

# THE FACTS ABOUT...

## Repealing Preemption

### What is preemption?

To put it simply, repealing preemption means restoring local control.

In general, preemption is a legislative scheme where a higher government (state or federal) strips lower levels of government of their authority over a specific subject matter. In this case, preemption provisions in state law eliminate the power of local governments to ban smoking in bars and restaurants.

Despite a policymaker's views on tobacco issues, restoring the right of local government to enact laws in their community makes sense.

There are two categories of preemption:

- Explicit, also called express preemption is language expressly written into the law
- Implicit preemption is implied rather than written into laws. Implicit preemption occurs when a state legislature adopts comprehensive regulations on a subject which are later interpreted by the court to "occupy the field" being regulated. Local governments are then prohibited from enacting regulations that are stricter than state law.

The Michigan Supreme Court has ruled that there is implicit preemption in state law that prohibits local governments from passing laws that affect smoking in restaurants.

### What to know

Preemption is a serious threat to effective tobacco control, and not surprisingly, is also partly the work

of the tobacco industry. A Philip Morris document from 1994 describes the tobacco industry's preemption strategy:

"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, 1994

Some of the advantages of local clean indoor air laws are:

- They offer more accessible and accountable enforcement mechanisms
- They serve as the source of innovation and advances in tobacco control policy-making
- They involve public education and grassroots organizing, leading to changes in attitudes and social norms

Polling consistently shows the public's support for local control and its disdain for the tobacco industry's political interference.

### What you can do

Your advocacy efforts are what it takes to restore local control over tobacco issues. We encourage you to write a letter to your state Representative and Senator urging them to support repealing Preemption.

You can find contact information for your Senator at <http://www.senate.michigan.gov/findyoursenator>.

You can find information for your Representative at [http://www.house.state.mi.us/LocateRep.asp#Locate\\_Rep](http://www.house.state.mi.us/LocateRep.asp#Locate_Rep).

You can also write letters to the editor to your local newspaper showing support for repealing preemption.



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AND TO IMPROVING HEALTH AND QUALITY OF LIFE THROUGH EDUCATION AND ADVOCACY.