

No. 15-15449

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In the  
**United States Court of Appeals**  
for the Ninth Circuit

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IVAN PEÑA, et al.,  
*Plaintiffs-Appellants,*

v.

STEPHEN LINDLEY,  
Chief of the California Department of Justice  
Bureau of Firearms,  
*Defendant-Appellee.*

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On Appeal from the United States District Court  
for the Eastern District Of California

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**BRIEF OF NATIONAL RIFLE ASSOCIATION OF AMERICA, INC.  
AND CALIFORNIA RIFLE AND PISTOL ASSOCIATION  
AS AMICI CURIAE IN SUPPORT OF APPELLANTS AND REVERSAL**

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**CORPORATE DISCLOSURE STATEMENT**

National Rifle Association of America, Inc. has no parent corporations.

Because it has no stock, no publicly held company owns 10% or more of its stock.

California Rifle and Pistol Association has no parent corporations. Because it has no stock, no publicly held company owns 10% or more of its stock.

Date: July 27, 2015

Respectfully submitted,

/s/ C.D. Michel  
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## **STATEMENT OF IDENTITY, INTEREST AND AUTHORITY TO FILE**

Pursuant to Rule 29(c)(4) of the Federal Rules of Appellate Procedure, the National Rifle Association and the California Rifle and Pistol Association respectfully submit this amici curiae brief, with the consent of all parties, in support of Appellees.

The National Rifle Association of America, Inc. (“NRA”) is America’s foremost and oldest defender of Second Amendment rights. Founded in 1871, the NRA has approximately five million members and is America’s leading provider of firearms marksmanship and safety training for civilians. Since its formation, the NRA has been widely recognized as a political force and defender of the Second Amendment, providing resources, cultivating members, and advocating for the right to self-defense and the right to keep and bear arms. The NRA has extensive experience litigating firearms-related cases at the national and state levels, having been party to and amicus curiae for many cases addressing various firearm-related issues.

Founded in 1875, the California Rifle and Pistol Association (“CRPA”) is a non-profit organization that seeks to defend the Second Amendment and advance laws that protect the rights of individual citizens. CRPA regularly participates as a party or amicus in firearms-related litigation. CRPA works to preserve the constitutional and statutory rights of gun ownership, including the right to self-

defense, the right to hunt, and the right to keep and bear arms. CRPA is also dedicated to promoting the shooting sports, providing education, training, and organized competition for adult and junior shooters. CRPA's members include law enforcement officers, prosecutors, professionals, firearm experts, the general public, and loving parents.

Amici offer their unique experience, knowledge, and perspective to aid the Court in the just and proper resolution of this case. As organizations with hundreds of thousands of firearm-owning members in California, and millions more throughout the United States, amici have a wealth of knowledge and expertise concerning the safe and responsible use of firearms. Accordingly, amici respectfully provide their informed perspectives concerning the real-world impact the challenged provisions have on the acquisition and use of safe and reliable handguns.

**STATEMENT REGARDING PARTICIPATION BY PARTIES, THEIR  
ATTORNEYS, OR OTHER PERSONS IN FUNDING OR AUTHORIZING  
THE BRIEF**

Pursuant to Federal Rule 29(c)(5), amici attest that no counsel for a party authored this brief in whole or in part, and that no person other than amici, their members, or their counsel made a monetary contribution to its preparation or submission.

