



House Municipal Government and Housing Committee

TO: Representative Joseph Solomon, Chairperson
 Representative Jean-Phillippe Barros, First Vice Chairperson
 Representative Mia Ackerman, Second Vice Chairperson
 Members of the House Municipal Government and Housing Committee

DATE: March 25, 2021

SUBJECT: **Support for H5633**

Our organizations would like to thank the Committee for the opportunity to provide testimony on H5633. We believe that the development of public policy at the local level creates community debate, education, and engagement in a way that policymaking at the state or federal level generally does not. This engagement creates a broader base of public understanding that often leads to more sustainable policies. **Our organizations support giving the power back to local authorities to not only enact but also enforce local policies and for that reason, we strongly support H5633.**

The role that local communities play in the advancement of public health cannot be overstated. Localities have historically served as avenues for policy experimentation and have been at the forefront of adopting innovative policies that protect the public from the harmful health effects of tobacco use.¹ The success of such innovative policies has, in turn, spurred other localities, states, and even the federal government, to adopt tried-and-tested policies to improve public health on a larger scale.²

Local authority fosters breakthroughs and customized solutions. Local governments are sometimes called the “laboratories of democracy.” This local authority creates an environment where community leaders can pioneer better policies, raising the bar for everyone. However, when it comes to tobacco control policy, our localities have been hindered by lawsuits from the tobacco industry. Several towns, including Barrington, Johnston and Middletown, have been subject to litigation regarding local tobacco control policies – and Providence and Central Falls have received cease and desist letters. This litigation moves far beyond the impact of one city or town, and acts as a deterrent for communities seeking to institute policies to protect the public health of their youth and residents for fear of similar lawsuits.

¹ In *New State Ice Co. v. Liebmann*, Justice Brandeis extolled the role local and state governments played as “laboratories of democracy.” 285 U.S. 262, 311 (1932)

² Diller, *supra* note 9, at 1119

Preemptive laws prevent localities from adopting policies that are tailored to meet local needs.³ Our federal and state governments are composed of diverse constituencies, and policies adopted on a broad national or state level do not always address health equity and issues unique to our local communities. In order to address community-specific public health issues, it is therefore important that local communities retain the power to adopt public health measures tailored to their needs.⁴ From a health equity standpoint, the use of local knowledge to forge community-specific solutions enables localities to employ a targeted approach to combat health disparities and ensure equitable access to better public health.⁵ Additionally, public health policies are most likely to succeed when they are adopted in a democratic process that ensures meaningful and direct engagement by the people most affected.⁶ Localities are in the best position to provide this type of engagement with community stakeholders and residents.

It is time we give the authority back to cities and towns to enact and enforce sound public health policies. We would like to thank the Committee for pursuing this issue. Attached you will find a fact sheet that further explains the importance of local control as it relates to tobacco policies. If you have any questions or need additional information, please feel free to contact any of the organizations supporting this testimony below.

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Rhode Island Thoracic Society
Rhode Island Public Health Institute
RI Certified School Nurse Teachers Association
Rhode Island Student Assistance Services

³ <https://www.publichealthlawcenter.org/sites/default/files/resources/Untangling-the-Preemption-Doctrine-in-Tobacco-Control-2018.pdf>

⁴ See Frank J. Goodnow, City Government in the United States 39 (1908) (describing localities in the United States as “organ[s] for the satisfaction of local needs”); State v. Hutchinson, 624 P.2d 1116, 1122 (Utah 1980) (“The wide diversity of problems encountered by county and municipal governments are not all, and cannot realistically be, effectively dealt with by a state legislature which sits for sixty days every two years to deal with matters of general importance.”).

⁵ Julie Ralston Aoki et al., Maximizing Community Voices to Address Health Inequities: How the Law Hinders and Helps, 45 J. Law Med. Ethics, 11 (2017)

⁶ Id.

