

APPENDIX C TO ISSUE 125

STATE SMOKING LAWS PREEMPTION			
STATE	DOES STATE PREEMPT LOCALITIES?		SPECIFIC PROVISIONS OF LAW
	YES	NO	
ALABAMA		X	Preemption has not been addressed in the laws of Alabama.
ALASKA		X	Preemption has not been addressed in the laws of Alaska.
ARIZONA		X	Preemption has not been addressed in the laws of Arizona.
ARKANSAS		X	Preemption has not been addressed in the laws of Arkansas.
CALIFORNIA	X		In 1995, California Labor Code Section 6404.5(B)(g) and (i) established a state smoking prohibition to constitute a uniform statewide standard for regulating smoking of tobacco products in enclosed places of employment. The law supersedes and renders unnecessary local enactment or enforcement of local ordinances regulating tobacco. The practical effect of the state law was to eliminate the need for local governments to enact enclosed workplace smoking restrictions. However, the enactment of local regulations is to be suspended only for as long as and to the extent that the state law remains in effect. If the state law is repealed or modified, local governments shall have the full right to enforce previously enacted laws or to enact new laws.
COLORADO		X	Colorado Statutes Section 25-14-105 specifically allows municipalities to regulate smoking.
CONNECTICUT	X		Connecticut Statutes, Section 1-21b supersedes and preempts provisions of any municipal law or ordinance relating to smoking.
DELAWARE	X		Delaware Statutes Title 16, Section 2908 preempts and supersedes local laws adopted after June 28, 1994.
FLORIDA	X		Florida Statutes Section 386.209 preempts the regulation of smoking to the state and supersedes any municipal or county ordinance.

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GEORGIA	X	Georgia Statutes Section 16-12-2(c) allows local governments to adopt more restrictive laws than the state smoking provisions.
HAWAII	X	Hawaii Statutes Section 328K-6 provides that nothing in the state smoking law prohibits counties from enacting ordinances that are more stringent than the state provisions.
IDAHO	X	Preemption has not been addressed in the laws of Idaho.
ILLINOIS	X	Illinois Statutes Chapter 410, Section 80/11 preempts local regulation of smoking except local laws passed prior to October 1, 1989.
INDIANA	X	Indiana Statutes Section 16-41-37-9 provides that local ordinances are not preempted by the state smoking law.
IOWA	X	Iowa Statutes Section 142B.6 provides that the state smoking provisions supersede inconsistent or conflicting laws.
KANSAS	X	Kansas Statutes Section 21-4013 provides that nothing in the state smoking law prevents cities and counties from regulating smoking more stringently.
KENTUCKY	X	Kentucky Statutes Section 438.300 supersedes any subsequently enacted law.
LOUISIANA	X	Louisiana Revised Statutes, Section 40:1300:26 and 46 provides that no state agency, parish, municipality or other political subdivision may impose ordinances or regulations relating to smoking in an office workplace or public place that are more restrictive than state law. Louisiana Revised States Section 40:300:27 and 40:1300:47, however, provides that the state law does not supersede or repeal or otherwise affect any local ordinance adopted prior to September 1, 1993.
MAINE	X	Preemption has not been addressed in the laws of Maine.

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MARYLAND		X	Maryland Code Section 24-505 provides that the state smoking law does not prohibit any county or municipal corporation from enacting an ordinance or law that is more stringent than the state provisions, except Charles County and St. Mary's County may not enact more stringent laws than the state smoking law.
MASSACHUSETTS		X	Preemption has not been addressed in the laws of Massachusetts.
MICHIGAN	X		Michigan Statutes preempts localities from adopting more restrictive restaurant smoking laws. [This information is taken from the State Tobacco Control Highlights - 1996 published by the Centers for Disease Control and Prevention.]
MINNESOTA		X	Preemption has not been addressed in the laws of Minnesota.
MISSISSIPPI		X	Preemption has not been addressed in the laws of Mississippi.
MISSOURI		X	Missouri Statutes Section 191.777 provides that nothing in the state smoking law prohibits local political subdivisions or boards of education from enacting more stringent ordinances or rules.
MONTANA		X	Preemption has not been addressed in the laws of Montana.
NEBRASKA		X	Preemption has not been addressed in the laws of Nebraska.
NEVADA	X		Nevada Statutes Section 202.249 provides that political subdivisions of state or local governments shall not impose more stringent restrictions on smoking use, sale, distribution, marketing, display or promotion of tobacco.
NEW HAMPSHIRE		X	Preemption has not been addressed in the laws of New Hampshire.
NEW JERSEY	X		New Jersey Statutes Title 26, Chapter 3D-49 supersedes any other statutes, municipal ordinances, rules or regulations adopted relating to smoking except where other laws were adopted to protect life and property from fire.