## ARGUMENT

### I. THE CHALLENGED PROVISIONS HARM, RATHER THAN PROMOTE, PUBLIC SAFETY

As its name suggests, the “Unsafe Handgun Act” was supposed to be about safety. According to the bill’s author, the law “seeks to ensure that those who choose to own a handgun for self-protection have a handgun that is *safe and reliable*.”<sup>1</sup> “It was modeled to meet basic safety standards that are similar to those established by the National Institute of Justice for law enforcement. . . .” Sen. Richard Polanco, *SB 15: Safety Standards for Handguns, Questions and Answers*. When amendments to the Act were set to take effect in 2006, the author of that legislation similarly assured that his goal was to make “guns safer and reduce accidental shootings.”<sup>2</sup>

Despite the State’s ostensibly worthy objectives, the challenged provisions have veered widely off course from the public safety goals that prompted the passage of the Unsafe Handgun Act. The roster now bans the sale of handguns that law enforcement agencies consider the safest and most reliable available. And despite safety criteria being a major driving force behind firearm sales, the market

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<sup>1</sup> Hearing Before the S. Pub. Safety Comm. on S.B. 15, 1999 Leg., 1999-2000 Reg. Sess. 8 (Cal. 1999) (statement of Sen. Richard Polanco, Sponsor).

<sup>2</sup> Jim Sanders, *Gun Safety Law Takes Effect Jan. 1*, Contra Costa Times (Dec. 30, 2005) (available at <http://www.freerepublic.com/focus/f-news/1549625/posts>).

has not seen a shift towards handguns with the features the State mandates. In practice, the challenged provisions may endanger public safety by promoting the violation of basic firearm safety principles. Finally, the roster operates to prevent California residents from accessing handguns that are as safe, or safer, than those it has approved for sale.

**A. The Challenged Provisions Prohibit the Sale of Handguns that Have Been Deemed the Safest and Most Reliable by Law Enforcement Agencies Throughout the State.**

As Appellants explain, the chamber load indicator (“CLI”), magazine disconnect mechanism (“MDM”), and microstamping requirements have led the California Department of Justice (“DOJ”) to prohibit the sale of many handgun models it previously tested and approved for sale. Appellants’ Opening Br. (“AOB”) at 38-46. Even though these models were already listed on the roster of “not unsafe” handguns, the State deems any handgun that has been updated with minor improvements to be unfit for use—even though it still authorizes the sale of the older version of the same firearm. Of course, the updated versions are no less safe. If anything, they are safer. But DOJ nonetheless refuses to approve sales of the upgraded versions of these handguns if they do not meet the CLI, MDM, and microstamping requirements.

The common-sense conclusion that banning these newer, updated handguns does not promote public safety is supported by the actions of law enforcement

agencies throughout the state. Numerous police forces expressly require their officers to use handguns the State has banned—and the agencies that use these firearms choose them precisely *because* they are the safest and most reliable options available.

Indeed, it is a paramount concern among law enforcement to ensure that officers are equipped with the safest and most effective firearms. As former Los Angeles County Sheriff Lee Baca explained, “[it] is the goal of the Los Angeles County Sheriffs’ Department to provide our personnel with the highest quality law enforcement equipment available,” and the Department thus provides a duty handgun with “attributes and capabilities critical to enhancing the safety of our sworn personnel. . . .”<sup>3</sup> With these goals in mind, the Sheriff’s Department arms its deputies with the Smith and Wesson M&P9.<sup>4</sup> But despite the fact that a major law enforcement agency considers the M&P9 one of the safest and highest quality handguns available, the State recently designated the newly updated model as “unsafe” and banned its sale.<sup>5</sup>

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<sup>3</sup> *Los Angeles County Sheriff’s Department Selects Smith & Wesson M&P Pistols*, Smith & Wesson, [https://www.smith-wesson.com/wcsstore/SmWesson2/upload/other/LA\\_SDPR\\_LA%20Approved.pdf](https://www.smith-wesson.com/wcsstore/SmWesson2/upload/other/LA_SDPR_LA%20Approved.pdf) (last visited July 24, 2015).

<sup>4</sup> *Id.*

<sup>5</sup> *See Roster of Handguns Certified for Sale*, California Department of Justice, <http://certguns.doj.ca.gov/> (last visited July 24, 2015).

