National Rifle Association of America
Institute for Legislative Action
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NRA

September 24, 2013

The Honorable Edmund G. Brown
Governor of California
State Capitol Building, Suite 1173
Sacramento, California 95814

Re: Assembly Bill 180 (Bonta) Firearms Registration & Licensing: Oakland
Position: OPPOSED - Veto Requested

Dear Governor Brown:

On behalf of the National Rifle Association of America ("NRA") and our hundreds of thousands of members in California, we **oppose Assembly Bill 180** ("AB 180") and respectfully urge you to **veto this bill**.

AB 180 would grant a special exemption to the City of Oakland that would make it the only city in California that is exempt from the state's firearms preemption doctrine. Specifically, AB 180 would allow the City of Oakland to enact legislation that is more restrictive than state laws concerning the registration or licensing of firearms.

In doing so, AB 180 promotes an inconsistent, piecemeal approach to firearms regulation in California, and creates a slippery slope towards the deterioration of California's preemption laws. In practice, AB 180 will have a discriminatory impact on the ability of law-abiding Oakland residents to defend themselves and their families from violent crime. Further, AB 180 is unnecessary in light of California's comprehensive firearms laws. Finally, AB 180 will not act as a deterrent to violent crime and will divert scarce law enforcement resources away from more effective crime fighting efforts.

AB 180 Promotes an Inconsistent, Piecemeal Approach to Firearms Regulations

AB 180 should be vetoed to maintain statewide preemption of local ordinances. Section 53071 of the Government Code currently provides that:

> [i]t is the intention of the Legislature to occupy the whole field of regulation of the registration or licensing of commercially manufactured firearms as encompassed by the provisions of the Penal Code, and such provisions shall be exclusive of all local regulations, relating to registration or licensing of commercially manufactured firearms, by any political subdivision as defined in Section 1721 of the Labor Code.

Section 53071.5 was expressly adopted to promote consistency and uniformity of the law in California, so as to prevent varying regulations from one city to the next. AB 180 would nonetheless authorize a local government, in this case the City of Oakland, to contradict state law by invading a field that the state has fully and expressly occupied. (*See O'Connell v. City of Stockton* (2007) 41 Cal. 4th 1061, 1067 [Noting a similar problem with allowing charter cities to avoid state law preemption under its "home rule" provision].) Ultimately, AB 180 will result in the adoption of inconsistent, unfair, and unduly restrictive local firearms laws.

From a policy perspective, AB 180 will fragment California's current registration scheme, further convoluting regulations in this field. NRA members, local businesses and residents of Oakland have a substantial interest in maintaining uniformity of state law. Various legislative changes have made it practically impossible for a layperson to ascertain or comprehend current firearms restrictions. AB 180 will inevitably lead to incidents of criminal charges and potential loss of business operations due to inadvertent violations of inconsistent, patchwork laws that vary from one jurisdiction to another.

AB 180 stands as an obstruction to the accomplishment and execution of the full purposes and objectives of the legislative scheme regulating firearms and imitation firearms in California. (See *Sherwin-Williams Co. v. City of Los Angeles* (1993) 4 Cal.4th 893, 897-898.) If every city and county were able to opt out of the statutory regime, the statewide goal of uniform regulation within a given field would surely be frustrated and undermined. Clearly, the creation of a *uniform* regulatory scheme is a matter of statewide concern, which should not be disrupted by permitting the jurisdiction-by-jurisdiction authorization of contradictory local actions. (See *Long Beach Police Officers Assn. v. City of Long Beach* (1976) 61 Cal.App.3d 364.)

Accordingly, the piecemeal approach of AB 180 should be avoided.

AB 180 Grants an Improper Special Exemption That Will Lead to the Deterioration of California's Preemption Doctrine

Assembly Bill 180 creates an improper special exemption that authorizes the City of Oakland to enact laws that will restrict the rights of Oakland residents to lawfully obtain a firearm for self-defense, without regard to principles of state preemption. Essentially, AB 180 authorizes Oakland to enact legislation that is far more restrictive than any legislation that may be adopted by other local governments. By singling out residents in Oakland for special - and especially unfavorable - treatment, AB 180 raises serious equal protection concerns.

Moreover, AB 180 would set dangerous legislative precedent. It would encourage the further authorization of a city-by-city, or county-by-county regulatory, exemption framework at the expense of statewide uniformity. While today it is the City of Oakland that desires its regulations to supersede state law concerning the licensing and registration of firearms, tomorrow it may be any number of jurisdictions, in any given area of firearm regulation, each pointing to the special exemption that Oakland received. With 58 separate counties in California, this bill could signal the beginning of a legislative trend with deleterious consequences for preemption.

AB 180 Will Discriminatorily Impact Minorities and Those Most in Need of a Firearm

If AB 180 is signed into law, the City of Oakland will undoubtedly advance severe limitations on the rights of its residents to keep and bear arms to defend themselves and their families. The practical effect of such ordinances will not be to disarm criminals (who will not obey additional requirements to lawfully obtain a firearm), but to restrict the ability of Oakland's law-abiding citizens to access a firearm. In essence, AB 180 authorizes stricter limitations on the fundamental rights of Oakland's largely minority population. And given that Oakland is statistically one of the most dangerous cities in California, AB 180 will disproportionately impact those most likely to need access to a firearm for self-defense.

Those responsible for the drafting and enactment of Oakland's new restrictions may be less likely to find themselves in a need of lawful access to a firearm for self-defense. But it is the underprivileged who find themselves without many of the protections enjoyed by those more fortunate, such as residences that are offset from the street, alarm systems and gated properties that will be hit hardest by further limitations on their ability to obtain a firearm.

AB 180 is Unnecessary in Light of California's Comprehensive Regulatory Scheme

Finally, the special exemption sought by the City of Oakland is unnecessary. California already boasts the most restrictive gun control laws in the nation. These laws include a robust, comprehensive regulatory and licensing scheme. The adoption of further regulations in this field by the City of Oakland will only serve to further overwhelm legitimate businesses and law-abiding gun owners.

A veto of this legislation will promote uniformity and prevent piecemeal restrictions on the ability of certain California residents to keep and bear arms that prompted California's preemption laws.

AB 180 Will Not Deter Violent Criminals and Will Divert Law Enforcement Resources

The exemption granted by AB 180 would do little to reduce violent crime. Aside from the reality that criminals are highly unlikely to follow licensing and registration requirements, the penalties that may be imposed by local ordinances are unlikely to act as a deterrent, or to keep violent offenders off the streets. While the City of Oakland may enact "feel good"

ordinances in the wake of AB 180, they would be little more than "window dressing." First, local governments cannot impose felony penalties. Moreover, due to budget constraints and jail overcrowding, misdemeanors prosecuted by the county are routinely released in a fraction of the time served. For a local ordinance, it is highly unlikely that any time would ever be served for a violation.

But while AB 180 will not impact violent criminals, it will divert scarce police resources away from meaningful crime fighting efforts. Law enforcement will be tasked with implementing and maintaining registration and licensing databases that will track law-abiding gun owners on a daily basis. The lack of resources available in Oakland recently prompted the City of Oakland to request additional grants from the federal government. AB 180 will further exacerbate this problem, resulting in fewer officers on the streets as more and manpower will be required to oversee and enforce the licensing and registration systems.

For each of the foregoing reasons, the NRA respectfully requests your **veto of Assembly Bill 180**.

Sincerely,

Charles H. Cunningham
Director of State and Local Affairs