



NRA EXEMPTION FROM DISCLOSE ACT IS UNFAIR AND UNCONSTITUTIONAL

The DISCLOSE Act, H.R. 5175, sponsored by Rep. Chris Van Hollen (D-MD), would require corporations, labor unions, and non-profit organizations that spend \$10,000 or more in one year on campaign-related activities to disclose the names of donors who contribute \$600 or more in one year. Organizations that set up a separate Campaign-Related Activity Account would instead have to disclose the names of donors who contribute \$6,000 or more in one year.¹

A proposed amendment to the DISCLOSE Act would turn campaign finance reform on its head by exempting one of the wealthiest and most powerful special interest lobbies in Washington – the National Rifle Association. Politico reports that the amendment “would exempt organizations that have more than 1 million members, have been in existence for more than 10 years, have members in all 50 states and raise 15 percent or less of their funds from corporations. *Democrats say the new language would apply to only the NRA*, since no other organization would qualify under these specific provisions.”² Under the Amendment, groups advocating for common sense gun violence prevention laws would be required to disclose names of donors, but the NRA, the primary opponent of such laws, would not be required to disclose names of donors.

The NRA-exemption amendment should render the Act unconstitutional, as it singles out a wealthy lobby group for unique protection from campaign disclosure requirements that apply to all other groups. The Supreme Court has struck down campaign regulations that require “compelled disclosure, [which] in itself, can seriously infringe on privacy of association and belief guaranteed by the First Amendment,” unless they can “survive exacting scrutiny.”³ The Court has held that “*asymmetrical*” limits are unconstitutional.⁴

The NRA amendment to the Act would apply different requirements to an organization arguing for weaker gun laws than to an organization arguing for stronger laws, imposing blatantly asymmetrical limits solely based on the NRA’s wealth and ability to lobby to exempt itself from laws applying to other organizations.

NRA Facts

- Fortune Magazine ranked the NRA as the most powerful lobby in Washington.⁵ In 2007, the NRA reported revenue of over \$332 million, and in 2008, the NRA reported revenue of over \$247 million.⁶
- NRA CEO Wayne LaPierre’s reported 2008 salary and compensation was over \$1.2 million.⁷
- Although the NRA has spent big in recent elections, its efforts were largely unsuccessful. The NRA promised to spend \$40 million in the 2008 elections, mostly to defeat Barack Obama and Joe Biden.⁸ Despite the NRA’s campaign efforts, President Obama won eleven of the thirteen states in which the NRA ran TV ads, only losing Missouri by 1%, and Texas, a solid red state, by 12%.⁹

¹ DISCLOSE Act, H.R. 5175, Section 211.

² John Bresnahan, *Dems Close To Campaign Finance Deal*, Politico, June 15, 2010, available at <http://www.politico.com/news/stories/0610/38500.html>.

³ *Davis v. Federal Election Com'n*, 128 S.Ct. 2759, 2774-75 (2008), quoting *Buckley v. Valeo*, 424 U.S. 1, 64 (1976).

⁴ *Id.* at 2775.

⁵ Center for Responsive Politics, *Heavy Hitters: National Rifle Assn.*, OpenSecrets.org available at <http://www.opensecrets.org/orgs/summary.php?ID=D000000082>.

⁶ NRA Form 990 for years 2007 and 2008.

⁷ *Id.*

⁸ John C. Sigler, *Obama-Biden A Clear And Present Danger*, *America's First Freedom*, Nov. 2008, at 10.

⁹ Brady Campaign to Prevent Gun Violence, *Common Sense Gun Laws Won, the NRA Lost, and What it Means*, Nov. 6, 2008, at 16.