

HOUSE BILL NO. 678

INTRODUCED BY KITSELMAN, KEYSER, SAUNDERS, LEE, WALLIN, LYBECK,  
RYAN, BOYLAN, UNDERDAL, HAGER, SEVERSON, CURTISS, ZABROCKI,  
E. SMITH, PISTORIA

IN THE HOUSE

February 8, 1983	Introduced and referred to Committee on Fish and Game.
February 15, 1983	Committee recommend bill do pass as amended. Report adopted.
February 16, 1983	Bill printed and placed on members' desks.
February 18, 1983	Second reading, do pass.
February 19, 1983	Considered correctly engrossed.
February 21, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 1, 1983	Introduced and referred to Committee on Judiciary.
March 19, 1983	Committee recommend bill be concurrent in. Report adopted.
March 22, 1983	Second reading, concurred in.
March 24, 1983	Third reading, concurred in. Ayes, 49; Noes, 0.

IN THE HOUSE

March 24, 1983

Returned to House.

March 25, 1983

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 678  
 2 INTRODUCED BY Kitselman Wagon Saunders  
 3 Wagon Ryan Underhill Curtiss Schaefer Pistoria  
 4 Byrd Stella Hag on Sawyer E. Smith  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE AN  
 6 ADDITIONAL SENTENCE FOR AN OFFENSE COMMITTED WHILE CARRYING  
 7 A HANDGUN LOADED WITH ARMOR-PIERCING AMMUNITION; AMENDING  
 8 SECTION 46-18-222, MCA."  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 10 NEW SECTION. Section 1. Additional sentence for  
 11 offense committed while carrying a handgun loaded with  
 12 armor-piercing ammunition. (1) A person who has been found  
 13 guilty of an offense in which bodily injury occurred or was  
 14 attempted or threatened and who knowingly used or carried a  
 15 handgun loaded with armor-piercing ammunition during the  
 16 commission of the offense must, in addition to the sentence  
 17 for the offense, be sentenced to a term of imprisonment in  
 18 the state prison of not less than 5 years, except as  
 19 provided in 46-18-222.  
 20 (2) An additional sentence prescribed by this section  
 21 must run consecutively to the sentence provided for the  
 22 offense, and except as provided in 46-18-222, the sentence  
 23 may not be suspended and imposition of it may not be  
 24 deferred.  
 25 (3) For purposes of this section:

1 (a) "handgun" means any firearm, including a pistol or  
 2 revolver, originally designed to be fired by the use of a  
 3 single hand; and  
 4 (b) "armor-piercing ammunition" means ammunition  
 5 which, if fired from a handgun under the test procedure of  
 6 the national institute of law enforcement and criminal  
 7 justice standard for the ballistics resistance of police  
 8 body armor promulgated December 1978, is capable of  
 9 penetrating bullet-resistant apparel or body armor meeting  
 10 the requirements of Type IIA of Standard NILECJ-STD-0101.01  
 11 as formulated by the United States department of justice and  
 12 published in December 1978.  
 13 Section 2. Section 46-18-222, MCA, is amended to read:  
 14 "46-18-222. Exceptions to mandatory minimum sentences  
 15 and restrictions on deferred imposition and suspended  
 16 execution of sentence. All mandatory minimum sentences  
 17 prescribed by the laws of this state and the restrictions on  
 18 deferred imposition and suspended execution of sentence  
 19 prescribed by subsections (3), (4), and (5) of 46-18-201,  
 20 [section 1], 46-18-221(3), and 46-18-502(3) do not apply if:  
 21 (1) the defendant was less than 18 years of age at the  
 22 time of the commission of the offense for which he is to be  
 23 sentenced;  
 24 (2) the defendant's mental capacity, at the time of  
 25 the commission of the offense for which he is to be

1 sentenced, was significantly impaired, although not so  
2 impaired as to constitute a defense to the prosecution;

3 (3) the defendant, at the time of the commission of  
4 the offense for which he is to be sentenced, was acting  
5 under unusual and substantial duress, although not such  
6 duress as would constitute a defense to the prosecution;

7 (4) the defendant was an accomplice, the conduct  
8 constituting the offense was principally the conduct of  
9 another, and the defendant's participation was relatively  
10 minor; or

11 (5) where applicable, no serious bodily injury was  
12 inflicted on the victim unless a weapon was used in the  
13 commission of the offense."

14 ~~NEW SECTION.~~ Section 3. Codification instruction.  
15 Section 1 is intended to be codified as an integral part of  
16 Title 46, chapter 18, part 2, and the provisions of Title 46  
17 apply to section 1.

-End-

Approved by Comm.  
on Fish and Game

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A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE AN  
ADDITIONAL SENTENCE FOR AN OFFENSE COMMITTED WHILE CARRYING  
A HANDGUN LOADED WITH ARMOR-PIERCING AMMUNITION; AMENDING  
SECTION 46-18-222, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION.~~ Section 1. Additional sentence for  
offense committed while carrying a handgun loaded with  
armor-piercing ammunition. (1) A person who has been found  
guilty of an offense in which bodily injury occurred or was  
attempted or threatened and who knowingly used or carried a  
handgun loaded with armor-piercing ammunition during the  
commission of the offense must, in addition to the sentence  
for the offense, be sentenced to a term of imprisonment in  
the state prison of not less than 5 years ~~OR MORE THAN 25~~  
~~YEARS~~, except as provided in 46-18-222.

(2) An additional sentence prescribed by this section  
must run consecutively to the sentence provided for the  
offense, and except as provided in 46-18-222, the sentence  
may not be suspended and imposition of it may not be

deferred.

(3) For purposes of this section:

(a) "handgun" means any firearm, including a pistol or  
revolver, originally designed to be fired by the use of a  
single hand; and

(b) "armor-piercing ammunition" means ammunition  
which, if fired from a handgun under the test procedure of  
the national institute of law enforcement and criminal  
justice standard for the ballistics resistance of police  
body armor promulgated December 1978, is capable of  
penetrating bullet-resistant apparel or body armor meeting  
the requirements of Type IIA of Standard NILECJ-STD-0101.01  
as formulated by the United States department of justice and  
published in December 1978.

Section 2. Section 46-18-222, MCA, is amended to read:

"46-18-222. Exceptions to mandatory minimum sentences  
and restrictions on deferred imposition and suspended  
execution of sentence. All mandatory minimum sentences  
prescribed by the laws of this state and the restrictions on  
deferred imposition and suspended execution of sentence  
prescribed by subsections (3), (4), and (5) of 46-18-201,  
~~[section 1]~~ 46-18-221(3), and 46-18-502(3) do not apply if:

(1) the defendant was less than 18 years of age at the  
time of the commission of the offense for which he is to be  
sentenced;

(2) the defendant's mental capacity, at the time of the commission of the offense for which he is to be sentenced, was significantly impaired, although not so impaired as to constitute a defense to the prosecution;

(3) the defendant, at the time of the commission of the offense for which he is to be sentenced, was acting under unusual and substantial duress, although not such duress as would constitute a defense to the prosecution;

(4) the defendant was an accomplice, the conduct constituting the offense was principally the conduct of another, and the defendant's participation was relatively minor; or

(5) where applicable, no serious bodily injury was inflicted on the victim unless a weapon was used in the commission of the offense."

~~NEW SECTION.~~ Section 3. Codification instruction. Section 1 is intended to be codified as an integral part of Title 46, chapter 18, part 2, and the provisions of Title 46 apply to section 1.

-End-

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