Like the County, the City of Los Angeles also deems a number of firearms the State has banned from sale to be the safest and most reliable. The Los Angeles Police Department authorizes its officers to use a number of handguns, including the Beretta 92F and 845F, the Smith & Wesson 4506, 4566, 4516, 3914, 3913, 457, CS9, 6904, 5906, 6906, 649, 442, and Bodyguard, as well as the Kimber Classic.<sup>6</sup> But again, the State bans the sale of *all* of them because they are purportedly too “unsafe” for use.<sup>7</sup>

The California Highway Patrol (“CHP”) provides yet another example. The CHP has determined that the safest and best performing handgun for their officers to carry is the Smith and Wesson Model 4006 TSW (.40 S&W).<sup>8</sup> Despite a statewide law enforcement agency expressly approving of the safety and functionality of this handgun, the State has classified it as “unsafe” and banned it.<sup>9</sup>

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<sup>6</sup> See *LAPD Equipment*, Los Angeles Police Department, [http://www.lapdonline.org/lapd\\_equipment](http://www.lapdonline.org/lapd_equipment) (last visited July 24, 2015).

<sup>7</sup> See *Roster of Handguns Certified for Sale*, California Department of Justice, <http://certguns.doj.ca.gov/> (last visited July 24, 2015).

<sup>8</sup> See *Salary and Benefits – Officer*, Police Protective Equipment, California Highway Patrol, <https://www.chp.ca.gov/chp-careers/officer/why-become-a-chp-officer/salary-and-benefits-officer> (last visited July 24, 2015); see also Elizabeth Daley, *Bay Area California Highway Patrol to get upgraded firearms*, Bay City News Service, Oct. 10, 2006 (available at [http://www.fogcityjournal.com/news\\_in\\_brief/bcn\\_chp\\_guns\\_061010.shtml](http://www.fogcityjournal.com/news_in_brief/bcn_chp_guns_061010.shtml)).

<sup>9</sup> See *Roster of Handguns Certified for Sale*, *supra*.

The notion that prohibiting the sale of these handguns will make the public safer doesn't pass the smell test. That fiction is directly contradicted by the conclusions of law enforcement officials with decades of firearms experience—who themselves are expressly charged with ensuring the public's safety. These updated handguns plainly are not too dangerous or “unsafe” for people to use them, and no interest is served by foreclosing access to them by responsible, law-abiding individuals who choose to purchase a handgun.

**B. If Handguns Without California's Rare Requirements Were Truly Unsafe, the Market Would Have Shifted Toward Firearms with These Features—It has Not.**

Safety concerns have long been a significant driving force in the firearm sales market for civilians, the military, and law enforcement officers alike. As a result, the marketplace serves as a helpful guidepost in assessing the safety benefits provided by various firearm features and user controls.

The roster requirements at issue in this litigation have hardly budged the market. AOB at 7-8. Firearms equipped with CLIs and MDMs are few and far between. The overwhelming majority of firearms have neither. Of course, the fact that even a small percentage of handguns have either of these features is largely a result of California's mandates. And no firearms are equipped with the imaginary microstamping technology. AOB at 10; ER196-197. The failure of these requirements to drive the market in any meaningful way speaks volumes.



Indeed, mechanical improvements that make firearms safer and more reliable are routinely brought to market because they are sought after by consumers, regardless of whether they are required by statute. If California's unique requirements were truly effective safety measures, firearm manufacturers would have been widely urged by consumers to include these features on most of their models. They have not.

By contrast, firearm manufacturers have responded to market demands for firearms that operate safer and more effectively due to reduced recoil. The same is true of California's roster requirement that pistols be equipped with a safety device that, when engaged, is intended to prevent the firearm from being discharged.<sup>10</sup> Although legislating a one-size-fits-all solution for all handgun purchasers may not be the best approach, a large share of handguns sold throughout the country have long been equipped with a safety switch. Plainly, many consumers and manufacturers have found them to be a worthwhile feature. This trend was not simply a response to legislative fiat.<sup>11</sup> Perhaps if firearm owners saw a meaningful benefit in the requirements at issue in this case, we would see more of those, too.

