Growing Role of US States on Population Health

Jennifer Karas Montez, PhD

Professor of Sociology
and
Gerald B. Cramer Faculty Scholar in Aging Studies
Syracuse University

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Female LE at Birth in 22 High-income Countries

Source: Human Mortality Database.
Countries include Australia, Austria, Belgium, Canada, Denmark, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, UK, US, West Germany.
U.S. Female LE at Birth by State

Source: Human Mortality Database, US Mortality Database. Figure courtesy of Steven Woolf.
U.S. Female LE at 25

“Compared to the 1970s, the policy regime under which an individual lives is increasingly determined by her state of residence.”
(Grumbach 2018)
Divergence in State Policies

By 2019...

<table>
<thead>
<tr>
<th>Policy</th>
<th>Mississippi</th>
<th>New York</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cigarette tax</td>
<td>$0.68</td>
<td>$4.35</td>
</tr>
<tr>
<td>Minimum wage</td>
<td>$7.25</td>
<td>$11.10-$15</td>
</tr>
<tr>
<td>EITC</td>
<td>No</td>
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</table>
Proliferation of State Preemption Laws, 1997-2017

Source: Economic Policy Institute (https://www.epi.org/preemption-map/)
US state preemption laws and life expectancy


Notes: States with preemption laws in 0 of the 8 policy domains include CA, HI, IL, MA, NJ, NY; states with laws in 1 domain include CT, DE, ME, MN, MT, NE, NM, VT, WV, WY; states with laws in 2 domains include AK, CO, IA, KY, MD, ND, RI, TX, WA; states with laws in 3 domains include AR, ID, IN, NV, OH, OR, PA, SC, VA; states with laws in 4 domains include LA, MI, MS, MO, NH, SD, UT; states with laws in 5 domains include AL, AZ, GA, KS, NC, OK; states with laws in 6 domains include FL, TN, WI.

Local Initiatives, State Preemption, and Public Health

Douglas Wolf
Shannon Monnat
Jennifer Karas Montez

Syracuse University

Supported by RWJF’s “Policies for Action” (P4A) program
Preempting a Patchwork

Examining State Efforts to Preempt Local Policies

December 4, 2019
Project overview

Do local laws create a harmful “patchwork” of regulations?

We examine multiple policy areas for:

- Use of the patchwork argument
- Plausibility of the patchwork argument:
  - A “policy frame” analysis
- Evidence for effects of a patchwork
- Opportunities for future research
Two-Step Scan

Initial Scan Only
- Firearms
- Inclusionary zoning
- Minimum wage
- Broadband
- Sanctuary Cities
- Tobacco Minimum age

Deeper Scan
- Paid sick
- Rent control
- Plastic bags
- Anti-discrimination
Paid Sick

Twenty-three states have passed preemption laws preventing localities from requiring employers to provide paid sick time. Preemption proponents have argued that different local regulations:

- Increased compliance costs, leading to:
  - Higher prices
  - Pressure to reduce workforce costs
  - Less economic competitiveness

Employment regulation at the municipal level “has created an inconsistent patchwork of regulations that make it difficult for cities to attract new businesses and create new jobs.”

- director of government and public affairs for the San Antonio City Council
Patchwork Policy Frame: Paid Sick’s Supposed Costs

Direct Patchwork Costs
- Create compliance systems (if in multiple jurisdictions)
- Develop disparate local policies
- Higher compliance costs

Indirect Patchwork Costs
- Raise prices
- Increase automation
- Reduce workforce
- Close/relocate establishments

Locality Costs
- Customers consume less locally
- Higher unemployment
- Reduces business attraction
- Smaller tax base

Extra-Local/State-level Effects
- State seen as burdensome to business
- State less competitive economically

Create compliance systems (if in multiple jurisdictions)
Develop disparate local policies
Higher compliance costs
Raise prices
Increase automation
Reduce workforce
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Smaller tax base
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Rent Control

All but 5 states (CA, MD, NJ, NY, OR) preempt local rent control. BUT potential repeals of state bans have brought national attention back to the issue.

