

# What's Happening

I N T H E U S A ?

BY LAWRENCE GABLE

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Americans spend more than \$10 billion on video games every year. Many of those games include a lot of action and violence. Several years ago California passed a law that restricted the ability of children to buy them. The State actually never has enacted the law, though, because of a lawsuit against it. In November 2010 the lawsuit finally made it to the U.S. Supreme Court.

California's governor, Arnold Schwarzenegger, signed the law in October 2005. It bans the sale or rental of violent video games to anyone under 18. It defines violence as any act by the player that involves maiming, dismembering, sexually assaulting or killing an image of a human being. The law applies to any game that offends what a "reasonable person" and "community standards" feel is appropriate for a minor to see. California's law allows parents and guardians to buy violent games for minors, but imposes a \$1,000 fine on a store that sells them directly to a minor.

The State had several reasons for passing the law. Studies were confirming the negative effect that violent games have on people of all ages who play them. The studies determined that those people have increased aggressive thoughts and anti-social behavior. They are also less sensitive to violence.

Research continues to show the effects of violent video games on minors. One study ranks them, along with gang membership, as the best predictor of future violent crimes. It also shows that violent video games are a better predictor of future aggressive behavior than either drug use or past violent acts. According to the American Academy of Pediatrics, exposure to violence in all media, including television, movies and music, is a risk to the emotional health of children and adolescents.

California's law does not mention any games by name. In general, though, games that look tremendously realistic have introduced human images as the targets of violence. Those acts include sexual violence against women and girls, burnings, abductions, murder and torture.

Other places in the U.S. had passed laws against violent video games before California did. Federal courts ruled against the laws each time, because the laws violated the First Amendment's guarantee of free speech. A lower court quickly ruled California's law

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unconstitutional, and a federal court also ruled against it in February 2009. It said that the State had not made a strong enough link between video games and harm to children, and that minors also enjoy the right of free speech. When the U.S. Ninth Circuit Court of Appeals upheld that decision, California appealed to the U.S. Supreme Court.

The Supreme Court has made rulings on First Amendment issues before. For example, its tradition has been that free speech does not include obscenity. However, it also always has ruled not to place restrictions on violent content. In recent years too it has ruled not to restrict free speech in cases that involve things on the Internet.

Arguments against the law cover a broad range of concerns. The video game industry says that its rating system works because adults, not minors, buy 90 percent of the violent games that are sold. Another argument involves the fear of censorship in other industries like books, music and comic books. The video game industry also does not want to face restrictions that television and films do not have. Finally, California's law may be too vague when it refers to a "reasonable person" and "community standards."

California presented other arguments before the Supreme Court. It says that video games are different from film and television, for example, because the players actually participate in the violence. Its law does not censor or limit games, but simply reinforces the parent's role in protecting minors from bad things.

There is general concern about how much violence young people see. States continue to pass laws specifically against video games, so a ruling from the Supreme Court finally will settle the issue. It will give its ruling this spring.

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Americans spend more than \$10 billion on video games every year. Many of those games include a lot of violence. In October 2005 California passed a law that banned sales to children. However, a lawsuit kept it from becoming law, and in November the case finally went to the Supreme Court.

California's law bans the sale or rental of violent video games to anyone under 18. It defines violence as an act by the player that maims, dismembers, sexually assaults or kills an image of a human being. Games cannot offend what a "reasonable person" and "community standards" feel is appropriate for a minor to see. The law allows parents to buy games for minors, but gives a \$1,000 fine to a store that sells them directly to a minor.

The State had several reasons for passing the law. Studies were showing the negative effect of violent games on players of all ages. The studies found that those people have increased aggressive thoughts and anti-social behavior. They are also less sensitive to violence.

Research continues to show negative effects on minors. One study ranks violent video games as the best predictor of future violent crimes. It also shows that violent video games are a better predictor of future aggressive behavior than drug use. The American Academy of Pediatrics says that exposure to violence in all media, including TV, movies and music, is a risk to the emotional health of minors.

California's law does not mention any games by name. In general, though, the games have human images as the targets of violence. Those acts include sexual violence against women and girls, burnings, murder and torture.