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<sup>10</sup> Cal. Penal Code §31910(b)(1); *see also ATF Guidebook – Importation & Verification of Firearms, Ammunition and Implements of War*, <https://www.atf.gov/file/61771/download> (last visited July 27, 2015).

<sup>11</sup> Other than California, only New York (as of 1976) and Washington D.C. (as of 2009) require handguns to be equipped with a "safety." N.Y. Comp. Codes R. & Regs. tit. 9, § 482.5(f)(1-2); D.C. Code Ann. § 7-2505.04(a) (enacted 2009).

But the reality is that the market has not seen a demand for these features because they do not make people safer. In fact, the United States military, the Los Angeles Police Department, and the San Francisco Police Department have all specifically rejected magazine disconnect devices on their standard-issue pistols because they “intend the pistol to fire in an emergency, with or without a magazine, in order to protect their lives.”<sup>12</sup> The same is true of civilians who choose to own a pistol for use in the event of a self-defense emergency.

In sum, the absence of any significant market response toward the implementation of California’s desired features further demonstrates that they are

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To say that safeties were commonplace prior to these legislative enactments would be an understatement. The first successful commercial self-loading pistol that included a manual safety was introduced over one hundred years ago, in 1899. Ed Buffaloe, *The 1899/1900 FN Browning*, <http://unblinkingeye.com/Guns/1900FNB/1900fnb.html> (last visited July 27, 2015).

And the historic Model 1911 .45 Automatic Pistol, adopted by the US Army in 1911, is a “semi-automatic pistol with both manual and grip safeties that demonstrate[] a level of durability, simplicity, and reliability that no other pistol design of the era could match.” “An entire industry . . . has grown up around the Model 1911, and today the 1911 design remains the world-wide standard for competition pistols.” *The History of the 1911 Pistol*, Browning, <http://www.browning.com/library/infonews/detail.asp?ID=301> (last visited July 27, 2015).

<sup>12</sup> Hearing Before the S. Rules Comm. on S.B. 489, 2003 Leg., 2003-2004 Reg. Sess. 9-10 (Cal. 2003) (statement of Beretta U.S.A. Corp. in opposition).

not worthwhile safety features—let alone the type that should be mandated on all handguns for them to be considered “not unsafe.”

**C. The Challenged Provisions Promote Firearm Handling Practices that Conflict with Industry-wide Safety Protocols.**

The challenged provisions not only fail to advance public safety, they actually run counter to that interest. Indeed, they promote reliance on chamber load indicators and magazine disconnect devices to determine whether a firearm is loaded—devices the State *itself* teaches consumers to ignore. AOB at 8-9; ER 168. The State’s warning ought to be heeded, as it stems from one of the most fundamental (and common-sense) tenets of firearm safety.

Industry associations, manufactures, and firearm safety organizations all agree—*never* rely on a device (that could fail) to determine whether a firearm is loaded. For example, amicus CRPA and the National Shooting Sports Foundation instruct individuals to “[t]reat every firearm as if it were loaded.”<sup>13</sup> Similarly, Smith and Wesson’s owner manuals warn users to “always treat every firearm as if it is loaded and will fire.”<sup>14</sup> In line with these protocols, amicus NRA teaches

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<sup>13</sup> *Safety and Education*, California Rifle and Pistol Association, <http://www.crpa.org/safety-and-education/> (last visited July 27, 2015); *Firearms Responsibility In The Home*, National Shooting Sports Foundation, <http://www.nssf.org/safety/lit/FRITH.pdf> (last visited July 27, 2015).

<sup>14</sup> *M&P SHIELD Pistol Safety & Instruction Manual*, Smith & Wesson, <https://www.smith->

individuals to “ALWAYS keep the gun pointed in a safe direction[,]” “ALWAYS keep your finger off the trigger until ready to shoot[,]” and “ALWAYS keep the gun unloaded until ready to use.”<sup>15</sup>

By encouraging individuals to rely on an artificial indicator, or to look to whether a magazine is attached to the firearm, to determine whether a firearm is loaded—the State inevitably discourages individuals from *actually checking* to see whether a firearm is loaded. This runs directly counter to firearm safety practices that date to the dawn of firearms, and may increase the likelihood of an unintentional discharge.

