Grassroots Public Health:
Preemption and Movement Building in the Campaign for Residential Fire Sprinklers

Hot Topics in Preemption
From Fast Food to Fire Sprinklers to Safety Nets
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Preemption and Movement Building in Public Health, Phase 2
Oakland, California
Grassroots Public Health:
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Grassroots Movement
Noun
1. An organized effort to address threats to the health of the community, led by grassroots advocates and groups.
2. How to make real change in public health.

Usage: <Grassroots movements change society, not just laws.>

- Power
- Education
- Local Action
- Passion
- Capacity
- Policy Change
- Innovation
- Social Change
- Compliance
- Self-Determination
- Social Capital
- Sustainability
Grassroots Movement Building and Preemption in Public Health
Grassroots Movement Building and Preemption in the Campaign for Residential Fire Sprinklers

**Residential Fire Deaths and Injuries (2010)**

- In 2010, fires in the United States caused:
  - 3,120 deaths (exclusive of firefighters)
  - 17,720 injuries
  - $11.6 billion in property loss

- Approximately 85% of all fire deaths occur in one- and two-family homes

- Most residential fire deaths and injuries are preventable.

Mark Pertschuk, JD, Robin Hobart, MPH, MPP, Marjorie Paloma, MPH, Michelle A. Larkin, JD, MS, RN, Edith D. Balbach, PhD
Automatic Fire Sprinklers

1874  An effective sprinkler head is patented (designed for factories)

1896  National Fire Protection Association (NFPA) publishes the first installation standard for automatic sprinkler systems

1911  146 workers killed in the Triangle Shirtwaist fire

1975  NFPA publishes NFPA 13D, an installation standard specifically for one- and two-family dwellings and mobile homes

2008  International Code Council adds fire sprinkler requirement for all new 1- and 2-family homes to the 2009 edition of the model International Residential Code (IRC)
Do Fire Sprinklers Work?

- Automatic fire sprinklers are the “most effective fire loss prevention and reduction measure with respect to both life and property.” (FEMA 2002)
- At $1.61/square foot, on average, residential sprinkler systems are relatively inexpensive to install, especially in new construction. The presence of fire sprinklers typically lowers the cost of insurance.
The Grassroots Sprinkler Movement

1978  San Clemente adopts the first comprehensive residential sprinkler ordinance

I sort of asked myself a rhetorical question of “How the Hell is it we can protect [factories] and can’t save thirteen-year-old children?”
- Chief Ron Coleman

1981  Cobb County, Georgia – at the time, the seventh fastest growing county in the US

1985  Scottsdale, Arizona

1992  Prince George’s County, Maryland
Growing the RFS Movement

- Fire service members later joined by:
  - survivors
  - homeowners
  - environmentalists
  - homebuilders
- After the 2003 Station Nightclub fire in Rhode Island, burn survivors became increasingly active in the movement.
- In 2009, 40 members of the Phoenix Society attend a meeting of the International Code Council (ICC) to preserve the residential sprinkler requirement in the IRC.
The Grassroots Sprinkler Movement

- 368 local sprinkler ordinances adopted by November 2011
- Local RFS requirements adopted in 34 states over a 33 years
- Statewide regulatory bodies adopt the 2009 IRC in California and Maryland. Local jurisdictions had previously adopted 146 ordinances in California and 31 in Maryland
Preempting the Residential Sprinkler Movement

- In 2009, the Texas House, on behalf of homebuilders, considers a bill to preempt local residential sprinkler ordinances.
- Preemption clause is ultimately added to an unrelated bill that has already passed the State Senate, thus avoiding the committee process in the House.
- The preemptive amendment adopted during second reading - no time for sprinkler supporters to organize in opposition to preemption.
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Preemption: The Institute of Medicine weighs in

[When the federal government regulates state authority, and the states regulate local authority in the area of public health, their actions ... 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 National Research Council, Institute of Medicine. June 21, 2011
Assessing the Impact of Federal and State Preemption in Public Health: A Framework for Decision Makers

Mark Pertschuk, JD; Jennifer L. Pomeranz, JD, MPH; Julie Ralston Aoki, JD; Michelle A. Larkin, JD, MS, RN; Marjorie Paloma, MPH

In the United States, state and local public health policies play a fundamental role in innovation and progress. Preemption, by which Congress or the state legislatures limit the authority of lower jurisdictions, can eliminate the benefits of state and local policy initiatives. Preemption can also have a negative impact on enforcement, civic engagement, and grassroots movement building.

In June 2011, the Institute of Medicine published a groundbreaking report on policy and law that considered Congress or federal regulators. As Justice Brandeis observed, "[i]t is one of the happy incidents of the federal system that a single courageous State may ... serve as a laboratory" for experimentation and innovation. Cities and counties, in turn, serve both as policy laboratories and as the location for the implementation of most public health policies, services, and programs. In the words of Assistant Secretary of Health Howard Koh, "all public health is local—it's got to start and be sustained at the local level.”

Preemption occurs when higher levels of govern-
Will preemption hinder a grassroots public health movement?

- Have local, regional, or state organizations advocated for policy changes on the same topic at lower levels?
- Has legislation on the same topic been adopted or considered in lower jurisdictions?
- Have community members promoted policy changes on the same topic in schools, neighborhoods or other community settings?
Know (and learn from) the opposition

- Identify the supporters of preemption. Be prepared to “shine a light” on industry lobbyists -- they may have more accurate information about proposed amendments and the legislative process.

- If industry lobbyists oppose any legislation unless it includes preemption, ask: Why do they want preemption so badly? What do they hope to gain by halting progress at the local and/or state level(s)?

- The supporters of preemption take the long view, so consider the long-term opportunities that may be lost due to preemption, including potential damage to a grassroots movement.
Mark Pertschuk

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