

Issue: AZ Preemption and Public Health

Talking Points: Preemption is Hazardous to Your Health

“It’s fine to be pro-business, but you have to be pro-citizen first.”

—Nathan Laufer, MD, former president of the Arizona Medical Association

Preemption: When a higher level of government such as the state restricts the power of lower levels of government such as cities, towns, and counties, to address issues of importance at a local level.

Why Local Governments are Being Preempted

Public health policy often advances through local efforts to improve community health, which can affect businesses if products are taxed or business practices are restricted. In response, corporate interests use financial clout and lobbying machinery to push preemption legislation that prevents local governments from regulating them.

Corporations Work with Republicans to Subvert Local Authority

Corporations work with ALEC and/or the Goldwater Institute to develop model legislation for sponsorship by state legislators. In AZ, 12 state senators, 26 state reps, and Gov. Ducey have ties to ALEC. All are Republican. GOP dominance of AZ state government, particularly since the 2009 trifecta, has enabled extensive enactment of preemption laws. Arizona preemption laws pertain not only to public health but also to affordable housing, dark money, and the environment (including issues such as plastic bag bans).

Preemption is Bad for Public Health

AZ mismanagement of the COVID-19 crisis highlights the lethal consequences of preemption. Gov. Ducey’s stay-at-home order preempted local officials from acting independently. Other public health issues impacted by preemption laws in Arizona include fire safety, health insurance, firearms, knives, and nutrition. The CDC and the National Academy of Medicine advocate against preemption as bad for public health.

Arizona’s 2016 Blanket Preemption Law

This law can punitively trigger withholding of state revenue-sharing funds—in some cases, more than half of cities’ revenues—if a local order or regulation is deemed in conflict with state law.

The effect is chilling: local officials avoid taking action that has any chance of triggering the law. In Tucson, for example, because of the threat of losing over one-fifth of the city’s budget:

- The city repealed an ordinance that allowed confiscated guns to be destroyed.
- The mayor refrained from mandating mask-wearing in March (Ducey prohibited local mask-wearing mandates until mid-June).

Public-Health-Specific Preemption Laws in Arizona

In addition to the chilling effect caused by blanket preemption, Arizona has explicit preemption laws with respect to public health. Arizona’s cities, towns, and counties cannot:

- Mandate that employers provide health insurance to employees
- Enact regulations to address specific gun- or knife-related issues in their communities

“Arizonans are now free to stroll down the sidewalk with anything from keychain pocketknives to samurai swords.”¹ Local governments can do nothing about it.

- Require fire sprinklers in single-family homes or duplexes
- Impose taxes on soda (a cause of diabetes) unless they tax every other food item the same way
- Ban toys or other enticements used in marketing unhealthy fast food to children

Republicans tried but failed to pass preemption laws regarding local regulation:

- **Paid sick leave.** Prop. 202 gave local governments the right to regulate local employee benefits; Prop. 206 mandated paid sick leave. In reaction, the GOP (and corporate interests) tried to thwart the citizens' mandate by enacting new preemption laws (ruled unconstitutional) and by going to court unsuccessfully to block Prop. 202. They are now attacking the citizen initiative process itself, making it harder to get voter measures on the ballot.
- **Vaping/smoking.** In 2019, "Big Tobacco" and "Big Vape" companies teamed up with ALEC's AZ state chair, Rep. John Allen, to try to preempt local regulation of vaping/smoking products.

Conclusion: Stop the Corporate Assault on Public Health – Vote for Democrats

Corporations and advocacy groups pushing preemption legislation in Arizona include: the American Beverage Association, the American Restaurant Association, the National Association of Home Builders, Big Tobacco and "Big Vape" (Juul Labs, Altria, and others), the National Rifle Association, Knife Rights, and affiliated groups in Arizona. Corporate and other special interests work with conservative groups and AZ Republicans to push through preemption legislation to keep from being regulated, thus subverting local control. The corrosive power and coercive tactics of these special interests have sometimes even pushed Democratic legislators to support certain preemption bills.

This is not how the AZ legislative agenda should be set. Corporations should not be writing the laws.

Local governments are closest to the people they serve and know best how to address specific community needs. Preemption prevents them from doing so, to the benefit of corporate and other special interests and at the expense of public health.

The full Local Majority Research Report is available on our website at [Preemption is Hazardous to Your Health](http://www.localmajority.org/research-reports/#AZ_health) (www.localmajority.org/research-reports/#AZ_health)

¹ <https://www.motherjones.com/politics/2012/12/knife-rights-second-amendment/>