



# 28-Day Rapid Response Survey & Report: Addressing Preemption

Tobacco products are cheap, readily available, and heavily marketed in stores. This makes it difficult for current smokers to stop and promotes tobacco use to Oregon's youth. The Health Promotion and Chronic Disease Prevention Section is approaching strategies in the tobacco retail environment through two mechanisms. The first is a statewide requirement in the regular annual funding stream (Core Tobacco Prevention and Education Program or TPEP) that goes to all Local Public Health Authorities. The second strategy is a special funding stream (SPArC Tobacco-Free) for seven counties to focus exclusively on tobacco retail policy advancement. The Tobacco Retail Evaluation (TRE) supports this work through ongoing systematic assessment and reporting. The TRE is guided by a small panel (TRE user panel) of Oregon tobacco control practitioners and facilitated by the Rede Group.

**TRE**  
Tobacco Retail  
Evaluation

## Introduction

**“Preemption occurs when a “higher” level of government eliminates or limits the authority of a “lower” level of government to regulate a certain issue.”**

—Tobacco Control Legal Consortium

A broad consensus exists among public health experts that preemption is detrimental to tobacco control efforts.<sup>1</sup> Based on the threat of preemption of local tobacco point of sale policies in Oregon, The Tobacco Retail Evaluation user panel wanted to know more about Tobacco Prevention and Education Program Grantees' understanding about and needs around preemption.

## Questions about Preemption

Rede worked with the TRE user panel to conduct this 28-Day Rapid Response Survey and Report\* to gather information and perspectives from TPEP and SPArC Tobacco-Free Grantees about their level of understanding about preemption and their experiences educating others about preemption. In December 2016, Rede conducted this brief survey, which received responses from 32 of the 34 TPEP/SPArC grantees.

44%

of grantees understand preemption and why it is an important tobacco control issue very well and can easily explain it to others.

56%

of grantees indicated less confidence about their understanding of preemption.

61%

of grantees have taken steps to educate others in their organization or community about preemption.

<sup>1</sup> Tobacco Control Legal Consortium (2014). Why Preemption is Bad for Tobacco Control [Fact Sheet]. Retrieved from <http://publichealthlawcenter.org/sites/default/files/resources/tclc-fs-why-preemption-bad-tobacco-control-2014.pdf>

## Findings

+ The majority of grantees (56%) either do not understand preemption or do not feel their understanding is sufficient to allow them to confidently explain preemption to others.

+ Over half, (61%) of grantees have taken steps to educate others in their organization or community about preemption.

+ Of the 39% (12) of grantees who have not taken steps to educate others about preemption, (67%) say they have not done so due to a lack of time or resources and half (50%) have not done so because they are not sure how to raise the issue or frame the discussion.

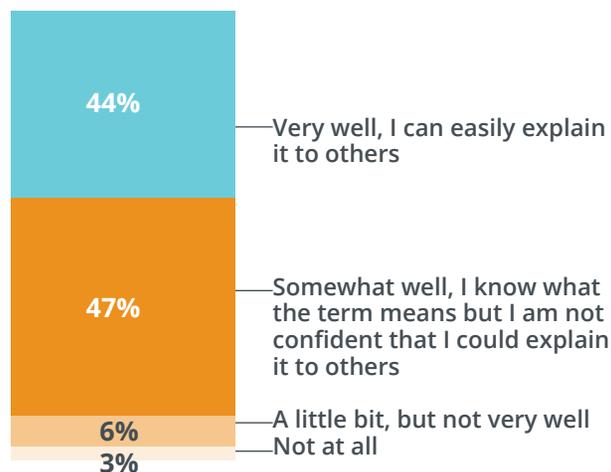
*Note: Responses to this question do not add to 100% because grantees could choose multiple responses.*

+ Most grantees (84%) thought it would be helpful to have a fact sheet with talking points about preemption to help them educate others about the topic.

+ Many grantees (39%) would find it helpful to attend a training or webinar about preemption to help them to educate others about the topic.

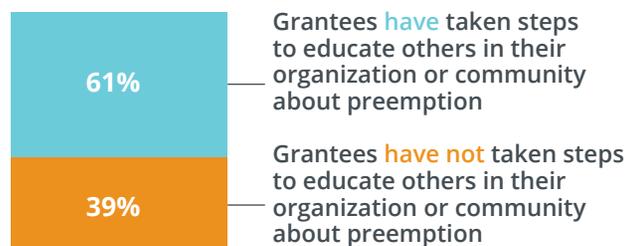
### Grantees Level of Understanding About Preemption

Grantees indicated the following level of understanding about preemption: (n=32)



### Grantees Educating Others About Preemption

Grantees responded in the following way regarding educating others in their organizations about preemption: (n=31)



“Preemption reduces local control, it undermines our ability to protect the health of our community by preventing the passage of strong policies. Preemptive state or federal law can invalidate many local tobacco control policies that represent years of efforts at the local level.”

