

Everything You Always Wanted to Know About Federal Preemption But Were Afraid to Ask | 1

When is a state law preempted by a federal law on the same subject? This is a notoriously messy area of Supreme Court jurisprudence. For those interested in a quick introduction to the subject, I've written a [paper](#) that provides an overview of federal preemption law, which appears on the site of the Uniform Law Commissioners as part of their [project](#) on federalism and state law.

The paper is designed as a background survey rather than either an advocacy piece or a contribution to constitutional theory. It may be helpful, however, for those who want to come up to speed on where the courts are today regarding preemption. It also provides a look at the evolving law regarding Congress's commerce power and at when state law infringe on the federal government's exclusive jurisdiction over foreign affairs.

The paper's general conclusion is that preemption law is likely to remain very messy because it involves overlapping issues regarding methods of interpreting federal statutes, federal versus state power, the role of regulation versus liability in controlling risks, and regulatory policy. Because preemption cases have multiple dimensions, doctrinal tidiness is unlikely. However, the paper does outline some modest steps toward improving decision-making about the division of authority between states and the federal government.