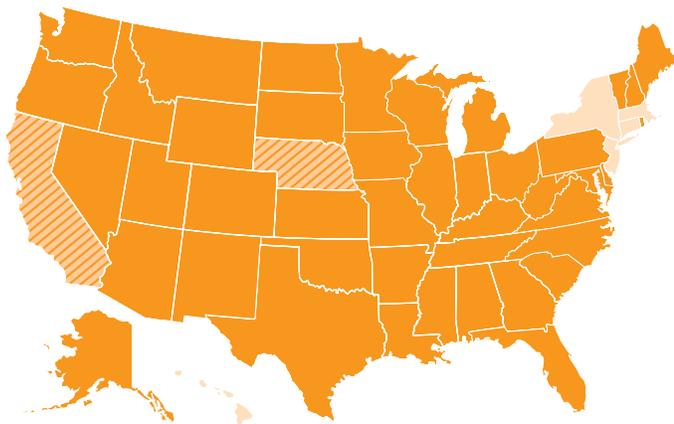


# LOCAL AUTHORITY & PREEMPTION

Local governments across the country recognize the need to regulate firearms to protect their residents from gun violence. However, a large majority of states have passed **overreaching “preemption” laws** that have stripped local governments of the authority to regulate these dangerous weapons, **rendering cities and towns powerless to address the gun violence and devastation they witness firsthand** in their communities.

## A Deadly Loss of Local Control



In the US, strict preemption is the rule rather than the exception, with local governments in 43 states having very limited authority to regulate guns.

-  Broad local authority
-  Broad local authority with limited exceptions for certain types of firearms laws
-  Limited local authority

**A one-size-fits-all approach to firearm regulation prevents local governments from enacting customized solutions to gun violence in their communities.**

## 300

In the last two decades, municipalities in California have adopted over 300 gun laws to make their communities safer from gun violence.

## 4x

An out-of-state gun recovered at a crime scene is four times more likely to come from a state that doesn't allow local regulation of guns than from a state that does.

There is often a significant disconnect between statewide political priorities and local public safety needs.

Local officials are more responsive to community needs, as they see the devastation caused by gun violence firsthand.

## PREEMPTION 101

**Preemption occurs when a higher level of government removes regulatory power from a lower level of government.** The higher level of government can use express language in a statute or constitutional provision to remove a lower government's authority to regulate firearms. Even when a statute does not prohibit local gun regulation, courts sometimes find that a state has already enacted so many laws in a particular area related to firearms that there is no room for local regulation on the same subject. In addition, a court may find that a local law is preempted by state law if the local law conflicts directly with the state law by requiring what the state law prohibits or prohibiting what the state law requires.

## OVERREACHING PREEMPTION LAWS PUT LOCAL COMMUNITIES AT RISK

Across the country, local lawmakers witness firsthand the devastation caused by gun violence and want to implement commonsense gun laws to protect their citizens, but are often powerless to act because of broad state firearm preemption statutes. And when local legislators are prevented from implementing customized solutions to gun violence, public safety suffers. For example, a regulation in a densely populated urban area may not be appropriate in a rural setting, and vice versa. Yet both would be forced to comply with the same statewide gun policy (or lack thereof). Moreover, broad preemption laws prevent local lawmakers, who are not burdened by statewide political priorities, from filling gaps created by inaction at the state and federal levels.

## FEDERAL LAW

At the federal level, Congress, with very narrow exceptions, has not expressly preempted state or local laws regulating firearms and ammunition.

## State Law

Most states, at the urging of the gun lobby, have explicitly removed authority from local governments to regulate guns and ammunition.

- In Connecticut, Hawaii, Massachusetts, New Jersey, and New York, there are no state laws expressly preempting local authority to regulate firearms and ammunition. Local governments in these states retain broad power to regulate firearms.
- Laws in California and Nebraska expressly preempt local regulation of one or more aspects of firearms or ammunition but otherwise permit broad local authority to regulate in this area.
- In the remaining 43 states, local governments have very limited authority to regulate firearms and ammunition. State laws vary, but each expressly preempts most aspects of local firearm regulation while some even subject local lawmakers to liability for attempts to protect the public from gun violence.

For more details and underlying research, visit [smartgunlaws.org/preemption](https://smartgunlaws.org/preemption)

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# 160+

new smart gun laws have been enacted in 43 states and DC since the tragedy at Sandy Hook.

# 114,000

Americans are shot each year—over one million in the past decade.

## ABOUT US

**Led by former Congresswoman Gabrielle Giffords and Navy combat veteran and retired NASA astronaut Captain Mark Kelly, Americans for Responsible Solutions and the Law Center to Prevent Gun Violence are committed to advancing commonsense change that makes communities safer from gun violence. Operating out of offices in Washington DC, San Francisco, and New York, our staff partners with lawmakers and advocates to craft and enact the smart gun laws that save lives. We provide expertise in firearms litigation, lead grassroots coalitions, and educate the public on the proven solutions to America's gun violence epidemic.**

-  LAW CENTER TO PREVENT GUN VIOLENCE
-  SMARTGUNLAWS
-  AMERICANS FOR RESPONSIBLE SOLUTIONS
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