

The Effect of Preemption on Tobacco Control

“The impact of preemption on public health goes beyond its impact on the number and protectiveness of local regulations. Local smoking regulations generate public debate and community organization around the issue of ETS. Through this process, the public is educated and the social norms regarding tobacco use may change. By preventing new regulations from being adopted, preemption blocks an effective means of educating the public.” -Conlisk, E. et al. “The status of local smoking regulations in North Carolina following a state preemption bill.” Journal of the American Medical Association, 273:805-807, 1995.

Preemption remains the tobacco industry’s chief legislative goal. Passage of preemption prevents the enactment of local ordinances and has a devastating effect on tobacco control.

Why? Preemption results in:

- **Weaker public health standards.** With few exceptions, statewide proposals have proven to be weaker than local measures. When preemption passes in a state, the elimination of local ordinances and/or local governments’ inability to pass and enact their own smokefree measures means that more nonsmokers will be exposed to secondhand smoke.
- **Loss of community education.** Each local ordinance campaign involves a unique community education process. From proposal to passage and implementation, the media and public engage in an ongoing dialog about tobacco. The result is a well-publicized, low cost education effort, with the tobacco industry invariably the loser. If preemption passes, this local education process ends completely.
- **Lower compliance.** As a result of local enforcement provisions and the community education that accompanies their passage, local tobacco control ordinances enjoy a high level of compliance. If local ordinances are replaced with a weak, poorly enforced state law, compliance will drop.
- **More difficulty with enforcement.** Local ordinances provide meaningful local enforcement mechanisms. In contrast, most state smoking laws have abysmal enforcement records. If preemption passes, effective local enforcement will be replaced with poor statewide enforcement.

