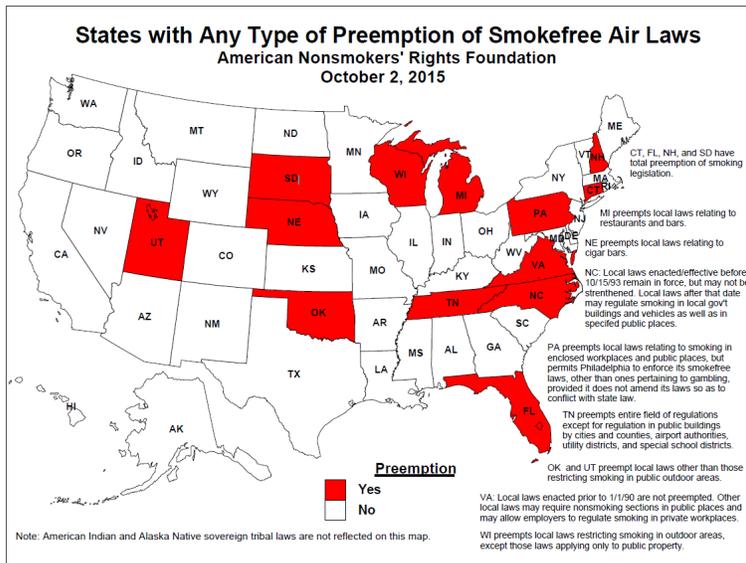


Preemption of Smokefree Air Laws in the U.S.



Is not having local control a problem?

Unfortunately, yes. States without local control cannot provide effective protection from secondhand smoke in workplaces and public places. Smoke-filled workplaces put employees and the public at risk, and public demand for smokefree laws is extremely high. However, without local control, communities cannot move forward to create healthier, smokefree public places.

Progress on this important public health issue is best made at the local level, where elected officials are most connected to and most responsive to their constituents. Communities adopt smokefree laws that are the right fit for their needs, which results in stronger workplace health protections. With preemption, city councils cannot take action. States are reluctant to adopt laws if locals haven't already led the way.

Now is the time to restore or protect local control. And you can help.

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

History of preemption: The tobacco industry's #1 goal

State tobacco control laws that include preemptive language strip local governments of the ability to adopt laws that restrict smoking in public places, workplaces, and other specified types of venues.

Preemption of tobacco control issues is the tobacco industry's #1 legislative goal. In the 1980's, the industry saw that when local governments adopted smokefree laws for workplaces and public places, people had fewer opportunities to smoke and bought fewer cigarettes. The industry realized that their bottom line was in trouble from the growing number of local smokefree air laws.

In 1985, 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, **Florida's law showed that preemption is very effective at preventing local smokefree progress.** Soon after, Oklahoma, Illinois, and Pennsylvania enacted preemption laws, and by the mid-1990's so had a dozen more states. In total, 25 states adopted preemption laws of some kind.

Preemption continues to be a serious threat to smokefree air progress to this day, with 9 states adopting preemptive laws since 2000.

Did you know?

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

- Workplaces
- Public Places
- Restaurants
- Bars and taverns
- Music venues and clubs
- Casinos and gaming
- Outdoor workplaces
- Other specified venues

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

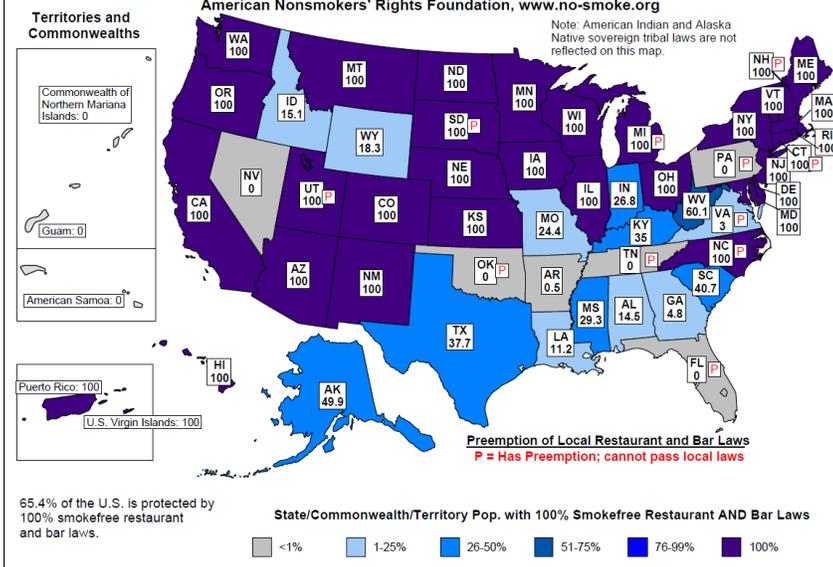
"We could never win at the local level...So the Tobacco Institute and **tobacco companies' first priority has always been to preempt the field**, preferably to put it all on a federal level, but if they can't do that, at least on the state level."

