

# PREEMPTION MESSAGING: HOW TO COMMUNICATE WITH THE PUBLIC, MEDIA, AND POLICY MAKERS

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## BACKGROUND

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Many policies that help make healthier foods available to families start locally. But what if your state lawmakers suddenly passed legislation that took away the ability of community members, city councils, school districts, and counties to help prevent heart disease, stroke, and type 2 diabetes? Some states have already passed laws that **stop, limit, or discourage** local communities from enacting commonsense policy solutions that help create environments where families have increased access to healthy foods; positive changes for communities that are proven to help all kids grow up at a healthy weight and prevent disease.

What kinds of changes are states and municipalities making? They're funding nutrition education for kids and families using revenue from local taxes on drinks with added sugar to pay for it. Communities are expanding options for healthy drinks in kids' meals in restaurants. They are putting policies in place to make sure that kids in childcare settings are getting the healthy options they deserve to get a strong start to life. Unfortunately, local efforts that help parents give their kids a healthy future will be stopped by state "preemption" laws. These laws prevent local governments from enacting policies that community members want. They may repeal existing local laws (even those approved by voters), and keep communities from strengthening existing health protections.

Preemption is not a new issue for the public health community. Once success began in the passage of tobacco control measures, like smoke free workplaces, there was an intensive push around the country to establish preemption statutes. History has shown that it is extremely difficult to remove preemption once it is in place; therefore, the American Heart Association strongly recommends that, in the vast majority of situations, preemption in public health laws should be opposed. Exceptions to this should only be made when there is an overwhelming public health benefit and no other options exist. The American Heart Association's position on provisions of federal or state laws that have the effect of preempting state and local government's authority are determined on a case-by-case basis. Any evaluation of the benefits of preemptive legislation must take into consideration:

- the policy objective to be achieved by the provision;
- short-term and long-term impact and implications of the provision on public health;
- the degree to which that preemptive standard can be revisited and adjusted based on new information and/or changed circumstances;
- and relative maturity of the issue in an effort not to create barriers to future advances and progress when policy issues are still being evaluated.

Public health advocates should recognize the risk of preemption and know how to make the case against it. Here are messaging best practices and talking points to get the conversation started with fellow advocates, policymakers, the media, and the public.

## BEST PRACTICES

**Use Values-based messaging.** Messaging appropriately about the importance of local control can build a coalition across the political spectrum. Values are at the core of everyone's belief system and help shape what we believe and how we interpret new information. We readily accept facts and data that fit our core values, but may reject those that do not. Think about what is important to your target (local control, social justice, fairness, etc.). Build your talking points based on the core values held by each of your targets. For example, even decision makers who may view nutrition policies as government overreach may nonetheless fight for local control on principle.

**Choose your messengers carefully.** Who is your target most likely to listen to? Think carefully about which allies are the most convincing and powerful to the audience you want to influence, and coach them to deliver the message.

**Avoid using the word "preemption" when talking with the media or the public.** It's technical; the general public doesn't understand it and won't pay attention. However, the public will pay attention if they understand the state legislature is undermining their local government's ability to set policies or enact laws that protect the health of their children, families, and community. An exemption when you SHOULD use the word "preemption" is when communicating with lawyers, policymakers, advocates, and other audiences schooled in the technical aspects of federal and state preemption.

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## SOUND BITES

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- State interference with local democracy puts children's health at risk. It erodes local communities' ability to support parents in their efforts to raise healthy children.
- State intrusion stops local elected officials from enacting health policies that their own constituents want and that science supports.
- Do we want state lawmakers to set an arbitrary ceiling on how safe and healthy our own communities can be for our kids? State interference can stop local policymakers, parents, and health experts from building on existing state laws to protect health and safety in their community.
- [THIS BILL] stops or limits locally passed laws, even laws approved by the voters themselves.
- Local governments should have the right to set stronger health standards for the people in their own communities. [Everyone deserves the right to health protections.]
- While it is important for the state and federal government to establish minimum public health protections, local governments must have the right to set stronger health standards for the people in their own communities.
- State interference would tie the hands of local governments to respond to its citizens' needs and concerns.
- [THIS BILL] will have a chilling effect on proven programs that [INSERT PREEMPTED POLICY AREA(S) HERE].

