

Local Control of Smoke-free Laws in Kentucky

Local control of smoke-free laws is working in Kentucky, traditionally a home rule state. Since Lexington's smoke-free law was passed in 2003 and upheld by the Kentucky Supreme Court in April of 2004, 23 additional communities have become smoke-free. As of September 11, 2009, 30% of Kentucky's population was protected by comprehensive smoke-free laws or regulations.

State smoke-free laws are most effective when there is a critical mass of local laws or regulations. The Tennessee law has multiple exemptions creating difficult loopholes, leaving many unprotected. The Ohio law, while strong, was enacted prematurely, creating enforcement problems. West Virginia values local control and they have successfully adopted many strong local smoke-free workplace regulations. Premature passage of a weak state law in Kentucky could preempt the many hard-won comprehensive local laws that cover virtually all workplaces and enclosed public places.

Local Control Prompts Local Debate and Educates the Community

- As smoke-free policy is considered at the local level, formal and informal education occurs in the community. Public health workers and other local advocates conduct public education in a variety of ways including newspaper and other media outlets.
- Public hearings of smoke-free policies further the debate. During this process, community members begin to understand the serious health risks caused by secondhand smoke exposure and the disproportionate burden born by nonsmoking workers who involuntarily inhale the equivalent of nearly a pack of cigarettes during a shift.

Local Control Produces Meaningful Policy Change and Enforcement

- When community members understand the health risks, smoke-free laws and regulations are largely self-enforcing.
- At the local level, policymakers are responsive to their constituents who demand smoke-free policy for all workers and in all public places, and are less influenced by special interest groups.
- Each community decides on a realistic method of enforcement for their law or regulation.

Local Control is More Effective than a Weak State Law with Preemption

- A state law at this time would likely be weakened by exemptions, and would likely take control away from local governments to pass stronger and more comprehensive laws.
- The Tobacco Industry and its front groups oppose strong smoke-free laws and often exert their influence more easily at the state level than in local communities.

"By introducing pre-emptive 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 Spokesperson¹

- The U.S. Surgeon General² further substantiates the real influence of the Tobacco Industry:

"To fight the establishment of such policies [local smoke-free policies], the tobacco industry tries to shift the focus from the science-based evidence on the health hazards of ETS to the controversial social issue of personal freedom. The industry has lobbied extensively against legislation to restrict smoking, and has supported the passage of state laws that preempt stronger local ordinances."

See Americans for Non-Smokers' Rights website for current information on states with preemptive laws at <http://www.protectlocalcontrol.org/docs/HistoryofPreemption.pdf>

¹ Bates # 2041183751/3790; Legacy Tobacco Documents Library; 1994. <http://legacy.library.ucsf.edu/tid/vnf77e00>

²U.S. Department of Health and Human Services. *Reducing Tobacco Use: A Report of the Surgeon General*. Atlanta, Georgia: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2000.