

## Securing Local Control of Our Food & Environment

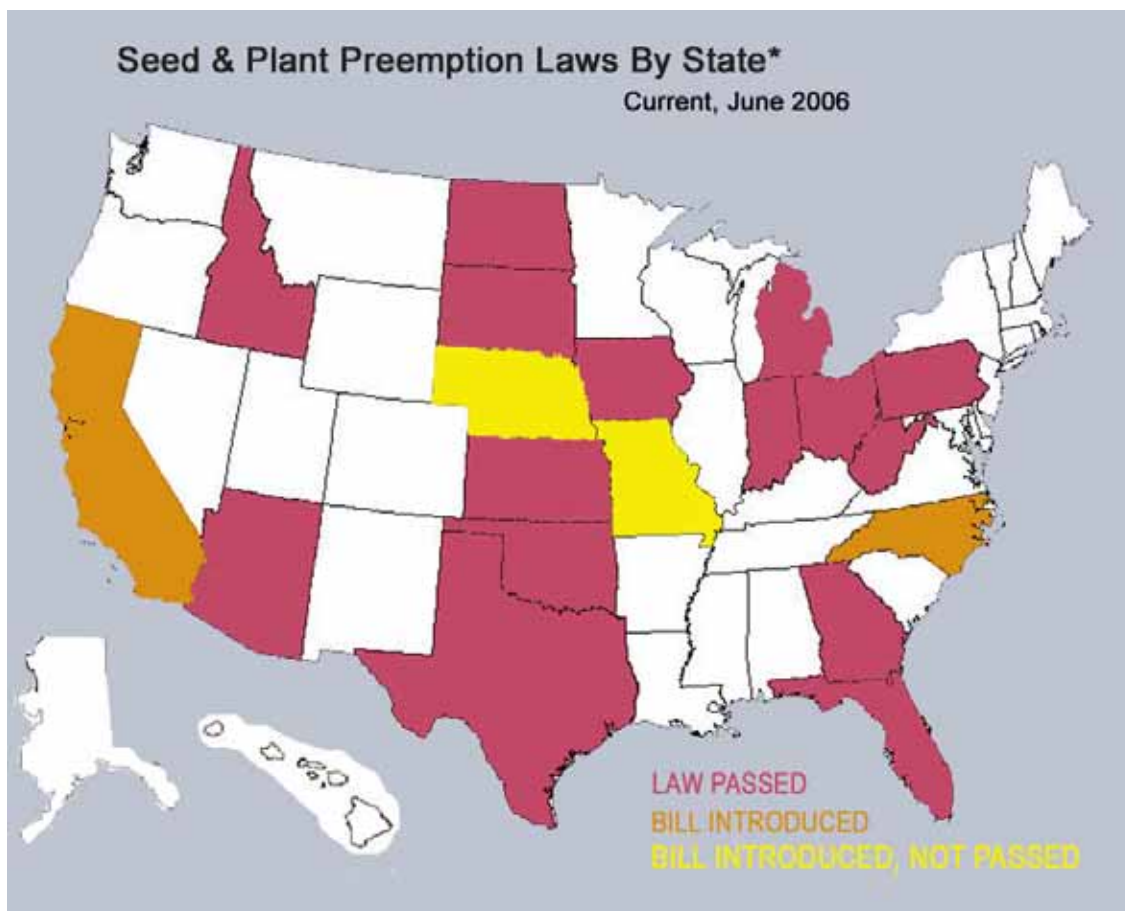
### How to Fight Preemptive Legislation in Your State

#### What is Preemption?

Preemption is a legislative action in which higher levels of government (state or federal) strip lower levels of government of their control and regulatory authority over a specific subject matter.

Legislation has been introduced in seventeen states to remove local control of seeds and plants. The bills have been introduced in response to local governments and communities passing restrictions on the planting of genetically modified organisms. To date, three California counties, two cities, and nearly 100 New England towns have passed local ordinances and resolutions limiting genetically modified organisms. These restrictions are in response to the growing concerns that genetically modified organisms will produce ecological contamination and prove detrimental to less intensive, more sustainable farming systems.

Preemptive legislation's sole purpose is to revoke local control and decision-making. The bills are sweeping in their effect. They do not just preempt local control of genetically modified organisms, but strip local authority of all seeds, and, in some cases, all plants including trees.



## Why is Preemption Used?

In the past twenty years the majority of states have hosted numerous pieces of legislation removing the authority of local decision-making. Much of this legislation was supported by politically influential industries. The pesticide, tobacco, fertilizer, and now biotechnology corporations have strongly encouraged the passage of some form of preemption.

As an example, currently 40 states have preemptive pesticide laws prohibiting local control of pesticides; 20 states have preemptive tobacco laws that revoke local control over clean air policies; and a number of states have passed laws restricting local control of fertilizers including the deposit of sewage sludge.