This is not a matter of the firearm industry seeking to cut safety corners in an effort to reduce costs. The challenged provisions fail to provide a tangible safety function and may actually promote accidental shootings. For that reason, amici find themselves in the position of opposing these provisions which purport to encourage gun safety—a goal that amici otherwise emphatically support.

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[wesson.com/wcsstore/SmWesson2/upload/other/M&P\\_Shield\\_Manual\\_07-10-2014.pdf](http://wesson.com/wcsstore/SmWesson2/upload/other/M&P_Shield_Manual_07-10-2014.pdf) (last visited July 27, 2015).

<sup>15</sup> *NRA Gun Safety Rules*, National Rifle Association Programs & Services, <http://training.nra.org/nra-gun-safety-rules.aspx> (last visited July 27, 2015).

**D. The State Prohibits the Sale of Handguns that Are as Safe, or Safer, than the Handguns It Authorizes California Residents to Purchase.**

There can be no disputing that the blanket denial of the right of law-abiding citizens to purchase highly desirable, constitutionally protected arms inflicts a grievous injury that must be redressed. AOB at 28-47. But the practical impact of the moratorium the State has imposed vis-a-vis the combination of the microstamping, CLI, and MDM requirements is not simply that it reduces the number of handgun models available in California.

Rather, the State's rostering scheme denies consumers the updated versions of firearms that are currently authorized for sale in California. Often these upgrades improve upon the safety and reliability of predecessor models. The State's ban thus promotes the use of older (and potentially less safe) firearms. It also promotes the use of handguns that may not be quite as effective as their modern counterparts, thereby failing to promote public safety from a self-defense perspective.

This reality notwithstanding, the State asked the district court to consider whether it was reasonable for it to prohibit the sale of all firearms that are not "safe" in an effort to rid California of "unsafe" handguns. As logical as that line of reasoning might appear at first blush, it fails to reach the heart of the issue. The proper inquiry should be whether the State is more likely to promote public safety

by encouraging the use of new handguns that are equally or more safe, even if they do not have all the characteristics the State desires, or by requiring the use of older firearms that may be less safe than what is actually on the market.

Scratching beneath the surface, the State's public safety arguments cannot withstand heightened constitutional scrutiny. The State has not encouraged the use of "safer" handguns. Instead, it has failed to advance public safety by banning the sale of newer firearms that are equally safe or safer than their older counterparts that the State expressly authorizes for sale.

## **II. THE STATE'S BAN ON THE SALE OF CONSTITUTIONALLY PROTECTED HANDGUNS BY LAW-ABIDING CITIZENS IS UNCONSTITUTIONAL UNDER ANY STANDARD**

Because the State has completely banned law-abiding citizens from purchasing scores of constitutionally protected handguns, this Court need not select a level of review in declaring that ban invalid. The State's roster is necessarily incompatible with Appellants' Second Amendment rights. *See* AOB at 38-50. No amount of "judicial interest-balancing" can be used to declare those rights extinct. *McDonald v. City of Chicago*, 561 U.S. 742, 785-86 (2010). These "policy choices" have been taken "off the table." *District of Columbia v. Heller*, 554 U.S. 570, 636 (2008).

Should the Court nonetheless opt to apply a particular level of means-end review, the district court's decision still must be reversed. For whether the Court

applies strict scrutiny or intermediate scrutiny,<sup>16</sup> the result here is the same because the State’s ban lacks the necessary “fit” with the government’s public safety objectives under either standard.

