difficulty, loss of~~  
35 ~~consciousness, and even death if not immediately treated.~~  
36 ~~Anaphylaxis is a medical emergency that requires immediate~~  
37 ~~medical treatment. Severe anaphylactic shock can be reversed by~~  
38 ~~use of an epinephrine autoinjector that delivers a single,~~  
39 ~~pre-measured dose of epinephrine.~~

~~(b) Severe diabetic hypoglycemia is a life-threatening condition that can quickly lead to loss of consciousness, coma, and death. Severe diabetic hypoglycemia is a medical emergency that requires immediate medical treatment. Severe diabetic hypoglycemia can be reversed by an injection of glucagon.~~

~~(c) In the absence of trained medical personnel, relative caregivers or foster parents are often the only individuals in a position to provide emergency medical assistance to a foster child suffering anaphylaxis or severe diabetic hypoglycemia.~~

~~(d) It is the intent of the Legislature in enacting this act to authorize properly trained foster parents and relative caregivers to provide emergency medical services to foster children suffering from anaphylaxis or severe diabetic hypoglycemia, as well as other prescribed medication, under appropriate circumstances.~~

~~SEC. 2. Section 1507.25 is added to the Health and Safety Code, to read:~~

~~1507.25. (a) (1) Notwithstanding any other provision of law, the department shall permit emergency medical assistance and injections for diabetes and anaphylactic shock, and subcutaneous injections of other medications as prescribed by the child's physician, to be administered to a foster child in placement, by a person described in paragraph (2) who is not a licensed health care professional, but who is trained to administer injections by a licensed health care professional practicing within his or her scope of practice.~~

~~(2) The following individuals shall be authorized to administer emergency medical assistance and injections in accordance with this section:~~

~~(A) A relative caregiver.~~

~~(B) A nonrelative extended family member.~~

~~(C) A foster family home parent.~~

~~(D) A small family home parent.~~

~~(E) A certified parent of a foster family agency.~~

~~(F) A substitute caregiver of a foster family home or a certified family home.~~

~~(G) A direct care staff member of a small family home or a group home.~~

1     ~~(3) The licensed health care professional shall periodically~~  
2 ~~review, correct, or update training provided pursuant to this~~  
3 ~~section as he or she deems necessary and appropriate.~~

4     ~~(b) For purposes of this section, administration of an insulin~~  
5 ~~injection shall include all necessary supportive activities related~~  
6 ~~to the preparation and administration of injection, including~~  
7 ~~glucose testing and monitoring.~~

8     ~~(c) Notwithstanding Part 5.5 (commencing with Section~~  
9 ~~17700) of Division 9 of, and particularly subdivision (g) of~~  
10 ~~Section 17710 of, the Welfare and Institutions Code, a child's~~  
11 ~~need to receive injections pursuant to this section shall not be the~~  
12 ~~sole basis for determining that the child has a medical condition~~  
13 ~~requiring specialized in-home health care.~~