

Assembly Bill No. 99

CHAPTER 263

An act to amend Sections 12020.5, 12021.5, and 12323 of the Penal Code, relating to firearms.

[Approved by Governor August 1, 1995. Filed with
Secretary of State August 1, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 99, Burton. Firearms.

(1) Existing law prohibits advertising the sale of certain weapons or devices, including machineguns and assault weapons, whose possession is prohibited by specified provisions of law.

This bill would additionally include within this class of weapons and devices, handgun ammunition designed primarily to penetrate metal or armor.

(2) 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.

(3) 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.

(4) This bill would specify that the changes made by (2) and (3) above are declaratory of existing law.

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

SECTION 1. Section 12020.5 of the Penal Code is amended to read:

12020.5. It shall be unlawful for any person, as defined in Section 12277, in any newspaper, magazine, circular, form letter, or open publication, published, distributed, or circulated in this state, or on any billboard, card, label, or other advertising medium, or by means of any other advertising device, to advertise the sale of any weapon or device whose possession is prohibited by Section 12020, 12220, or



12280 or to advertise the sale of handgun ammunition designed primarily to penetrate metal or armor, as defined in subdivision (b) of Section 12323.

SEC. 2. Section 12021.5 of the Penal Code is amended to read:

12021.5. (a) 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 crimes described in subdivision (a) or (b) of Section 186.22, shall, upon conviction of the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for one, two, or three years in the court's discretion. The court shall impose the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of sentence.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

(6) “Shotgun” shall have the same meaning as specified in paragraph (21) of subdivision (c) of Section 12020.

SEC. 3. Section 12323 of the Penal Code is amended to read:

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

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

(b) “Handgun ammunition designed primarily to penetrate metal or armor” means any ammunition, except a shotgun shell or ammunition primarily designed for use in rifles, that is designed primarily to penetrate a body vest or body shield, and has either of the following characteristics:

(1) Has projectile or projectile core constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, beryllium copper, or depleted uranium, or any equivalent material of similar density or hardness.

(2) Is primarily manufactured or designed, by virtue of its shape, cross-sectional density, or any coating applied thereto, including, but not limited to, ammunition commonly known as “KTW ammunition,” to breach or penetrate a body vest or body shield when fired from a handgun.

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

(d) “Rifle” shall have the same meaning as defined in paragraph (20) of subdivision (c) of Section 12020.

SEC. 4. The changes made by Sections 2 and 3 of this act are declaratory of existing law.

