

# States laws limit local control over guns, favor gun rights

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The majority of U.S. states have passed laws preserving state authority over firearms policies—and preventing local communities from passing their own—but at the same time have refrained from enacting statewide

gun-control policies, according to a new study by researchers at NYU School of Global Public Health.

The states' use of preemption—a legal mechanism in which a higher level of government overrides or limits the authority of a lower level to act on a specific issue—overwhelmingly support policies favoring gun rights. The study, published in the *American Journal of Public Health*, is the first to evaluate the relationship between states' gun laws and preemptive measures.

Gun violence is a substantial public health problem in the U.S., killing more than 38,000 people each year. The [federal government](#) has enacted few measures to reduce gun violence, leaving the [policy](#) debate centered on state and local action. States have passed regulations to either decrease gun-related death and disability (i.e., gun control) or protect gun rights, and many states has enacted preemptive laws limiting local government power on firearms.

"The firearm industry was one of the first to use preemption as a tool to block public health policymaking in local areas where enacting measures would have been politically feasible," said Jennifer Pomeranz, assistant professor of public health policy and management at NYU School of Global Public Health and the study's lead author. "Cities have been trying to pass their own laws to protect their residents from gun violence—including Boulder, the site of a tragic mass shooting in March—only to be thwarted by state governments."

Are states that preempt [local control](#) over firearms also enacting state-level gun laws, or simply blocking local control and not acting? To answer this question, Pomeranz and her colleagues assessed firearms laws across all 50 states for a 10-year period (2009-2018). For each state, they compared measures protecting or restricting guns with related preemptive measures.

The researchers identified three categories of states, including a handful that had the most gun control measures with few to no preemptive measures (e.g., CT, HI, MA, NJ, and NY) and several that had nuanced policy environments with a mix of gun control measures and a moderate number of preemptive measures (e.g., FL, MD, PA, and RI).

However, the vast majority of states—nearly 40—fell into the third category of having preemptive measures over almost all gun policies without enacting substantive gun-control measures. Most of these states used preemption to support policies favoring gun rights: even in places where state legislators were unable to pass gun rights measures, they succeeded in passing preemption to preserve state authority.

"Our study provides direct evidence that the vast majority of states use preemption to support gun rights and remove communities' authority to enact gun control protections," said Pomeranz. "States that block the ability of local governments to pass gun laws but do not enact protective measures themselves create a regulatory void and eliminate localities' ability to protect their communities."

In addition, the number of gun control and gun rights measures remained fairly stable in most states over the decade studied.

"Despite numerous mass shootings and public outcry, little has changed in the national landscape of [gun laws](#). While one might expect that cities and towns, especially places affected by mass shootings, would have enacted more gun control measures, the preemptive landscape likely made that impossible," said Pomeranz.

The researchers did find one dramatic increase in state policies: punitive preemption measures, which allow a state attorney general, individuals, or membership organizations (such as the National Rifle Association) to sue local governments or officials for engaging in preempted actions,

such as limiting firearm purchases. In 2009, only two states had punitive preemption, but by 2018, 15 states had punitive preemption measures.

"The firearm industry has helped to create a national framework that almost universally blocks local gun control measures, and in some cases even punishes local officials for engaging in the democratic process to address the needs of their communities," said Pomeranz.

Provided by New York University

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