Like the tobacco industry, the biotechnology corporations brought model legislation to statewide legislatures. The seed and plant preemption language is eerily similar from state to state and has been traced to a May 2004 summit of the American Legislative Exchange Council (ALEC). At this summit, ALEC members passed a resolution on "Biotechnology State Uniformity"

## What You Can Do to Prevent the Passage of Preemptive Legislation

***Regardless of how you feel about the GMO issue, taking away local voters' rights is a very serious threat to democracy." - California Senator Wes Chesbro***

***DON'T WAIT! Start now and be a part of the offense, RATHER than the defense!***

1. Find out where your state senators and representatives stand on the issue of preemption. Be sure to let your representatives know that you are opposed to preemption—that you believe in the rights of local communities to protect health, safety, and welfare.
2. Target Key Legislators Early! Identify legislators who may oppose preemption as a tactic. Many of these legislators may have started their careers in local government, and are opposed simply because they believe in local authority. Other legislators may be sympathetic to the issue itself. Explain to legislators that the seed and plant preemption laws originated with the American Legislative Exchange Council (ALEC). Many legislators know of this public policy group and find their tactics dubious. Preemption is not necessarily a partisan issue.
3. Be vigilant against last minute maneuvers. Last-minute amendments have been added in two states that have introduced preemptive laws pertaining to seeds and plants. In Ohio, a preemptive seed amendment was added to a 2500 page operating budget bill. In Kansas, a preemptive seed amendment was added (at the last minute) to a fertilizer bill.
4. Build Coalitions. Many of the preemption bills are broad-reaching. Identify all possible allies and include them in all activities to oppose preemptive legislation. Allies can include organizations, businesses, and associations such as the National Association of Counties, League of Cities, Native Plant Societies, and Environmental organizations.

Develop an opposition letter that allies can sign and present to the legislature. A model letter is available at: <http://environmentalcommons.org/SB1056-oppose.pdf>

5. Track state legislation. Most state legislatures have user-friendly bill tracking services available on the Internet. Spend a little time looking for bills that strip local controls. Words to use in your searches include; seeds, plants, and weeds. Search any and all of these key words.

#### Words to Watch For

While the first wave of seed and plant preemption bills used the words “preempt,” the industry can achieve state authority using a myriad number of words. When searching legislation be aware that the following words could all remove local control.

**Express Preemption:** An Act relating to agriculture; providing for certain jurisdiction for seeds; preempting local jurisdiction for seeds; providing for codification; and providing an effective date. Okalahoma, HB1471, Passed April 2005.

**Sole Authority:** The Board of Agriculture shall have sole authority for the banning of plants as defined in G.S. 106 202.12(7). North Carolina, H671, Introduced March 2005.

**Enjoin:** Enjoin the enforcement of any ordinance, regulation, or action of any political subdivision of this state which is in conflict with any provision of this chapter or any rule promulgated pursuant to § 38-12A-20. South Dakota, SB152.

**Uniform Statewide Regulation:** It is the intent of the general assembly in enacting this Act to accomplish uniformity in oversight and regulation of seed used in agriculture. It is not intended that this Act preclude a local governmental entity from pursuing governmental activities not in conflict with this Act. Iowa, HF642, Passed April 2005.

**Statewide Concern:** The regulation and use of seeds are of statewide concern. The regulation of seeds pursuant to this article and their use is not subject to further regulation by a county, city, town, or other political subdivision of this state. Arizona, SB1282, passed April 2005..

#### What if My State Already has Passed Preemptive Legislation?

1. Continue to make use of Local Government. Even if your state has passed preemption legislation, work closely with government officials to draft and pass local resolutions. This not only serves to document the values and ideals of your community, but these resolutions form a dossier of sorts that you can present to your legislators when seeking repeal of these undemocratic laws.

2. A Model for Repeal: Restoring Local Control

Once on the books, preemption laws are very difficult to repeal. This does not mean it cannot be done. It will take a well-strategized and persevering campaign. For example, Illinois passed a tobacco preemption law in 1989. It has taken 15 years for clean air activists to repeal the preemption law. It looks as if 2005 will be the year that local control of tobacco related issues is restored in Illinois.

Key elements of a repeal campaign should include:

- Dedication to education on the issue.
- Effective collaboration amongst allied, broad-based organizations
- Strong grassroots support. The grassroots remains strong when they are activated. Offer numerous opportunities to communicate to legislators, media, and other citizens.
- Identify and consistently communicate with supportive legislators
- Always return to your community and strengthen local legislation.

3. Write your state senators and representatives. Write them to either thank them for preserving local control or to let them know that you are disappointed in their voice/vote in support of stripping of local control.

### **Organizations Fighting Pre-emption of Local Rights**

Center for Food Safety, Washington, DC  
(202) 547-9359, peterjenkins@icta.org

Environmental Commons, California  
(707) 884-5002, info@environmentalcommons.org

Farmer to Farmer Campaign on Genetic Engineering, Wisconsin  
(877) 968-3276, bwenzel2@aol.com

Californians for GE-Free Agriculture, California  
(415) 561-2523, calgefrees@calgefrees.org

Institute for Social Ecology, Vermont  
(802) 454-7138, biotech@social-ecology.org

Ohio Environmental Council, Ohio  
(614) 487-7506, kristy@theoec.org

Southern Forests Network, North Carolina  
828-277-9008, alyx@southernsustainableforests.org

Organic Consumers Association, Minnesota  
415-271-6833, ryan@organicconsumers.org

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