

March 13, 2013

Members of the Assembly Committee on Public Safety
Legislative Office Building
1020 N. Street
Sacramento, California 95814

RE: Assembly Bill 169 (Dickinson) - Unsafe Handguns

Position: Oppose

Dear Members of the Assembly Committee on Public Safety:

On behalf of the National Rifle Association, I write to respectfully express our opposition to Assembly Bill 169 (AB 169).

AB 169 would ban the sale and transfer of firearms that are not currently on California's roster of handguns approved for sale in the state. The proponents of AB 169 are pushing this bill as an answer to California's crime problem. This legislation, however, would have no impact on violent criminals or gun violence. Instead, AB 169 would prohibit the transfer of millions of lawfully-owned handguns and jeopardize the continued ownership of these constitutionally-protected firearms.

Currently, California law allows handguns that are not on the approved roster to be sold or otherwise transferred to another individual either on consignment or as a private party transfer, provided that the sale is completed through a licensed firearms retailer, where the purchaser is subjected to a background check. If enacted, AB 169 would leave gun owners who lawfully purchased a handgun that previously appeared on the State's approved roster with no means to sell or transfer their handgun, if that firearm is no longer listed on the roster. This is an *extremely frequent* occurrence. The state commonly amends the roster listings, and many handguns are often removed from the roster because the manufacturer no longer produces a specific firearm, and thus doesn't seek to have the firearm renewed for continued placement on the roster.

In fact, most of the handguns lawfully possessed in California today are not currently, or have never appeared on, the approved roster. These firearms have either fallen off the roster over the years or, more often, they were manufactured and/or purchased prior to the State's enactment of the roster. The total number of such firearms is in the *millions*. If passed, AB 169 would strike the only means of transferring these firearms. With no legal avenue remaining to sell or transfer these firearms, what will become of these firearms?

By banning the sale and transfer of millions of handguns that were legally purchased and are lawfully possessed, AB 169 plainly conflicts with the Second Amendment's protections for commonly-possessioned handguns and the corollary right to sell and transfer these protected firearms. (*District of Columbia v. Heller*, 554 U.S. 570 at 624-25; See also *Andrews v. State*, 50 Tenn. at 178; *U.S. v. Marzzarella*, 614 F.3d at 92 n.8.) Passage of AB 169 will necessarily result

in litigation to prevent the enforcement of what amounts to a de facto ban on the sale and transfer of a massive number of lawfully-owned firearms.

Before voting on this legislation, it is important to consider the purpose AB 169 would serve, and the impact it will have on firearms transfers and California residents. If AB 169 becomes law, will criminals be deterred from selling or obtaining firearms that are not on the approved roster? Of course not. AB 169 does not solve any purported problem, and it will not have any discernible impact on gun violence. There is nothing to suggest that that ability to use a licensed dealer to transfer a firearm that was lawfully-purchased, but is not currently on the approved roster, increases gun violence.

Instead, by removing the only lawful means of transferring firearms that would otherwise be conducted through a licensed firearms dealer, AB 169 will undoubtedly result in an increase in “black market” sales of these firearms. And by banning the only available means of transferring millions of lawfully-owned handguns, AB 169 will result in the unnecessary expenditure of scarce taxpayer resources to defend against costly litigation that will immediately ensue.

For each of these reasons, the National Rifle Association urges your opposition to AB 169.

Sincerely,

Charles H. Cunningham
Director of State and Local Affairs