Preemption proponents have argued that different local regulations:

- Create uncertainty for developers insofar as each city can freely modify rent caps at any time
- Complicate revenue projections on housing investments leading developers to move capital elsewhere
- Decrease new housing construction

“Today, however, repealing Costa-Hawkins could create a haphazard patchwork of differing rent control rules in cities across the state. Moreover, the rules in each city could be subject to change at any point in the future, creating untold uncertainty for property owners, investors, lenders and developers.”

Plastic Bags

As of August 2019, 17 states have passed preemption laws to prevent local governments from banning various plastic items, and several others have introduced similar legislation (cite).

Preemption proponents have argued that different local regulations:

- harm retailers: adding complexity, especially for those operating in multiple jurisdictions
- confuse consumers: uneven pricing leading to less competitive businesses in affected communities

“If we just continue on this path toward banning everything, you end up with a hodgepodge of local laws that don’t work for consumers, don’t work for businesses and miss the mark on the environment.”

- Matt Seaholm, American Progressive Ban Alliance
Anti-Discrimination

Three states – Tennessee, Arkansas, and North Carolina – have passed laws preempting the passage of local nondiscrimination ordinances.

Less active recently: business groups have often opposed these laws

Strong economic rhetoric: multiple named: “Intrastate Commerce Improvement Act”

Preemption proponents have argued that different local regulations lead to:

- Administrative compliance burden
- A worse economic climate

Without Public Chapter 278, businesses desiring to contract with various local governments across the state would have been faced with trying to comply with a hodge-podge of different and sometimes inconsistent personnel policy requirements relating to discrimination. These local laws can hinder business growth, impair job creation, impede intrastate commerce, and result in increased costs to taxpayers.

– During debate on Tennessee’s law
Takeaways

- Lessons from the Laffer Curve:
  - Perhaps the nub of something to investigate
  - BUT the ‘harm’ of a patchwork is rarely, if ever, quantified: it *seems* plausible, without being justified

- So who is actually harmed?
  - Businesses: Small, but more than one location
  - Employees: fewer hours, fewer jobs?
  - Consumers: may pay more
  - Government: enforcement costs, tax base loss (eventually…maybe)
## Considerations for the Field

- Interrogate, don’t assume, the merits of the argument
- Ask for evidence
- Local / state relationship as to the state / federal relationship: the patchwork can ‘scale up’
- A harmful patchwork or beneficial local tailoring?

### Local Paid Sick Days Policy Enactment

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<th>Extra-local/state-level effects</th>
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**Workers feel empowered:**
- Employees are healthier
- Easier for businesses to find/retain workers
- Local democracy is strengthened
- Local paid sick days policy enactment

**Workers enjoy better benefits:**
- Policy impacts can be tested
- Employees work less while sick
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**Locality Benefits:**
- Improved racial equity
- Reduced emergency department use
- Improved business performance
- Increased voter participation

**Extra-local/state-level effects:**
- State seen as friendly to workers
- ‘Race to the top’ increases well-being of workers across state

**Considerations for the Field:**
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Next Steps: Building a Research Agenda

- What research questions do we need to ask?
- What data do we need?
- Urban: doing a deeper dive on Paid Sick Laws
December 4, 2019

LSSC: Preemption

Jennifer L. Pomeranz, JD, MPH
Federalism

- Federal government
- State governments
  - Local governments
FEDERAL AND STATE ACTIONS, WHEREVER APPROPRIATE, SHOULD SET MINIMUM STANDARDS (FLOOR PREEMPTION) ALLOWING STATES AND LOCALITIES TO FURTHER PROTECT THE HEALTH AND SAFETY OF THEIR INHABITANTS. PREEMPTION SHOULD AVOID LANGUAGE THAT HINDERS PUBLIC HEALTH ACTION.

For the Public’s Health: Revitalizing Law and Policy to Meet New Challenges, Committee on Public Health Strategies to Improve Health, Institute of Medicine. June 21, 2011
State Preemption To Block Public Health Policy
State Preemption To Block Public Health Policy
Tactics

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- Propose and enact bills that preempt multiple non-related topics simultaneously
- Punitive preemption
- Preemption of litigation by providing industries immunity from lawsuit
THANK YOU!

jlp284@nyu.edu