



To: Members of the Wisconsin State Legislature  
From: Alison Prange, Government Relations Liaison, American Cancer Society  
Jeff Ranous, Senior Government Relations Director, American Heart Association  
Dona Wininsky, Public Policy Director, American Lung Association  
Maureen Busalacchi, Executive Director, Smokefree Wisconsin  
Re: LRB – 0963/4  
Date: March 24, 2005

Our groups support strong secondhand smoke policies, which have been associated with reductions in secondhand smoke exposure and decreased cigarette consumption among both adults and youth. However, newly drafted legislation that gives the illusion of improving the Wisconsin Clean Indoor Air Act will also preempt local governments and eliminate their ability to enact stronger, local laws relating to smoking in public places and workplaces. It will also weaken some local laws already in place. This is not a blueprint for progress.

This legislation sets a dangerous precedent and would allow for the establishment of a weak public health standard that will be difficult, if not impossible, to strengthen. Our groups oppose LRB – 0963/4 and any other legislation that limits the power of local governments to restrict tobacco use. Legislators can address the gaps in the current Clean Indoor Air Act and protect workers and citizens without preempting local officials.

**We believe that LRB – 0963/4 is bad public policy, and we urge you not to sign onto LRB – 0963/4, and respectfully ask that you oppose legislation that preempts local control.**

**1. Preempting local governments would reverse existing health protections in some Wisconsin cities as well as the positive momentum elsewhere towards protecting more citizens and workers from secondhand smoke.** Wisconsin's Clean Indoor Air Act contributes to the smoke-free status of some workplaces and public places but there are significant gaps in the law. Wisconsin communities have taken action to address these gaps by adopting their own local level policies to reduce or eliminate secondhand smoke exposure in workplaces and public places. LRB – 0963/4 is not an improvement over the current state clean indoor air law and does little to protect Wisconsinites from secondhand smoke exposure. This legislation gives the illusion of improving state secondhand smoke law while simultaneously tying the hands of local municipalities who want to provide citizens and workers in their communities with additional protections against secondhand smoke exposure.

**2. Local tobacco control policies are stronger, more enforceable and better tailored to a community's needs than statewide policies.** Local governments traditionally have broad power to adopt ordinances designed to protect public safety and health and should be free to enact tobacco control policies that are tailored to the needs of that community and that represent what their citizens support. Local tobacco control ordinance campaigns create great community awareness by engaging the whole community in a discussion of public health. Debate of local smoke-free ordinances can educate the community about tobacco, change attitudes, and alter social norms about tobacco use. Compliance with local policies is higher due to greater public knowledge and awareness of the new law and a local enforcement agency makes local laws easier to enforce. Preemption removes control from local governments and prevents them from enacting stronger, more comprehensive laws or tailoring local laws to address specific community needs.



**3. The promotion of state legislation that preempts the authority of local government to enact and enforce tobacco control ordinances is a tobacco industry strategy that undermines public health.** Preemption laws are promoted on the pretext of providing for uniform statewide statutes, but in fact serve the tobacco industry by weakening existing local laws and precluding stronger local laws from being passed in the future. Local ordinances are almost always stronger and more comprehensive than corresponding state tobacco control legislation because the tobacco industry exerts a stronger influence at the state level. According to internal industry documents, the enactment of preemptive tobacco control laws is one of the tobacco industry's top priorities. Preemption compromises the health and rights of Wisconsinites and only benefits the tobacco industry.

**4. Local leaders and their constituents have a right to local government.** Laws enacted at the state level benefit the public health by implementing statewide standards. Normally these laws set minimum requirements and allow the continued passage and enforcement of local ordinances that establish a greater level of protection of public health. Preemption reverses this norm and nullifies existing ordinances in order to meet a weaker statewide standard. Wisconsin has had a long tradition of responsive local government and respect for local control. Restricting control over public health matters to the exclusive jurisdiction of the state legislature undermines this tradition and the foundation of the public health system. Local governments should be able to develop secondhand smoke policy free from veto by elected representatives of other parts of the state who might disagree with the particular approach advanced by the representatives of the locality involved or who fail to appreciate the local perception of the problem.