—Grantee

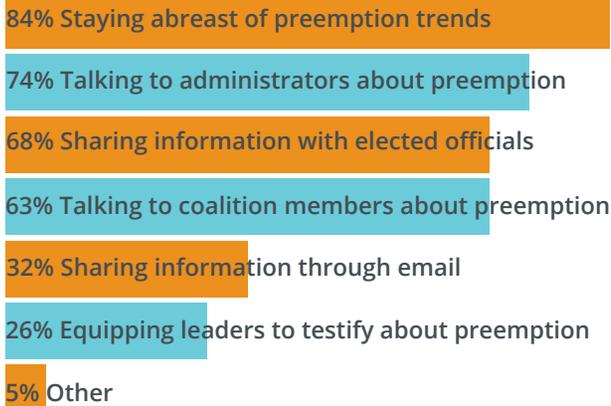
“I had conversations with public health staff and prevention task force members about preemption, some were not aware this existed and were glad to be educated about it.”

—Grantee

## Findings Continued

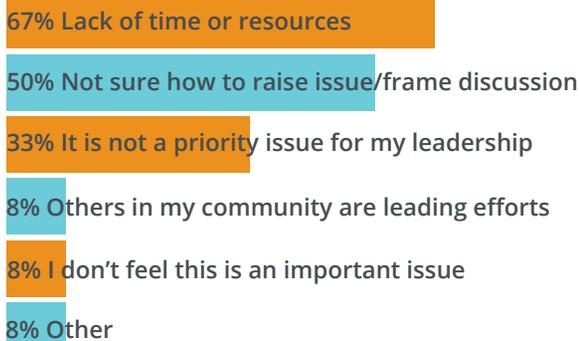
### Ways Grantees are Addressing Preemption

Grantees indicated the following ways they are addressing preemption:  
(n=19)



### Reasons Grantees are not Taking Steps to Educate Others About Preemption

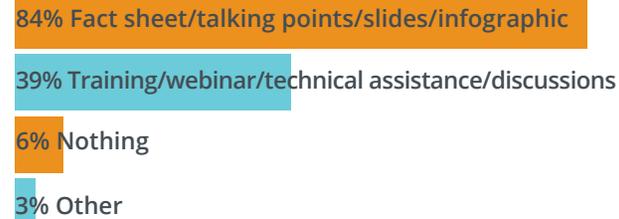
Grantees indicated the following reasons for not taking steps to educate others about preemption:  
(n=12)



*Note: Responses to some questions do not add to 100% because grantees could choose multiple responses.*

### Tools Grantees Need to Educate Others About Preemption:

Grantees indicated the following tools needed to educate others about preemption:  
(n=31)



**“Preemption hurts localities because what is needed in one place is not exactly what is needed in another. For example, what happens and what is needed in Portland is very different than what is happening and what is needed in rural Oregon.”**

—Grantee

## Advice from Grantees

### Key Talking Points Grantees Have Used to Explain Preemption:

- Preemption potentially removes local control and ability to respond to community needs. Preemption prevents a more local level of government from strengthening a law passed by a less local level of government.
- The tobacco industry uses preemption as a tactic to weaken local level tobacco policies to prevent themselves from losing business and profits.
- Preemption has negatively affected tobacco control in Oregon, for example, preemption of local authorities to pass stronger laws restricting tobacco vending machines or to pass local tobacco taxes.
- Refer or provide others with preemption resources such as:

[Why Preemption is Bad for Tobacco Control by the Tobacco Control Legal Consortium.](#)

## Advice from Grantees Continued

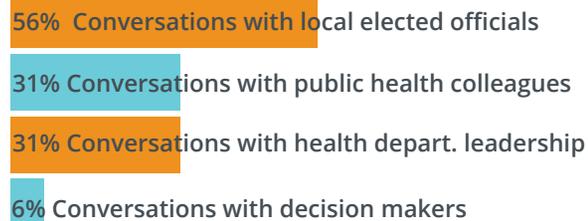
### Key Talking Points Used by Grantees to Explain Preemption:

(n=17)



### Successful Efforts/Activities Grantees Have Undertaken to Educate Others:

(n=16)



### Challenges Grantees Have Faced In An Effort To Educate Others About Preemption:

- Not having access to county commissioners to discuss preemption.
- Preemption discussions with non-cooperative community partners, key stakeholders, decision makers, or the local judge.
- Local decision makers' ideas that the state should address tobacco policy and they are fine with the cookie-cutter, blanket policy. History of preemption on other policy work has deflated enthusiasm of some decision makers to move forward and get so far but then having to "throw it out."

## Conclusions

+ Some grantees need more time, resources, and education on how to raise the issue or frame the discussion about preemption to educate others in their organization or community about preemption.

+ Grantees had the greatest success educating others about preemption when they talked to various audiences (i.e. decision makers, public health staff and leadership, city attorney, county planning groups, other city staff).

+ Grantees tend to speak more broadly about how preemption will affect local efforts.

## Recommendations

HPCDP, with support from the TRE user panel and findings from the 28-day survey, should:

+ Develop a fact sheet that can be used by TPEP Coordinators to educate administrators and decision-makers about preemption.

+ Offer training to TPEP Coordinators about preemption and provide recommendations for how they should be addressing preemption in their work.

+ Provide stronger guidance on whom grantees should be educating about preemption and how they should educate them about preemption.

\*This is a rapid response evaluation that follows a four-step process completed over the course of 28 days.

### The process includes:

1. Develop the survey instrument
2. Collect survey responses
3. Analyze survey responses
4. Report survey findings

The purpose of this evaluation method is to collect information from grantees to report and share findings quickly so those findings can be used in grantees current and future work to implement tobacco retail policy.

Rede group plans to conduct a series of four or five 28-Day Rapid Response Survey and Reports on various topics that will contribute to and inform the larger Tobacco Retail Evaluation.

