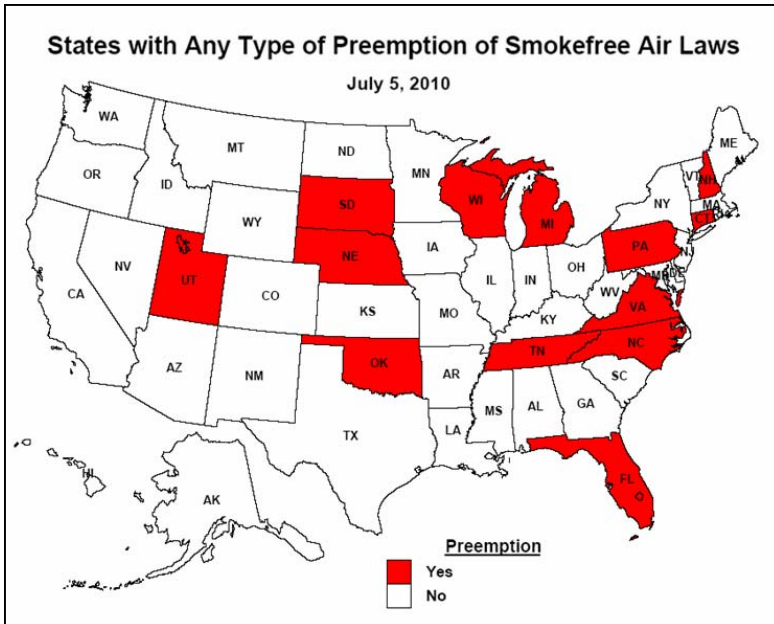


Preemption of Smokefree Air Laws in Florida



Is not having local control a problem? Didn't Florida enact a statewide Clean Indoor Air Act in 2003?

Unfortunately, yes, not having local control is a problem. In 2003, Florida voters approved a law for smokefree restaurants and workplaces, but it still permits smoking in bars, music venues, and other hospitality workplaces.

Due to preemption, communities cannot heed public demand to close these loopholes in the state law. Local policymakers also are not permitted to adopt laws for outdoor areas where people are exposed, like restaurant patios, beaches, playgrounds and parks.

Now is the time to restore local control to Florida's communities. **And you can help.**

Florida's history of preemption: The tobacco industry's test case

In 1985, Florida became the first state to strip local governments of the ability to adopt laws that restrict smoking in public places and workplaces.

Preemption of tobacco control issues is the tobacco industry's #1 legislative goal. The industry knew that if local governments adopted smokefree laws for workplaces and public places, people would have fewer opportunities to smoke and would buy fewer cigarettes. The industry's bottom line was in trouble.

So, **Florida was hand-picked as the test case** to see how viable preemption could be as a means to halt local communities' progress on smokefree air.

Unfortunately for Florida, the 1985 law showed just how effective preemption is at preventing local smokefree air progress. The law overturned Florida's existing local laws, and no community in Florida has been able to adopt a smokefree air law in 25 years.

Did you know?

Because of preemption, Florida communities cannot adopt laws to bring smokefree air to:

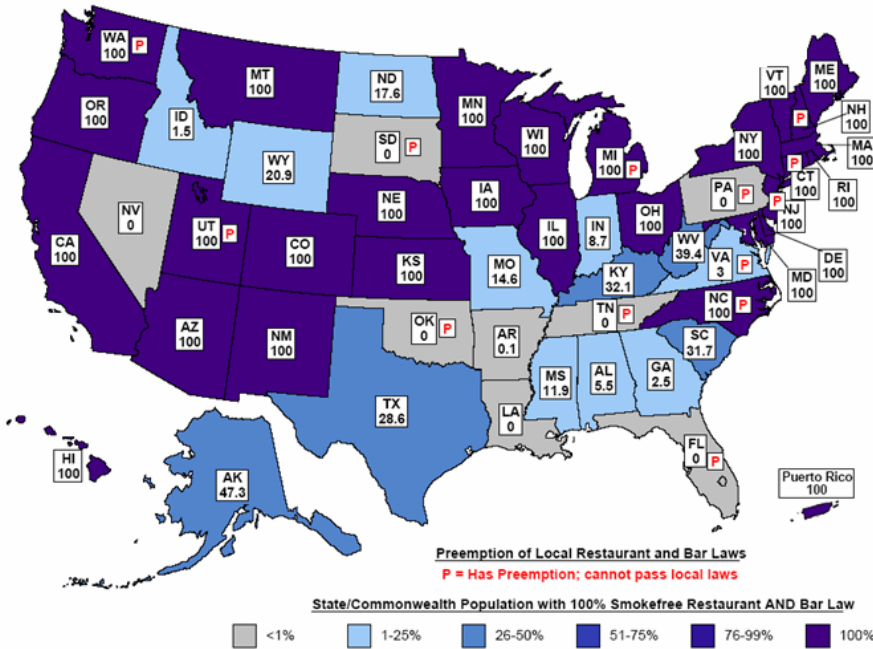
- Bars
- Restaurant and bar patios
- Music venues
- Outdoor workplaces
- Beaches
- Parks
- Recreation areas
- Health care campuses

Or any other indoor or outdoor public places or workplaces not covered by the 2003 Florida Clean Indoor Air Act.

It is the right and responsibility of local governments to address health and safety concerns in their communities.

