

Preemption: States Blocking Local Action that Promotes Health, Well-being, and Equity

Preemption is when a higher form of government (such as a state legislature) limits a lower form of government (such as a city council) from taking action on an issue. It is becoming an increasingly common state legislative tactic and extending to a greater number of issue areas. In addition to blocking local lawmaking, another emerging preemption threat has seen states looking to punish cities and local lawmakers for passing local laws, such as by fining local lawmakers or withholding state funding for municipalities. This can perpetuate health disparities and inequity and hurts local democracy.

Tips for Effective Preemption Messaging

- ✓ The best way to communicate about preemption is to help people understand the consequences. To build support, it is best to begin by talking about the primary policy issue and how it will affect people's lives and end with an emphasis on local democracy.
- ✓ Try to be as specific as possible about the negative effects of preemption on people's daily lives. For example, if states prevent local governments from passing smoke-free laws, children and families will be subjected to more secondhand smoke exposure that threatens their health and well-being.
- ✓ Most people are unfamiliar with the word "preemption" and what it means. In general, avoid using the word "preemption," and instead focus on the harm that occurs when local governments lose their ability to protect the health of children, families, and communities—especially those most in need. If you do use "preemption"—such as when speaking with reporters, who tend to use it in their articles—quickly define it so people understand what it means. State interference is a term that has worked well in the field.
- ✓ Stress the importance, value, effectiveness, and accountability of local government. People have a significantly higher opinion of local government compared to state or federal government; they trust local government the most to pass laws that address their community's needs. It is important to remember that most people believe that government plays a role in creating healthier communities.
- ✓ Explain that states tend to pass preemption laws at the urging of special interest groups that care mostly about their bottom lines at the expense of local communities. Know what is happening in your state to be able to reference relevant examples.
- ✓ When talking to state lawmakers, thank them for what they've done to promote good health, but explain that it's good for the state if local governments can take even stronger steps to further protect health and promote equity in their communities.
- ✓ People believe that states should set uniform, minimum standards, and that cities should be able to build on these "floor" laws and pass improvements that reflect their local needs and values.
- ✓ Although people generally support local governments being able to pass their own laws, that can change if they don't agree with the specific policy being addressed. Explaining how the policy at hand benefits children and families can garner more support. Understand your audience's perspective on state and local government.
- ✓ Local governments are often key in passing laws that promote health, safety, equity, and civic participation. But remember that local control is NOT always best, and local governments don't always pass laws that promote common good and equity. State and federal government have roles to play in creating a safe and equitable society.

Language to Emphasize/Language to Avoid

Messages that resonate best are clear, avoid jargon, and communicate shared values and emotion. Below is a list of words/phrases Voices for Healthy Kids encourages you to use (left-hand column) instead of language in the right-hand column.

Use This Language	Instead of This Language
✓ States blocking communities from passing their own laws, state interference	✗ Preemption (unless audience is familiar with what it means)
✓ Local democracy, local control*, local governments should be able to pass their own laws	✗ Imagery that invokes wars or battles, such as "an attack on cities" or "waging war on cities"

*Local control may not be as effective for audiences in the South because of the history of local Jim Crow laws and the historical use of the term local control.

Preemption Messages (*Use key messages consistently and repeatedly)

- ★ Local governments are uniquely positioned to meet the needs of the people in their communities. They should be able to pass laws that are proven to promote good health, well-being, and equity.
- ★ Here in [state], our state has taken many positive steps to improve the health of people across the state. We want to make sure cities, towns, and counties continue to have the option to build on this progress and pass laws to help their communities and local businesses thrive.
- ★ Local governments are more connected to the people in their communities and more accountable to them. They understand the needs and values of their communities best.
- ★ When states block communities from passing their own laws, it can hurt the health and well-being of our families, friends, and neighbors.
- Good ideas often start locally. For example, local governments were the first to pass indoor smoke-free laws, but the ability of local governments to pass these kinds of laws is now at risk.
Use a local example if possible.
- When states block communities from passing their own laws it weakens local governments' ability to innovate and enact laws that promote health and equity and improve people's lives.
- Proponents of states blocking local laws claim that a 'patchwork' of local laws throughout a state creates an unfair burden for businesses. But in reality, businesses are used to meeting different requirements under different local laws.
- What works for [city/county] is not always what works for [town/other area of the state]. That is why local government exists—to create laws that most accurately reflect the unique views, values, and needs of the people who live there.
- We want everyone to benefit from smart and effective policies. But when states block local governments from passing laws, it can hurt communities most where the need is greatest.

How Preemption is Impacting Health, Well-being, and Equity in Local Lawmaking

It is important to think about the history of preemption and the positive role state and federal governments can play in addressing inequity and disparities. Some local governments have passed laws to discriminate and segregate. In those cases, states and federal government have needed to step in and create laws that set a minimum standard or "floor" that local governments must meet. This is referred to as "floor preemption," and while it sets a minimum standard, it allows a state or locality to do more to protect health. An example of floor preemption is the Civil Rights Act of 1964 which ended the Jim Crow laws that were permeating state and local communities throughout the country.

Some laws being passed by state governments today, however, are different—they restrict local governments' ability to pass their own laws and/or prevent them from strengthening laws set by the state. This is sometimes called "ceiling preemption" and is a tremendous concern for public health and equity. A growing number of these laws are being used to *create* inequities by preventing local governments from addressing disparities.

To advance health equity, we must ensure that public policies at both the state and local level prioritize areas of greatest need first.

Read more in the health equity message guide: voicesforhealthykids.org/healthequity