

Assembly Bill No. 144

CHAPTER 751

An act to amend Sections 1203.06, 12101, and 12323 of the Penal Code, relating to crimes.

[Approved by Governor October 9, 1995. Filed
with Secretary of State October 10, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 144, W. Murray. Crimes.

(1) Under existing law, probation shall not be granted to any persons who committed or attempted to commit, among other crimes, various forms of kidnapping. Existing law also makes the prohibition against possession of a concealable firearm inapplicable to a minor at least 16 years of age who has the prior written consent of his or her parent and the minor is engaged in specified lawful recreational activity involving the firearm.

This bill would make technical, clarifying changes to the above provisions.

(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 these provisions. The bill would declare that these provisions are declaratory of existing law.

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

SECTION 1. Section 1203.06 of the Penal Code is amended to read:

1203.06. Notwithstanding Section 1203:

(a) Probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person who personally used a firearm during the commission or attempted commission of any of the following crimes:

- (A) Murder.
- (B) Robbery, in violation of Section 211.
- (C) Kidnapping, in violation of Section 207.
- (D) Kidnapping in violation of Section 209.



(E) Burglary of the first degree, as defined in Section 460.

(F) Except as provided in Section 1203.065, rape in violation of paragraph (2) of subdivision (a) of Section 261.

(G) Assault with intent to commit rape or sodomy, in violation of Section 220.

(H) Escape, in violation of Section 4530 or 4532.

(I) Carjacking, in violation of Section 215.

(J) Any person convicted of aggravated mayhem in violation of Section 205.

(K) Torture, in violation of Section 206.

(L) Kidnapping, in violation of Section 209.5.

(M) A felony violation of Section 136.1 or 137.

(2) Any person previously convicted of a felony specified in subparagraphs (A) to (L), inclusive, of paragraph (1), or assault with intent to commit murder under former Section 217, who is convicted of a subsequent felony and who was personally armed with a firearm at any time during its commission or attempted commission or was unlawfully armed with a firearm at the time of his or her arrest for the subsequent felony.

(3) Aggravated arson, in violation of Section 451.5.

(b) (1) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt, by the court where guilt is established by plea of guilty or nolo contendere, or by trial by the court sitting without a jury.

(2) This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(3) As used in subdivision (a), “used a firearm” means to display a firearm in a menacing manner, to intentionally fire it, or to intentionally strike or hit a human being with it.

(4) As used in subdivision (a), “armed with a firearm” means to knowingly carry a firearm as a means of offense or defense.

SEC. 2. Section 12101 of the Penal Code is amended to read:

12101. (a) (1) A minor shall not possess a pistol, revolver, or other firearm capable of being concealed upon the person.

(2) Paragraph (1) shall not apply if one of the following circumstances exists:

(A) The minor is accompanied by his or her parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves this use of a firearm.

(B) The minor is accompanied by a responsible adult, the minor has the prior written consent of his or her parent or legal guardian,



and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(C) The minor is at least 16 years of age, the minor has the prior written consent of his or her parent or legal guardian and the minor is actively engaged in, or is in direct transit to or from, a lawful recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(D) The minor has the prior written consent of his or her parent or legal guardian, the minor is on lands owned or lawfully possessed by his or her parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(b) (1) A minor shall not possess live ammunition.

(2) Paragraph (1) shall not apply if one of the following circumstances exists:

(A) The minor has the written consent of his or her parent or legal guardian to possess live ammunition.

(B) The minor is accompanied by his or her parent or legal guardian.

(C) The minor is actively engaged in, or is going to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, the nature of which involves the use of a firearm.

(c) Every minor who violates this section shall be punished as follows:

(1) By imprisonment in the state prison or in a county jail if one of the following applies:

(A) The minor has been found guilty previously of violating this section.

(B) The minor has been found guilty previously of an offense specified in subdivision (b) of Section 12021.1 or in Section 12020, 12220, 12520, or 12560.

(C) The minor has been found guilty of a violation of paragraph (1) of subdivision (a).

(2) Violations of this section other than those violations specified in paragraph (1) shall be punishable as a misdemeanor.

(d) In a proceeding to enforce this section brought pursuant to Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of the Welfare and Institutions Code, the court may require the



custodial parent or legal guardian of a minor who violates this section to participate in classes on parenting education that meet the requirements established in Section 16507.7 of the Welfare and Institutions Code.

(e) As used in this section, “responsible adult” means a person at least 21 years of age who is not within a class of persons prohibited from owning or possessing firearms by virtue of Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code.

(f) It is not the intent of the Legislature in enacting the amendments to this section or to Section 12078 to expand or narrow the application of current statutory or judicial authority as to the rights of minors to be loaned or to possess live ammunition or a firearm for the purpose of self-defense or the defense of others.

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 pistol, revolver, or other firearm capable of being concealed upon the person.

(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 Legislature finds and declares that the changes made in Section 12323 of the Penal Code by Section 3 of this act are declaratory of existing law.

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