Other places in the U.S. had passed such laws before California did. However, federal courts ruled each time that the laws violated the freedom of speech. A federal court made a similar ruling against California's law. It also said that

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the State had not made a strong enough connection between video games and harm to children.

The U.S. Supreme Court has made rulings on free speech issues before. For example, it always has ruled that free speech does not include obscenity. However, it never has placed restrictions on violent content. In recent years too it has ruled not to restrict free speech in cases about things on the Internet.

Arguments against the law cover a broad range of concerns. The video game industry says that its rating system works because adults, not minors, buy 90 percent of the violent games that are sold. Another argument involves the fear of censorship in things like music and comic books. The video game industry also does not want restrictions that TV and films do not have. Finally, it may be too hard to define a "reasonable person" and "community standards."

California presents other arguments. It says that video games are different from film, for example, because the players actually participate in the violence. Its law does not censor or limit games, but simply reinforces the parent's role in protecting minors from bad things.

There is general concern about how much violence young people see. States continue to pass laws specifically against video games, so the Supreme Court finally will settle the issue. Its ruling will come this spring.

# Background Information

The official name of the case is *Schwarzenegger v. Entertainment Merchants Association*. The Supreme Court heard oral arguments for an hour on November 2, 2010.

The \$1,000 fine does not apply to sales clerks who have no ownership in the business.

Eleven states have argued in support of California's law. They maintain that a ban on selling violent video games to minors is consistent with the First Amendment's guarantee of free speech.

The Comic Book Legal Defense Fund and the Future of Music Coalition have supported the video game industry's lawsuit.

Opponents of laws that ban sales to minors insist that children traditionally have been exposed to violence. They mention Grimm's fairy tales, tales from mythology and stories from the Bible to support their argument.

Opponents of the law find irony in the fact that Governor Schwarzenegger, the star of many violent action movies, signed the law. They argue that it would be inconsistent for laws to allow a child to see one of his movies, but not to be able to buy a video game that is based on one of them.

Supreme court Justice Stephen Breyer asked in November why laws should forbid the sale of magazines that show naked people, but allow minors to buy video games in which people get tortured.

Many video-game consoles include controls that let parents limit what kinds of games their children play.

The Entertainment Software Rating Board uses ratings that have two parts. On the front of a video game's packaging its symbols suggest age appropriateness for the game. On the back it describes the game's content. The symbols are:

- "eC" ("Early Childhood"—for ages 3 and older)
- "E" ("Everyone"—for ages 6 and older)
- "E 10+" ("Everyone 10+"—for ages 10 and older)
- "T" ("Teen"—for ages 13 and older)
- "M" ("Mature"—for ages 17 and older)
- "Ao" ("Adults Only"—for ages 18 and older)

## Topics for Discussion and Writing

### Pre-reading:

- Tell what the six ratings symbols on video games are, and explain what they mean.

### Comprehension:

- What are some reasons that states have for wanting to ban sales of violent video games to minors?

### Beyond the Text:

- How would you define "reasonable person" and "community standards?"
- Do you think minors should have the same rights as adults?
- Describe a video game that you know is violent.

## Vocabulary (\*advanced article only)

*Article-specific:* to ban; to enact\*; lawsuit; to maim; to dismember; to assault; to rank; abduction; obscenity; censorship

*High-use:* to restrict/restriction; image; to offend; standard; minor; to impose\*; appropriate; to confirm\*; research; predictor; exposure; emotional; guarantee\*; vague\*

## Sources

*South Florida Sun-Sentinel* December 4, 2010

*New American* November 22, 2010

*Washington Times* November 12, 2010

*Education Week* November 10, 2010

*Tampa Tribune* November 9, 2010

*Boston Globe* November 9, 2010

Wired.com November 4, 2010

*Los Angeles Times* November 3, 2010

Entertainment Software Ratings Board

[www.esrb.org/ratings](http://www.esrb.org/ratings)

## CA Curricular Standards (4–12)

### English-Language Arts

*Reading* 1.0 Vocabulary Development

2.0 Comprehension (Informational Materials)

*Writing* 1.0 Writing Strategies

2.0 Writing Applications

### ELD—Intermediate and Advanced

Reading Vocabulary Development/Comprehension

Writing Strategies and Applications

Listening and Speaking

### History-Social Science

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