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NEW MEXICO		X	Preemption has not been addressed in the laws of New Mexico.
NEW YORK		X	New York Public Health Section Chapter 45, Article 13-E, 1399-r provides that nothing in the state smoking laws is to be construed to restrict localities from adoption and enforcement of additional local ordinances which comply with at least minimum applicable standards.
NORTH CAROLINA	X		North Carolina Statutes, Chapter 143, Article 64, Section 143-601 shall not supersede nor prohibit the enactment or enforcement of any otherwise valid local law enacted prior to October 15, 1993. Laws enacted after October 15, 1993 may not contain restrictions regulations smoking that exceed the state law, and local ordinances may only restrict smoking in accordance with the state law in buildings owned, leased or occupied by local government, a public meeting, indoor space of an auditorium, a library or museum, or on public transportation owned or leased by local government.
NORTH DAKOTA		X	Preemption has not been addressed in the laws of North Dakota.
OHIO		X	Preemption has not been addressed in the laws of Ohio.
OKLAHOMA	X		Oklahoma Statutes Annotated, Title 63, Chapter 1, Article 15 Section 1-1527 provides that the State Legislature, by adopted the state smoking laws, intends to preempt any other regulation promulgated to control smoking in public places and to standardize laws that governmental subdivisions may adopt to control smoking.
OREGON		X	Preemption has not been addressed in the laws of Oregon.
PENNSYLVANIA	X		Pennsylvania Statutes, Title 35, Chapter 12, Section 1235.1 preempts and supersedes any local ordinance or rule concerning the subject matter of the act relating to smoking provisions.

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RHODE ISLAND		X	General Laws of Rhode Island, Title 23, Chapter 20.9-11 provides that nothing contained in the state smoking laws shall be construed to restrict the power or authority of any Rhode Island locality from adoption and enforcement of additional local laws that comply with at least the minimal applicable standards to establish smoke-free schools.
SOUTH CAROLINA	X		An attorney general's opinion was issued on December 5, 1990, Opinion No. 90-69, indicating that the General Assembly intended the South Carolina Clean Indoor Air Act of 1990 to be of statewide applicability and except for health care facilities, to preempt local political subdivisions from further regulation of smoking in public indoor areas.
SOUTH DAKOTA	X		South Dakota Statutes Section 10-50-64 provides that the state Legislature is the exclusive regulator of tobacco products, but a person or public entity may voluntarily regulate the use of tobacco products on the person or entity's property.
TENNESSEE	X		Tennessee Statutes Section 39-17-1551 provides that state law occupies and preempts legislation regulating tobacco products, except that cities and counties may regulate tobacco product use in buildings owned or leased by such political subdivisions; airport authorities; utility districts and special school districts.
TEXAS		X	A prior provision that allowed localities to adopt more stringent laws than the state smoking law was removed from the state statute with 1994 amendments to the law.
UTAH	X		Utah Statutes Title 26, Chapter 38, Section 26-38-6 supersedes any ordinance by a political subdivision that restricts smoking and is not essentially identical to the state law.
VERMONT		X	Vermont Statutes Chapter 18, Section 1428 provides that nothing in the state statutes shall be construed to supersede or in any manner affect a municipal smoking ordinance, the provisions of which are at least as protective of the rights of nonsmokers.

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VIRGINIA	X	Virginia Statutes Section 15.1-291.4 provides that local ordinances adopted after January 1, 1990 shall not contain provisions or standards that exceed those established in this chapter.
WASHINGTON		X Preemption has not been addressed in the laws of Washington.
WEST VIRGINIA		X Preemption has not been addressed in the laws of West Virginia.
WISCONSIN		X Wisconsin Statutes, Section 101.123(2)(c) provides that the state smoking laws does not limit the authority of the county, city, village or town to enact ordinances or of any school district to adopt policies in compliance with the purpose of the section that protect the health and comfort of the public.
WYOMING		X Preemption has not been addressed in the laws of Wyoming.

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