February 8, 1996

Dear Legislator:

It is my understanding that you will soon have the opportunity to help eliminate "preemption" from Oklahoma's tobacco laws. Preemption is nothing more than a devious strategy conceived by the tobacco industry to keep your communities, and therefore your people, from becoming more involved in critical tobacco prevention efforts.

The industry's motivation is clear. Every time a young person avoids addiction to tobacco and every time a no-smoking policy is implemented, the tobacco industry loses revenue. They would prefer that communities not become involved and that the status quo never change. Nevertheless, it must change.

During my tenure as Surgeon General, we issued the first report on passive smoking. Released in 1986, this report reached these important conclusions:

- Secondhand smoke causes disease, including lung cancer, in healthy nonsmokers.
- The simple ingestion of smokers and nonsmokers within the same airspace may reduce, but does not eliminate, the exposure of the nonsmoker.

The 1994 Surgeon General's report focused on nicotine addiction among children and adolescents. This report concluded that:

- Tobacco use primarily begins in early adolescence, typically by age 16.
- Major risk factors for tobacco use include easy access to tobacco products.

No doubt, tobacco companies have frightened some into thinking that locally-adopted and enforced tobacco ordinances will hurt business. Nonsense! Oklahoma cities and towns that choose to take action will only increase the quality -- and quantity -- of life for their citizens, ultimately helping the business community.

I strongly urge you to support the effort to repeal preemption in Oklahoma. It is critical that you send a clear message to the tobacco industry that their strategy has failed and that the days of their influence on public policy have finally passed.

Sincerely yours,

C. Everett Koop, M.D.

6707 Democracy Boulevard, Suite 101, Bethesda, MD 20817-1112  (301) 495-6053  FAX (301) 495-8169
January 23, 1996

Oklahoma Governor's Task Force on Tobacco and Youth
Oklahoma City, OK
Attention: Doug Matheny

Dear Mr. Matheny:

I am writing to the Governor's Task Force on Tobacco and Youth in hopes of clarifying several issues regarding preemption in tobacco control.

The passage of preemption in state legislatures is the tobacco industry's chief legislative goal. The reason for this is simple. By eliminating local control, the tobacco companies can eliminate the most effective tool in the campaign to reach former Surgeon General Koop's vision of a Smokefree Society by the Year 2000 -- the passage of local tobacco control ordinances.

Local communities across the nation have taken the lead in protecting nonsmokers from secondhand smoke, and youth from easy access to addictive tobacco products. Over 930 local tobacco control ordinances have been passed by communities across the U.S. Of these, 731 contain provisions to protect workers and the general public from secondhand smoke in enclosed public and workplaces. Another 423 contain provisions to reduce youths’ easy access to tobacco products.

The tobacco companies, sometimes hiding behind the business community, claim they need preemption to get rid of "bureaucratic" local variation. The real reason they oppose returning local governments' power to pass ordinances to protect their citizens' health is simple -- to protect the tobacco industry's profit margins.

Victor Crawford, a former Maryland state legislator and lobbyist for the Tobacco Institute, explains the tobacco industry's strategy of taking the fight to the state level, away from local control (full article is attached):

"We could never win at the local level. The reason is, all the health advocates, the ones that unfortunately I used to call "health Nazis," they're all local activists who run the little political organizations. They may live next door to the mayor, or the city councilman, and they say "Who's this big-time lobbyist coming here to tell us what to do?" When they've got their friends and neighbors out there in the audience who want this bill, we get killed. So the Tobacco Institute and tobacco companies' first priority has always been to preempt the field, preferably to put it all on the federal level, but if they can't do that, at least on the state level, because the health advocates can't compete with me on a state level."

Journal of the American Medical Association, July 19, 1995
All the leading health organizations in the country oppose preemption in tobacco control, including the American Medical Association, the American Public Health Association, the Institute of Medicine of the National Academy of Sciences, the Coalition on Smoking OR Health (representing the national American Cancer Society, the American Lung Association and the American Heart Association), the Association of State and Territorial Health Officials, and the State Attorneys General Working Group on Tobacco.

Unfortunately, Oklahoma is one of 28 states to fall prey to the tobacco industry’s nationwide campaign to enact preemption. To date, not one state with preemption has been able to remove it from its books. Oklahoma is poised to assume a leadership role by becoming first state to do so. Oklahoma is facing friendly competition for that honor from Wisconsin and Michigan, where health advocates are also running campaigns to remove preemption from their state codes.

The tobacco companies realize that they are widely disliked by the general public. Therefore, they try to hide their activities behind more accepted groups, like the business community. They promote unfounded fears and concerns amongst leaders in the business community, to enlist their opposition to tobacco control measures. The chief myths they promote are:

- **Varied local ordinances are bad for business.** Numerous scientific studies disprove this myth. With over 900 local ordinances on the books, not one business has gone under as a result of a local tobacco control ordinance. Across the country, businesses continue to thrive and prosper under a variety of local tobacco control ordinances:
  - 378 ordinances restrict tobacco vending machines
  - 135 ordinances eliminate free tobacco sampling
  - 91 ordinances require tobacco products to be placed behind the counter (so-called self-service display bans)
  - 549 ordinances restrict smoking in enclosed workplaces
  - 660 ordinances restrict smoking in restaurants
  - 486 ordinances restrict smoking in public places

If these ordinances were catastrophic to local businesses, local communities wouldn’t continue to pass them. In fact, they’d be running the raceparks to repeal them!

- **Local communities will pass ordinances with outrageous and burdensome provisions.** The tobacco companies scare businesses by claiming that local communities, if given the chance, will do things like raise the legal age of use for tobacco to 25, or prohibit tobacco sales on Sundays. This organization has tracked and analyzed local ordinances for 15 years, and maintains a database of local tobacco control ordinances used by the National Institutes of Health. Of the over 900 local ordinances in our database, not one contains such preposterous provisions. Staff have never even heard of such an ordinance ever being proposed.

The tobacco companies would have the Task Force, and your business community, believe that you must choose between the health of the business community, or the health of Oklahoma’s citizens. The good news is that you don’t need to choose between being pro-business and pro-
health on this issue. Removing preemption will return local governments' power to protect Oklahomans' health, and will not harm the business community.

If you have any questions, or would like further information, please feel free to call me at (510) 841-3032.

Sincerely,

[Signature]

Robin L. Hobart, M.P.H., M.P.P.
Associate Director

cc: The Honorable Frank Keating, Governor of Oklahoma

Enclosure