

Pesticide Preemption

Association of American Pesticide Control Officials

AAPCO

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What do state pesticide preemption laws specify?

“No city, town, county or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation or statute regarding pesticide sale or use, including without limitation, registration, notification of use, advertising and marketing, distribution, applicator training and certification, storage, transportation, disposal, disclosure of confidential information or product composition.”

- American Legislative Exchange Council

What do these laws do?

- Provide for a uniform, science-based, predictable regulatory environment at the state level that comports with federal regulation under the Federal Insecticide, Fungicide and Rodenticide Act
- Support safe use and handling and prevent confusion about products and their use
- Support credibility and trust in the pesticide regulatory framework
- Prevent a patchwork of regulatory schemes and bans in the more than 80,000 political subdivisions in the United States
- Maintain regulatory and enforcement authority with state lead agencies for pesticide regulation and state attorneys general

Where did these laws come from?

- Following a Supreme Court decision that found that FIFRA does not preempt local governmental regulation of pesticide use during the early 2000s, industry developed model language and worked to pass state pesticide preemption laws
- As a result of that multi-year effort, 44 states have adopted some form of pesticide preemption, either expressly through law or implied in practice, with six states without any form of preemption
 - Alaska, Hawaii, Maine, Maryland, Nevada, and Vermont
 - Absence of a law expressly granting pesticide preemption does not automatically equal local regulation
- Having passed a pesticide preemption law, no state has modified or repealed its law

2022 RISE Public Opinion Research

- Our goal: To gain a national-level understanding of public attitudes regarding specialty pesticide use, including opinions of:
 - Use by homeowners
 - Safety and efficacy
 - Belief in pesticides' contribution to the environment
 - **Perspectives about the current regulatory approach nationwide**
- We surveyed 2,000 adults aged 18+ nationwide during April 2022
- Now for the good news...

Public Opinion Research: Attitudes About Pesticide Use

- **Generally speaking, the vast majority (77%) of U.S. citizens are not opposed to residential pesticide use**
 - In fact, six-in-ten (58%) have personally used, or paid someone to use, pesticide products around their home this past year, 80% of citizens say they want to have the ability to purchase and use these products
- **In addition to wanting the ability to purchase and use pesticide products, most U.S. citizens also believe pesticides are necessary**
 - 76% of citizens agree that pesticides are necessary because they protect families from health problems, disease and discomfort caused by bugs and weeds,
 - 75% agree that pesticides protect ecosystems from invasive species,
 - 75% agree that pesticides keep our outdoor spaces accessible, enjoyable, and well-maintained

Public Opinion Research: Attitudes About Regulation of Pesticides

- When informed about the current regulatory framework and process for pesticides, almost all participants view it as the right approach
 - On the surface, virtually no participants believe changing the current regulatory framework and removing state preemption is good public policy
- The majority of people agree that local governments do not have the expertise, the resources, or the enforcement capabilities to properly regulate pesticides and express concern over that possibility
 - Additionally, participants believe pesticide regulation and enforcement needs a uniform and consistent approach that is best handled at the state and federal level due to the specific expertise and broader resources that exist at those levels

Public Opinion Research: Messages that Resonate

- The United States Environmental Protection Agency (EPA) has responsibility for federal regulation of all pesticides. All pesticide products for sale in the United States must have an EPA registration.
- The EPA evaluates pesticide products to determine both the risks and the benefits of the products in its regulatory evaluation.
- It can take up to 8-10 years before a new product is registered for sale due to the rigorous registration process, including scientific reviews of product data, the impact on people and the environment, and effectiveness.
- All products are continually re-evaluated by the EPA to ensure they meet current scientific standards.
- **The regulatory process also involves coordination with state governments who have regulatory authority, delegated by the EPA, to register and regulate pesticides for use within their borders.**

What is my role in the conversation?

- There is an opportunity to bring clarity to people's thinking about these laws.
 - Institutional knowledge among regulators and state law makers has been impacted by retirements and turnover, so this may be a new concept to some
 - State preemption laws and legal precedents do not prevent state or local governments from passing laws restricting pesticide use on their public property
 - Bills continue to be introduced in states to roll back these laws where they have been passed