Inspiring a tobacco-free GENERATION

Rhode Island

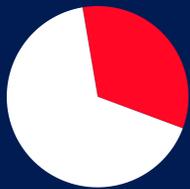


2021 | Science-Based Policy Recommendation

Enabling Legislation Giving Power to RI Cities and Towns

Legislation that would give cities and towns throughout Rhode Island the ability to pass AND enforce local tobacco control laws is critical to enabling communities to protect their youth and residents. Barrington, Middletown, Johnston, Providence, and several other cities and towns have been faced with lawsuits or threats of lawsuits by Big Tobacco and Big Vape if they passed and enforced local tobacco laws. Rhode Island's cities and towns are being bullied into backing down from policies designed to address their youth and residents' public health needs.

Ensure your community has the ability to protect their citizens



33.3%

Rhode Island High Schoolers use a tobacco product



**Rhode Island
Communities**

have proven solutions to combat these raising rates of use



**Big Tobacco
& Big Vape**

are suing Rhode Island municipalities and forcing them to roll back policies



YOU

have the power to change this and empower your community

EMPOWER > PREVENT > SAVE

Rhode Island communities to pass and enforce tobacco control policies without fear of costly lawsuits

Big Tobacco and Big Vape from suing your municipality for policies that protect their citizens

the lives of Rhode Islanders



American Heart Association.



Enable RI Communities

Preemptive laws prohibit cities and towns from enforcing local tobacco ordinances and prevent localities from adopting policies that are tailored to meet local needs.⁶ Our federal and state governments are composed of diverse constituencies, and policies adopted on a broad national or state level do not always address health equity and issues unique to our local communities. In order to address community-specific public health issues, **it is important that local communities retain the power to adopt public health measures** tailored to their needs.⁷ From a health equity standpoint, the use of local knowledge to forge community-specific solutions enables localities to employ a targeted approach to combat health disparities and ensure equitable access to better public health.⁸ Additionally, **public health policies are most likely to succeed when they are adopted in a democratic process that ensures meaningful and direct engagement by the people most affected.**⁹ Localities are in the best position to provide this type of engagement with community stakeholders and residents.

Governor Raimondo's FY 2021 proposed budget included language that would have given cities and towns throughout Rhode Island the ability to pass and enforce local tobacco control laws.

This needs to remain a policy priority as Rhode Island's cities and towns are being bullied into backing down from policies designed to address their youth and residents' public health needs. It is time we give the power back to our localities.



For More Information:

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- https://www.tobaccofreekids.org/assets/content/what_we_do/state_local_issues/settlement/FY2014/2014_03_updates
- <https://www.cancer.org/cancer/cancer-causes/tobacco-and-cancer/smokeless-tobacco.html>
- <https://www.tobaccofreekids.org/assets/factsheets/0333.pdf>
- <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6438a2.htm?>
- <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4502793/>
- <https://www.publichealthlawcenter.org/sites/default/files/resources/Untangling-the-Preemption-Doctrine-in-Tobacco-Control-2018.pdf>
- Frank J. Goodnow, City Government in the United States 39 (1908) State v. Hutchinson, 624 P.2d 1116, 1122
- Julie Ralston Aoki et al., Maximizing Community Voices to Address Health Inequities: How the Law Hinders and Helps, 45 J. Law Med. Ethics, 11 (2017)
- Dai H and Hao J. Flavored Electronic Cigarette Use and Smoking Among Youth. Pediatrics. 2016;138
- Villanti AC, et al. Flavored Tobacco Product Use in Youth and Adults: Findings From the First Wave of the PATH Study
- FDA. Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol versus Nonmenthol Cigarettes (2013).
- Villanti, A., et al., "Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004-2014," Tobacco Control, published online
- HHS, "Tobacco Use Among US Racial/Ethnic Minority Groups: A Report of the Surgeon General," 1998
- https://www.cdc.gov/tobacco/basic_information/tobacco_industry/menthol-cigarettes/index.html
- <https://www.cdc.gov/tobacco/disparities/african-americans/index.htm>

