

AMENDED IN ASSEMBLY MARCH 2, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 99**

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**Introduced by Assembly Member Burton**

January 9, 1995

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An act to amend ~~Section~~ *Sections 12021.5 and 12323* of the Penal Code, relating to ammunition, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 99, as amended, Burton. Ammunition: handgun ammunition designed primarily to penetrate metal or armor.

Existing law specifies prohibitions and penalties with regard to manufacturing, importing, selling, offering to sell, knowingly transporting or knowingly possessing any handgun ammunition designed primarily to penetrate metal or armor. Handgun ammunition is defined for these purposes.

This bill would redefine "handgun ammunition" and would define "handgun ammunition designed primarily to penetrate metal or armor," "body vest or shield," and "rifle" for the purposes of this provision.

*Existing law defines "rifle" for purposes of a provision that establishes a prison term enhancement for every person who carries a loaded or unloaded firearm on his or her person, or in a vehicle, during the commission or attempted commission of any street gang crime.*

*This bill would revise this definition.*

This bill would specify that the changes made by this bill are declaratory of existing law.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. *Section 12021.5 of the Penal Code is*  
2 *amended to read:*

3 12021.5. (a) Every person who carries a loaded or  
4 unloaded firearm on his or her person, or in a vehicle,  
5 during the commission or attempted commission of any  
6 street gang crimes described in subdivision (a) or (b) of  
7 Section 186.22, shall, upon conviction of the felony or  
8 attempted felony, be punished by an additional term of  
9 imprisonment in the state prison for one, two, or three  
10 years in the court’s discretion. The court shall impose the  
11 middle term unless there are circumstances in  
12 aggravation or mitigation. The court shall state the  
13 reasons for its enhancement choice on the record at the  
14 time of sentence.

15 (b) Every person who carries a loaded or unloaded  
16 firearm together with a detachable shotgun magazine, a  
17 detachable pistol magazine, a detachable magazine, or a  
18 belt-feeding device on his or her person, or in a vehicle,  
19 during the commission or attempted commission of any  
20 street gang crimes described in subdivision (a) or (b) of  
21 Section 186.22, shall, upon conviction of the felony or  
22 attempted felony, be punished by an additional term of  
23 imprisonment in the state prison for two, three, or four  
24 years in the court’s discretion. The court shall impose the  
25 middle term unless there are circumstances in  
26 aggravation or mitigation. The court shall state the  
27 reasons for its enhancement choice on the record at the  
28 time of sentence.

29 (c) As used in this section, the following definitions  
30 shall apply:



1 (1) “Detachable magazine” means a device that is  
2 designed or redesigned to do all of the following:

3 (A) To be attached to a rifle that is designed or  
4 redesigned to fire ammunition.

5 (B) To be attached to, and detached from, a rifle that  
6 is designed or redesigned to fire ammunition.

7 (C) To feed ammunition continuously and directly  
8 into the loading mechanism of a rifle that is designed or  
9 redesigned to fire ammunition.

10 (2) “Detachable pistol magazine” means a device that  
11 is designed or redesigned to do all of the following:

12 (A) To be attached to semiautomatic firearm that is  
13 not a rifle or shotgun that is designed or redesigned to fire  
14 ammunition.

15 (B) To be attached to, and detached from, a firearm  
16 that is not a rifle or shotgun that is designed or redesigned  
17 to fire ammunition.

18 (C) To feed ammunition continuously and directly  
19 into the loading mechanism of a firearm that is not a rifle  
20 or a shotgun that is designed or redesigned to fire  
21 ammunition.

22 (3) “Detachable shotgun magazine” means a device  
23 that is designed or redesigned to do all of the following:

24 (A) To be attached to a firearm that is designed or  
25 redesigned to fire a fixed shotgun shell through a smooth  
26 or rifled bore.

27 (B) To be attached to, and detached from, a firearm  
28 that is designed or redesigned to fire a fixed shotgun shell  
29 through a smooth bore.

30 (C) To feed fixed shotgun shells continuously and  
31 directly into the loading mechanism of a firearm that is  
32 designed or redesigned to fire a fixed shotgun shell.

33 (4) “Belt-feeding device” means a device that is  
34 designed or redesigned to continuously feed ammunition  
35 into the loading mechanism of a machinegun or a  
36 semiautomatic firearm.

37 (5) “Rifle” shall have the same meaning as specified in  
38 paragraph ~~(2)~~ (20) of subdivision (c) of Section 12020.



1 (6) "Shotgun" shall have the same meaning as  
2 specified in paragraph (21) of subdivision (c) of Section  
3 12020.

4 SEC. 2. Section 12323 of the Penal Code is amended  
5 to read:

6 12323. As used in this chapter, the following  
7 definitions shall apply:

8 (a) "Handgun ammunition" means ammunition  
9 principally for use in pistols, revolvers, and other firearms  
10 capable of being concealed upon the person, as defined  
11 in subdivision (a) of Section 12001, notwithstanding that  
12 the ammunition may also be used in some rifles.

13 (b) "Handgun ammunition designed primarily to  
14 penetrate metal or armor" means handgun ammunition  
15 designed primarily to penetrate a body vest or shield.

16 (c) "Body vest or shield" means any bullet-resistant  
17 material intended to provide ballistic and trauma  
18 protection for the wearer or holder.

19 (d) "Rifle" shall have the same meaning as defined in  
20 paragraph ~~(2)~~ (20) of subdivision (c) of Section 12020.

21 ~~SEC. 2.~~

22 SEC. 3. The changes made by this act are declaratory  
23 of existing law.

24 ~~SEC. 3.~~

25 SEC. 4. This act is an urgency statute necessary for the  
26 immediate preservation of the public peace, health, or  
27 safety within the meaning of Article IV of the  
28 Constitution and shall go into immediate effect. The facts  
29 constituting the necessity are:

30 In order to protect and insure the safety of peace  
31 officers, it is necessary that this act take effect  
32 immediately.

