CHAPTER 325I

VIDEOTAPE AND VIDEO GAMES

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325I.01 DEFINITIONS.

Subdivision 1. **General.** The definitions in this section apply to sections 325I.01 to 325I.03.

Subd. 2. **Consumer.** "Consumer" means a renter, purchaser, or subscriber of goods or services from a videotape service provider or videotape seller.

Subd. 3. **Personally identifiable information.** "Personally identifiable information" means information that identifies a person as having requested or obtained specific video materials or services from a videotape service provider or videotape seller.

Subd. 4. **Videotape seller.** "Videotape seller" means a person engaged in the business of selling prerecorded videocassette tapes or similar audiovisual materials, or a person to whom a disclosure is made by a videotape seller under section 325I.02, but only with respect to the information contained in the disclosure.

Subd. 5. **Videotape service provider.** "Videotape service provider" means a person engaged in the business of rental of prerecorded videocassette tapes or similar audiovisual materials, or a person to whom a disclosure is made by a videotape service provider under section 325I.02, but only with respect to the information contained in the disclosure.

History: *1994 c 618 art 1 s 35*

325I.02 DISCLOSURE OF VIDEOTAPE RENTAL OR SALES RECORDS.

Subdivision 1. **Disclosure prohibited.** Except as provided in subdivisions 2 and 3, a videotape service provider or videotape seller who knowingly discloses, to any person, personally identifiable information concerning any consumer of the provider or seller is liable to the consumer for the relief provided in section 325I.03.

Subd. 2. **Disclosure required.** (a) A videotape service provider or videotape seller shall disclose personally identifiable information concerning any consumer:

(1) to a grand jury pursuant to a grand jury subpoena;

(2) pursuant to a court order in a civil proceeding upon a showing of compelling need for the information that cannot be accommodated by other means, or in a criminal proceeding upon a showing of legitimate need for the information that cannot be accommodated by other means, if:

(i) the consumer is given reasonable notice by the person seeking the disclosure of the court proceeding relevant to the issuance of the court order;

(ii) the consumer is afforded the opportunity to appear and contest the disclosure; and

(iii) the court imposes appropriate safeguards against unauthorized disclosure; or

(3) to a law enforcement agency pursuant to a warrant lawfully obtained under the laws of this state or the United States.

(b) A videotape service provider or videotape seller may disclose personally identifiable information concerning any consumer to a court or law enforcement agency pursuant to a civil action or criminal investigation for conversion or theft commenced or initiated by the videotape service provider or videotape seller or to enforce collection of fines for overdue or unreturned videotapes or collection for unpaid videotapes, to the extent necessary to establish the fact of the rental or sale. In a court action, the court shall impose appropriate safeguards against unauthorized disclosure of the information. A law enforcement agency shall maintain the information as investigative data under section 13.82, except that when the investigation becomes inactive, the information is private data on individuals as defined in section 13.02, subdivision 12.

Subd. 3. **Disclosure permitted.** A videotape service provider or videotape seller may disclose personally identifiable information concerning any consumer:

(1) to the consumer;

(2) to a person in connection with a transfer of ownership of the videotape service provider or videotape seller;

(3) to any person with the written informed consent of the consumer, as provided in subdivision 4; or

(4) if a videotape is sold by mail or telephone and the videotape seller complies with United States Code, title 18, section 2710(b)(2)(D).

Subd. 4. **Procedure for written informed consent of the consumer.** For purposes of subdivision 3, clause (3), in order to obtain the written informed consent of the consumer, the videotape service provider or videotape seller must obtain a signed statement conforming to the notice contained in this subdivision. The notice must be in writing in at least ten-point boldfaced type, must be separate from any membership, subscriber, or rental or purchase agreement between the consumer and the videotape service provider or videotape seller, and must read as follows:

"This videotape service provider (videotape seller) from time to time provides to marketers of goods and services, the names and addresses of customers and a description or subject matter of materials rented or purchased by video customers. The videotape service provider (videotape seller) may not include your name, address, or the description or subject matter of any material rented or purchased in these lists without your written consent. This election may be changed by you, in writing, at any time.

I do not object to the release of my name, address, or the description or subject matter of the material rented or purchased.

.....

Signature"

Subd. 5. **Exclusion from evidence.** Personally identifiable information obtained in any manner other than as provided in this section may not be received in evidence in any trial, hearing, arbitration, or other proceeding before any court, grand jury, officer, agency, regulatory body, legislative committee, or other authority of the state or any political subdivision.

Subd. 6. **Destruction of information.** A person subject to this section shall destroy personally identifiable information as soon as practicable, but no later than one year from the date the information is no longer

necessary for the purpose for which it was collected and there are no pending requests or orders for access to the information under this section.

Subd. 7. **Prohibition on refusal of services.** A videotape service provider or videotape seller may not require a consumer to execute a consent under subdivision 4 as a condition of providing videotape goods or services to the consumer.

History: *1994 c 618 art 1 s 36*

325I.03 ENFORCEMENT; CIVIL LIABILITY.

The public and private remedies in section 8.31 apply to violations of section 325I.02. In addition, a consumer who prevails or substantially prevails in an action brought under this section is entitled to a minimum of $500 in damages, regardless of the amount of actual damage proved, plus costs, disbursements, and reasonable attorney fees. Sections 325I.01 to 325I.03 do not affect any rights or remedies available under other law.

History: *1994 c 618 art 1 s 37*

325I.05 VIDEO CAPTIONING.

Subdivision 1. **Requirement.** A person may not in the ordinary course of business distribute a prerecorded videocassette tape or similar audio-visual material to a videotape seller or videotape service provider unless it is open-captioned or closed-captioned for the deaf and hard-of-hearing.

For purposes of this section, "videotape seller" and "videotape service provider" have the meanings given them in section 325I.01.

Subd. 2. **Enforcement.** A person who violates this section is subject to the penalties and remedies provided in section 8.31, except subdivision 3a.

Subd. 3. **Application.** This section applies to prerecorded videocassette tapes or similar audio-visual material that:

(1) is primarily produced for sale to educational institutions, training facilities, state or local government agencies, or medical facilities; and

(2) is released or rereleased on or after June 1, 1997, and more than 500 copies are produced in the release or rerelease; or

(3) is produced by a governmental entity for educational purposes.

History: *1995 c 143 s 1*

325I.06 RESTRICTED VIDEO GAMES; PROHIBITIONS.

Subdivision 1. **Definition.** As used in this section, "restricted video game" means a video game rated AO or M by the Entertainment Software Rating Board.

Subd. 2. **Prohibited acts; penalty.** A person under the age of 17 may not knowingly rent or purchase a restricted video game. A person who violates this subdivision is subject to a civil penalty of not more than $25.

Subd. 3. **Posted sign required.** A person or entity engaged in the retail business of selling or renting video games from a location or structure with access to the public shall post a sign in a location that is clearly

visible to consumers. The sign must display the following language in 30-point font or larger: "A person under the age of 17 is prohibited from renting or purchasing a video game rated AO or M. Violators may be subject to a $25 penalty."

History: *2006 c 246 s 1*

NOTE: This section was found unconstitutional and its enforcement permanently enjoined in *Entertainment Software Association v. Hatch*, 443 F.Supp.2d 1065 (D.Minn. 2006) aff'd 519 F.3d 768 (8th Cir. 2008).