Strict scrutiny requires the government to establish that its regulation is necessary to advance a “compelling state interest” and that it is narrowly tailored to achieve that interest in the “least restrictive means” available. *McCullen v. Coakley*, –U.S.–, 134 S. Ct. 2518, 2530 (2014). Intermediate scrutiny requires a “reasonable fit” or a “substantial” relationship between an important government objective and the means chosen to advance it, *United States v. Chovan*, 735 F.3d 1127, 1139 (9th Cir. 2013) (citing *United States v. Chester*, 628 F.3d 673, 683 (4th Cir. 2010)); *United States v. O’Brien*, 391 U.S. 367, 376-77 (1968), and it must be likely to further that objective to some “material degree,” *Edenfield v. Fane*, 507 U.S. 761, 770-71 (1993). But under both standards, the government bears the burden of proving that its chosen means are narrowly drawn to further a sufficiently important interest without unnecessarily infringing upon constitutional rights. *Chovan* at 1139; *McCutcheon v. Fed. Election Comm’n.*, –U.S.–, 134 S. Ct. 1434, 1456-57 (2014) (quoting *Buckley v. Valeo*, 424 U.S. 1, 25 (1976)); see *Ward v. Rock Against Racism*, 491 U.S. 781, 782-83 (1989).

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<sup>16</sup> *Heller* expressly forecloses rational basis review. 554 U.S. at 628-29 n.27.

Here, the State attempts to justify its regulation as advancing public safety, a concededly important government interest. AOB at 51-54. But it seeks to further that objective by flatly banning all law-abiding citizens from purchasing a vast number of constitutionally protected firearms for self-defense. While, as discussed above, the State's ban on the sale of modern handguns is not likely to advance its public safety interest in any meaningful way, the challenged provisions are separately unconstitutional because they are not "narrowly tailored" to serving that interest.

The Supreme Court has unequivocally instructed that laws restricting constitutional conduct cannot survive even intermediate scrutiny if the government fails to carry its burden of establishing narrow tailoring—regardless of whether the law is likely to advance an important governmental interest. *McCutcheon*, 134 S. Ct. at 1456-57. As one Second Amendment opinion recently acknowledged, narrow tailoring under intermediate scrutiny requires the government to demonstrate that its law is "not broader than necessary to achieve its substantial government interest in preventing crime and protecting public safety." *Wrenn v. District of Columbia*, No. 1:15-CV-162, 2015 WL 3477748 at \*7 (D.D.C. May 18, 2015). Significantly, that opinion noted that both this Court and the Supreme Court have made clear that the government is not entitled to *any deference* when assessing the "fit" between the government's important interest and the means



selected to advance it. *Id.* (citing *Turner Broad. Sys., Inc. v. F.C.C.* (“*Turner II*”), 520 U.S. 180 (1997); *Peruta v. County of San Diego*, 742 F.3d 1144 (9th Cir. 2104), *vacated pending rehearing en banc*, 781 F.3d 1106 (9th Cir. 2015)). As such, the State bears the distinct burden of establishing that its regulation does not burden substantially more conduct than necessary to further its public safety goals, and it is afforded no deference on this point. *Id.*; *cf. Moore v. Madigan*, 702 F.3d 933 (2012).

To be sure, amici do not suggest that the State is foreclosed from enacting firearm regulations that are properly tailored to its public safety interests while respecting the constitutional rights of law-abiding citizens. But here, the State has broadly banned the sale of scores of common handguns that the American people overwhelmingly prefer for self-defense and other lawful purposes. Under even the most modest notions of narrow tailoring, banning the sale of handguns because they do not utilize non-existent technology plainly goes too far.

At bottom, the State can offer no explanation why it should not have to establish narrow tailoring in the Second Amendment context, even though it is expressly required in the First. And surely it cannot. Such unequal treatment would improperly single the Second Amendment out for “special—and specially unfavorable—treatment,” in direct contravention of the Supreme Court’s

admonition that the Second Amendment is not “a second-class right.” *McDonald*, 561 U.S. at 745-46, 780.

