



NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
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FAIRFAX, VA 22030
STATE & LOCAL AFFAIRS DIVISION

September 23, 2011

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

Re: SB 819 (Leno) - Dealer Record of Sale Fund Raid

Dear Governor Brown,

On behalf of the tens of thousands of National Rifle Association members in California, I respectfully urge you to veto Senate Bill 819. This bill essentially seeks to impose a tax on the exercise of a constitutional right.

Current law allows firearm dealers to charge firearm purchasers a fee of up to \$14 (which amount may be increased at a rate not to exceed any increase in the California Consumer Price Index¹) to fund California Department of Justice (DOJ) firearms-related regulatory and enforcement activities associated with the sale, purchase, loan, or transfer of firearms. This money is kept in a fund known as the DROS (Dealer Record of Sale) fund. While the NRA believes the amount of oversight California insists is necessary for these activities is excessive, the purposes for which the current fees are levied at least purport to be related to the context in which the fees are charged.

SB 819 would expand the permissible use of DROS funds beyond the current context and require firearm purchasers to pay a premium to fund enforcement actions taken against persons who obtain certain types of firearms legally from a dealer but later become prohibited from possessing them. This is obviously something that is not part of the ordinary process of obtaining or registering a firearm or maintaining California's automated system for firearm-related background checks. Only a miniscule fraction of persons who legally obtain firearms from a dealer will later lose the right to possess those firearms because of a criminal conviction or some other event.

¹ According to a bill analysis conducted for the Senate Appropriations Committee on May 31, 2011, the fee has been increased and currently stands at \$19.

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The original objective of the DROS fee was to be a user fee for a self-funding program. The effect of such a transfer would be to impose a retroactive tax on the acquisition of firearms from a dealer. The ability lawfully to acquire firearms, of course, is an integral aspect of the constitutionally-protected right to arms. The proposed transfer also demonstrates that Californians have been grossly overcharged by the state under the provisions of Cal. Penal Code § 28225. SB 809 raises a number of interesting litigation opportunities. For instance, if the DROS fee becomes a tax – shouldn't the bill have had a 2/3 vote requirement?

While we understand the fiscal problems California is facing, DROS is not the proper funding source for SB 809 or other bills, such as SB 427 or AB 809. If the DROS fund is running a surplus, the legislature should reduce the DROS fees. Instead, SB 819 seeks to add insult to injury by the proposed re-designation of DROS funds by expanding the funds' permissible uses. The most likely result of these actions is an eventual increase in the DROS fees, an impediment to the exercise of a fundamental right that would be felt by those in the lower economic strata.

SB 819 seeks to charge people engaged in the perfectly legitimate activity of lawfully acquiring firearms to subsidize unrelated activities and programs. The NRA respectfully urges you to veto SB 819 as this is yet another attempt to stigmatize and burden lawful firearms-related activity.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuck G.", with a stylized flourish at the end.

Charles H. Cunningham
Director of State and Local Affairs