*For audiences likely to value less regulation:*

- [THIS BILL] is an unconstitutional<sup>1</sup> attempt to take control away from people at the local level. [Depending on your state constitution]

*For audiences likely to support keeping control in the hands of the community:*

- Should we allow special interest lobbyists to have more control over our health [food choices] than we do?
- Corporate lobbyists undermine local control.
- Corporate special interests persuade state lawmakers to strip local control.

## TALKING POINTS

In [CITY/COMMUNITY NAME], we should be able to go to our [LOCAL LEADERS/ COUNCIL/ MAYOR] when we're concerned about the health and safety of our [FAMILIES/CHILDREN].

Supporting statements:

- We are facing a health crisis. If we do nothing, this may be the first generation of children who doesn't live as long as their parents.
- If we do nothing, at least 1 in 3 school-aged kids will develop diabetes during their lifetimes.<sup>2</sup>
- Diabetes already costs the US \$245 billion annually, with \$1 in \$3 Medicare dollars spent caring for people with the disease.<sup>3</sup> Preventing type 2 diabetes and obesity saves taxpayers' money and employers' healthcare costs.

*NOTE: It is always helpful to include at least one piece of compelling local data or a personal story that will resonate with the audience being addressed.*

*Laws designed to prevent the harm heart disease, stroke, cancer and type 2 diabetes cause our families deserve careful consideration and citizen input. Local government is more connected to the people, and more accountable to them. Taking away the right to local control means limiting the power of citizens to act to stop these diseases.*

Supporting statements:

- It is wrong for the state to take a one-size-fits-all approach to governing. What works for a big city is not the same as what works for people in a small town, which is why local governments exist - to respond to the needs of the people who live and work there.<sup>4</sup>
- We need to let our citizens, businesses, and policymakers work together to develop solutions that fit here, where we live.
- The state legislature is flooded with corporate lobbyists and their money, and ordinary citizens can't compete. By taking away the right to local control, you take away the rights of the people.
- Local government is more connected to the people, and more accountable to them. Taking away the right to local control means taking away the rights of citizens.
- Our families bear the burden of [CHRONIC DISEASES/DIABETES/HEART DISEASE/DIET RELATED DISEASES]. It is wrong for [CORPORATE LOBBYISTS/OUTSIDERS] to have the final say when our families bear the costs.
- Laws that limit the ability of local governments to protect children's health deserve public input and careful deliberation. They should not be slipped into [BILLS] at the 11th hour by [INDUSTRY] lobbyists.
- This is an unconstitutional<sup>1</sup> attempt to take control away from people at the local level and give it to state government.
- Our state legislators should not let corporate special interests like [NAME ASSOCIATIONS/LOBBIES] keep cities in [STATE] from passing policies its people want. This is a blatant attempt to put corporate profit before our kids' health and future.
- The Founding Fathers believed that the government closest to the people governs best. That's why cities and other local governments are the innovation labs for the most popular and successful policies. [PROPOSED POLICY] is one important step [CITY/COMMUNITY] can take to support parents in giving their kids a healthier life.

*This resource was informed by polling, research, and analysis supported and conducted by the American Heart Association, the Robert Wood Johnson Foundation, and the Rockefeller Family Fund, as well as the hands-on experience of the American Cancer Society, American Lung Association, Americans for Nonsmokers' Rights, and many other public health advocates.*

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<sup>1</sup>In some states, the state constitution limits the authority of the state legislature to preempt local authority. Consult with a lawyer in your state to find out.

<sup>2</sup>Gregg, EW; Zhou, X; Cheng, YJ et al. "Trends in lifetime risk and years of life lost due to diabetes in the USA, 1985 - 2011: a modeling study." *Lancet Diabetes & Endocrinology*, 2(11)867-74, [http://www.thelancet.com/journals/landia/article/PIIS2213-8587\(14\)70161-5/abstract](http://www.thelancet.com/journals/landia/article/PIIS2213-8587(14)70161-5/abstract)

<sup>3</sup>American Diabetes Association, "Economic Costs of Diabetes in the U.S. in 2012," <http://www.diabetes.org/advocacy/news-events/cost-of-diabetes.html>

<sup>4</sup>"Protecting Local Control: A Research and Messaging Toolkit," Rockefeller Family Fund, published 12/12/15, <http://grassrootschange.net/wp-content/uploads/2016/01/RFF-2015-Toolkit.pdf>