Because the State’s ban on the sale of the safest and most reliable firearms on the market is not likely to advance public safety, and because the State cannot demonstrate that the law does not burden substantially more conduct than necessary to achieve its interests, the challenged provisions are invalid under any level of heightened scrutiny.

### **CONCLUSION**

Had the State enacted restrictions and enforced them in a manner that actually advances its laudable public safety objectives, amici would not find themselves writing to the Court, as this litigation likely would never have commenced. The NRA and CRPA have no desire to see guns remain on the market that do not safely function or operate as expected. Certainly, they are not interested in promoting the circulation of defective handguns that may misfire, explode, inadvertently discharge, or otherwise fail to function safely. Contrary to popular misconception, amici are not opposed to any and all firearms firearm regulations. In fact, the NRA and CRPA have long supported legislation and sponsored programs aimed at reducing accidental discharges, keeping firearms from

dangerous individuals, and otherwise ensuring the safe and responsible use of firearms and ammunition for traditionally lawful purposes.<sup>17</sup>

But here, the State's roster requirements have failed in practice to promote the use of safe handguns in California. These mandates have effectively barred the use of the very handguns that law enforcement agencies consider to be the safest of all. And while features that make a firearm safer or more reliable often drive manufacturer offerings, the market has not seen a meaningful demand for handguns with the features the State prefers. Ultimately, the challenged provisions

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<sup>17</sup> For example, the NRA helped draft legislation strengthening the National Instant Criminal Background Check ("NICS") system, thereby significantly decreasing the possibility that a prohibited person can gain access to a firearm. *See* NICS Improvement Amendments Act of 2007, Pub. L. No. 110-180, 122 Stat. 2559 (2008). The NRA also supported legislation to improve state level reporting to the NICS system, *e.g.*, H.B. 366, 28th Leg. (Alaska 2014); H.B. 2246, 27th Leg. (Haw. 2014); H.B. 717, 2013 Reg. Sess. (La. 2013); S.B. 2647, 2013 Reg. Sess. (Miss. 2013), and legislation that would allow State school districts to implement firearm safety training. *See, e.g.*, S.B. 75, 97th Gen. Assemb. (Mo. 2013); Assemb. J. Res. 108 (Wis. 1997); A. 2045, 1999-2000 Reg. Sess. (N.Y. 1999); Leg. Doc. 128, 127th Leg. (Me. 2015), *see also* *Eddie Eagle Gunsafe Program*, National Rifle Association of America, Inc., <https://eddieeagle.nra.org/> (last visited July 23, 2015).

The NRA remains the leader in firearm education with over 55,000 certified instructors teaching firearm safety to over 750,000 students annually. *See* *Education & Training*, National Rifle Association of America, Inc., <http://training.nra.org> (last visited July 23, 2015). It also established the NRA Foundation to help ensure the financial support and funding of gun safety and education projects of benefit to the public. *See* *The NRA Foundation*, National Rifle Association of America, Inc., <http://nrafoundation.org/> (last visited July 23, 2015).

may endanger public safety by promoting the violation of basic firearm safety principles and foreclosing access to handguns that are safer than the handguns it forces Californians to choose from.

Setting the failure of the State's mandates to advance public safety aside, the challenged provisions are separately invalid because the State's ban is not narrowly drawn to achieve the State's safety goals. By banning the sale of countless constitutionally protected handguns that the American people overwhelmingly choose for the core lawful purpose of self-defense, the State's handgun ban is necessarily incompatible with the Second Amendment under any standard.

For these reasons, the judgment of the district court should be reversed.

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**CERTIFICATE OF COMPLIANCE WITH RULE 32(a)**

This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure, rules 29(d) and 32(a)(7)(B), because this brief contains 4,213 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

This brief complies with the typeface requirements of Rule 32(a)(5) and the type style requirements of Rule 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

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I hereby certify that on July 27, 2015, I electronically filed the foregoing using the court's CM/ECF system which will send notification of such filing to the following:

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