



How State Preemption of Local Smokefree Air Laws Adversely Impacts Quitting

Background

Tobacco products kill 480,000 people in the United States each year,¹ including 41,300 people who die from secondhand smoke exposure.² One of the most effective ways jurisdictions can reduce the negative impact of tobacco is by enacting and enforcing comprehensive smokefree air laws that prohibit smoking in places like worksites, bars, restaurants, and playgrounds.^{3, 1, 4, 5} These laws not only protect people from harmful secondhand smoke exposure, but they also help prevent people from starting to smoke, encourage people who smoke to quit smoking, and reduce the number of cigarettes that are smoked each day.^{3, 1} Unfortunately, some local jurisdictions lack the legal authority to enact effective smokefree air laws because of preemption.

What is preemption?

Preemption is the invalidation of one jurisdiction's law by the law of a higher jurisdiction.⁶ For example, a federal law can preempt (or invalidate) a state law, and a state law can preempt (or invalidate) a local law. In the context of tobacco control, state-level preemption removes or limits the legal authority of local levels of government, such as cities, counties, and boards of health, to enact local policies that reduce the burden of tobacco.

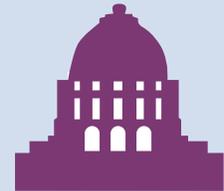
In 2012, 13 states preempted local smokefree air laws. Six of these states had *full preemption*, which means local communities in those states are *absolutely without authority* to enact any type of local ordinance that would prohibit smoking in public places or places of employment.

Why is preemption bad?

There are many reasons to oppose preemption. Preemption limits local innovation. It takes away the ability of communities to respond to local emerging needs. It disincentivizes local organization. It compromises the ability of localities to be laboratories of democracy.⁶ *What is most important, however, is that preemption is bad for public health.*



Federal



State



Local

How does state preemption of local smokefree air laws negatively impact health?

State laws that preempt local smokefree air laws have a profoundly adverse impact on health and make it more difficult for people to quit. For example, new research has found that states that prohibit local communities from implementing any local smokefree air laws reduce the likelihood that youth will quit smoking by 7% and reduce the likelihood that adults will attempt to quit smoking by 2%.

It's crucial that states eliminate preemption of smokefree air laws and protect against any future efforts to establish smokefree air law preemption within their states.

Full preemption of smokefree air laws has resulted in:

- 138,510 fewer adults who have tried to quit smoking in the last year
- 192,357 fewer regular adult smokers who have ever tried to quit smoking
- 33,623 fewer youth who have ever quit smoking

Resources

ChangeLab Solutions has the following resources available to help local communities interested in learning more about preemption.

- Preemption: What It Is, How It Works, & Why It Matters for Public Health www.changelabsolutions.org/publications/preemption-memo
- How State Laws Preempting Local Authority to Reduce Youth Access to Tobacco Products Adversely Impact Health www.changelabsolutions.org/publications/preemption_youth_access
- Understanding Preemption (fact sheet series): Fundamentals of Preemption, The Consequences of Preemption for Public Health Advocacy, Negotiating Preemption, and Preemption by Any Other Name www.changelabsolutions.org/publications/understanding-preemption

Bibliography

1. U.S. Department of Health and Human Services. The Health Consequences of Smoking — 50 Years of Progress A Report of the Surgeon General.; 2014. Available at: www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf.
2. Centers for Disease Control and Prevention. Secondhand Smoke (SHS) Facts. 2014. Available at: www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/index.htm. Accessed June 13, 2014.
3. Guide to Community Preventive Services. Reducing Tobacco Use and Secondhand Smoke Exposure: Smoke-Free Policies. 2012. Available at: www.thecommunityguide.org/tobacco/smokefreepolicies.html. Accessed July 29, 2014.
4. Centers for Disease Control and Prevention. Highlights: Clean Indoor Air Regulations. 2000. Available at: www.cdc.gov/tobacco/data_statistics/sgr/2000/highlights/clean/index.htm. Accessed June 13, 2014.
5. Centers for Disease Control and Prevention. Best Practices for Comprehensive Tobacco Control Programs.; 2014. Available at: www.cdc.gov/tobacco/stateandcommunity/best_practices/pdfs/2014/comprehensive.pdf.
6. Mermin T. Preemption: What it is, how it works, and why it matters for public health. 2009. Available at: www.changelabsolutions.org/publications/preemption-memo. Accessed July 29, 2014.

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