

State Preemption of Local Smoke-Free Laws in Government Work Sites, Private Work Sites, and Restaurants — United States, 2005–2009

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- Substantial progress has been made toward the 2010 national health goal of eliminating the number of states that preempt local smoking restrictions, resulting in the potential for greater protection from secondhand smoke exposure.
- State preemptive provisions prevent communities from enacting local smoke-free laws that are more stringent than or that vary from state laws.
- From December 31, 2004 to December 31, 2009, the number of states that preempt local smoking restrictions in at least one of three settings — government worksites, private-sector worksites, and restaurants—decreased sharply from 19 to 12.
- The number of states with preemptive provisions for all three settings decreased from 15 to 8, while the number of states with preemption covering government worksites, private worksites, and restaurants decreased from 16 to 9, from 15 to 9, and from 18 to 12, respectively.
- Six states (Illinois, Iowa, Nevada, New Jersey, Oregon, and South Carolina) went from having preemption in all three settings to not having preemptive provisions in any of the settings.
- Notable trends during the study period:
 - Fewer states enacted smoke-free laws containing new preemptive provisions, with only Montana enacting a new preemptive law.
 - Several states enacted smoke-free laws that included explicit anti-preemption clauses, which expressly enable local communities to pass more comprehensive smoking laws.
 - Eight states (Illinois, Iowa, Louisiana, Mississippi, Nevada, New Jersey, Oregon, South Carolina) completely rescinded their preemptive provisions through legislation, ballot measure, or court decisions.
- The reduction in the number of states that preempt local smoke-free laws will allow communities to pass and enforce local laws that establish a higher standard of health protection than that provided by state law.

Background:

- According to the American Nonsmokers' Rights Foundation, 41 percent of Americans currently live under state or local laws that make workplaces, restaurants, and bars completely smoke-

free. About 26 percent of Americans are not covered by a state or local law making any of these three settings completely smoke-free.

- Smoke-free laws—policies that completely eliminate smoking in indoor workplaces and public places, with no exemptions—are the only effective way to fully protect nonsmokers from the harmful effects of secondhand smoke.
- A 2009 Institute of Medicine report on smoking confirmed that secondhand smoke exposure could cause heart attacks and that smoke-free laws prevent heart attacks and save lives.
- Secondhand smoke exposure causes an estimated 46,000 heart disease deaths and 3,400 lung cancer deaths among U.S. nonsmoking adults each year.
- In addition to protecting nonsmokers from secondhand smoke exposure, smoke-free laws and smoke-free workplace policies help smokers quit.
- Statewide smoke-free laws provide protection from secondhand smoke to a larger number of people than local laws. However, local communities often pass more comprehensive laws.
- Despite the progress that has been made, state laws preempting local smoking restrictions continue to pose a significant barrier to local government efforts to protect residents from secondhand smoke exposure.
- A 2005 study published by CDC found that between 1999 and 2004, little progress had been toward reducing the number of state laws preempting local smoke-free laws.
- This report is based on data from CDC's State Tobacco Activities Tracking and Evaluation (STATE) System, an online electronic data warehouse that includes information on state tobacco-related legislation.