Percent of Population Covered by 100% Smokefree Restaurant AND Bar Laws
in effect as of July 5, 2010

www.protectlocalcontrol.org



Florida has been left behind and the gap is growing...
63% of the U.S has stronger smokefree air laws than Florida.

The Health Impact of Preemption on Florida's Communities

Secondhand smoke exposure remains a leading cause of preventable death and disease in the United States.

Employees in many worksites throughout Florida are still breathing toxic tobacco smoke on the job.

While communities around the country have been making progress to protect their workers and the public from secondhand smoke exposure, **Florida communities have been unable to take action and are now dangerously behind the curve.**

ANR has heard from bartenders and musicians in Florida who want the air to clear in bars; restaurant patrons who want breathe easy when dining on patios; and city council members who want to heed their local coalition's call for cleaner, healthier recreation areas like parks and beaches.

The time has come for Florida to restore local control so local elected officials can work with their communities to adopt smokefree air laws that help create cleaner, healthier, more vibrant places to work and play.



Thousands of workers in Florida are still exposed to secondhand smoke on the job.

Why is restoring local control important?

Local control lets local policymakers respond to their communities' demands for protection from second-hand smoke exposure where they work and play.

Meaningful community change:

Local control is powerful because a change process unfolds as a community debates the issue of second-hand smoke. The community gains an increased understanding of the health risks associated with secondhand smoke, resulting in strong community support for a law protecting nonsmokers.

Ease of enactment:

Strong smokefree air laws are much easier to enact at the community level because local policymakers are most responsive to the concerns of their constituents and are less influenced by tobacco industry lobbyists and campaign contributions.

Ease of enforcement:

Laws enacted at the local level are also easier to enforce. The community understands why the law is needed so compliance rates are generally higher, and enforcement agencies are more accessible and responsive.

Tobacco Industry Promotion of Preemption

"By introducing preemptive statewide legislation **we can shift the battle away from the community level** back to the state legislatures where we are on stronger ground."

-Tina Walls, Philip Morris, July 1994

"We could never win at the local level...So the Tobacco Institute and **tobacco companies' first priority has always been to preempt the field**, preferably to put it all on a federal level, but if they can't do that, at least on the state level."

-Victor L. Crawford, Tobacco Institute, 1995

"While we're not married to any particular form of preemption language, **we're dead serious about achieving preemption in all 50 states.**"

-Tina Walls, Philip Morris, July 1994

What can local policymakers do to help restore local control?



March 21, 2003 FOR IMMEDIATE RELEASE

FOR INFORMATION CONTACT:
Brad Welch, NoSE Chairman
504.259.9385

New Orleans City Council asks Louisiana Legislature to Restore local control over clean indoor air

States that restored local control of smokefree air:

- **Louisiana**
- **Illinois**
- **New Jersey**
- **Delaware**
- **Iowa**
- **Nevada**
- **Oregon**

A City Council or County Commission can support restoring local control in several ways:

- **Sign a "Resolution to Restore Local Control"** that asks the Legislature to return local control. You can find a sample resolution on the Florida page of www.protectlocalcontrol.org
- Ask the **Florida League of Cities** to adopt a policy position on local control for smokefree air.
- **Collaborate with local tobacco control coalitions** and public health groups to help increase awareness and public demand for local control.
- **Contact your state legislators** to discuss how restoring the right to address tobacco control concerns benefits communities and is an appropriate and needed function of local government.

After a preemptive law is enacted, it can take many years of planning and strategic effort to restore local control. **Today is a great day to start lending your support to the effort!**

→ Call ANR at 510-841-3032 for assistance and sample materials.

THE CITY OF WAUKEE, IOWA

RESOLUTION 07-176

REQUESTING THE IOWA GENERAL ASSEMBLY AND THE GOVERNOR OF THE STATE OF IOWA PASS LEGISLATION ALLOWING LOCAL CONTROL OF SMOKING IN PUBLIC PLACES



We're online!
www.protectlocalcontrol.org

You should have the right to determine the standards for your community.

Fast Facts about Local Control:

- Local elected officials have the right and responsibility to protect the health and safety of their communities, including protecting against the harmful effects of toxic secondhand smoke.
- More than 3,100 local governments throughout the country have adopted smokefree air laws.
- The vast majority of states do not preempt local smokefree air legislation.
- Seven states have successfully repealed preemption and restored local control of smokefree air.
- The tobacco industry's chief legislative strategy to prevent smokefree air progress is the preemption of local authority to regulate smoking in public places.
- Preemptive state laws have a devastating effect on tobacco control efforts and on the public health of the states' residents and workers.

Local communities should have choice

"The tobacco industry clearly recognizes preemption as their best tactic against tobacco control. We know this through their behavior and through recently leaked internal documents...The only answer is NO PREEMPTION, ever. **There's never a benefit to the public from preemption, and there's always a cost.**"

- *Americans for Nonsmokers' Rights UPDATE, Winter 1992*

"**Target: "Eliminate laws that preempt stronger tobacco control laws...**Retain year 2000 target" to "[r]educ[e] to 0 the number of States that have clean indoor air laws preempting stronger clean indoor air laws on the local level."

- *U.S. Department of Health and Human Services Healthy People 2010 Objectives, November 2000*



This publication was produced by Americans for Nonsmokers' Rights. For more information, please visit ANR online at www.no-smoke.org or www.protectlocalcontrol.org, or contact ANR at 510-841-3032 and anr@no-smoke.org.

Defending your right to breathe smokefree air since 1976.