-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

Percent of Population Covered by 100% Smokefree Restaurant AND Bar Laws In Effect As of October 2, 2015



The Health Impact of Preemption on Local Communities

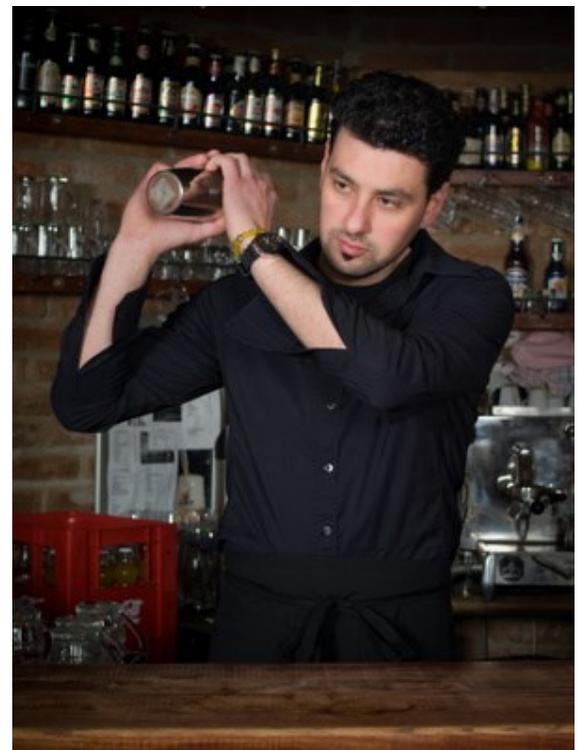
Secondhand smoke exposure remains a leading cause of preventable death and disease in the United States, and there is no safe level of exposure.

Employees in worksites in most preempted states are still breathing toxic tobacco smoke on the job. Local governments typically can respond to public demand for improved workplace protections from secondhand smoke, but they are unable to take action in preempted states, and employees remain exposed.

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

ANR hears from employees in many preempted states—bartenders in Florida, musicians in Oklahoma, casino employees in Pennsylvania—all who want to breathe easier on the job. ANR also hears from City Council members who are frustrated that they cannot heed their local coalitions' calls for cleaner, healthier workplaces and public places.

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



Millions of workers are still exposed to secondhand smoke on the job in the U.S.

Why is 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.

The national trend is to restore local control.

Since 2002, seven states have overturned preemptive laws in order to return local control to cities and counties. Restoring local control takes many years of strategic effort, but employees, advocates, and lawmakers know that the fight is worthwhile.

When Illinois restored local control starting in 2006, 36 cities and counties adopted strong 100% smokefree workplace laws that year, breaking all previous records. Likewise, local control was confirmed in South Carolina in 2008, and since then nearly thirty communities have jumped at the chance to adopt strong, 100% smokefree air laws.

These examples show how **local lawmakers want to take action to protect public health** in their communities, if only given the chance through local control.

If you live in a state with preemption of smokefree air, you can get involved to support efforts to restore local control.

What can local policymakers do to help restore local control?

March 21, 2003 FOR IMMEDIATE RELEASE

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

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

New Orleans, LA - "Seven years and no nays, and that's not a Christmas tree. It's all green," said New Orleans Council's unanimous decision to restore local control over protections from second-hand smoke in communities from enacted.

"This resolution, along with message to our state legislators that affect the head of the NoSE (No Secondhand Smoke) Coalition, promoting the rights of Jefferson parishes.

Similar resolutions have been adopted in Alexandria, Covington, building momentum for health advocates believe employees and patrons NoSE Coalition, working Louisiana, will actively resolutions as a show of

States that restored local control of smokefree air:

- Delaware
- Louisiana
- Illinois
- New Jersey
- 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 at www.protectlocalcontrol.org
- Ask your state **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.
- The national trend is to restore local control for smokefree air.
- More than 4,400 local governments throughout the country have adopted smoke-free 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.