

# Chapter 2

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## Constitutional Law

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N.B.: TYPE indicates that a question is new, modified, or unchanged, as follows.

- N A question new to this edition of the Test Bank.
- + A question modified from the previous edition of the Test Bank.
- = A question included in the previous edition of the Test Bank.

### TRUE/FALSE QUESTIONS

1. The state governments retain all powers not specifically delegated to the federal government.

ANSWER: T                      PAGE: 32                      TYPE: N  
NAT: AACSB Analytic                      AICPA Legal

2. Under their police powers, states can regulate only public activities, such as political demonstrations.

ANSWER: F                      PAGE: 32                      TYPE: N  
NAT: AACSB Analytic                      AICPA Critical Thinking

3. Under their police powers, states can regulate private activities to protect or promote the public order, health, safety, morals, and general welfare.

ANSWER: T                      PAGE: 32                      TYPE: N  
NAT: AACSB Analytic                      AICPA Legal

18 UNIT ONE: THE LEGAL ENVIRONMENT OF BUSINESS

4. The full faith and credit clause ensures that rights established under a contract in one state are honored by other states.

ANSWER: T

PAGE: 33

TYPE: N

NAT: AACSB Analytic

AICPA Legal

5. A state law that treats nonresidents different from residents may violate the privileges and immunities clause.

ANSWER: T PAGE: 33 TYPE: N  
 NAT: AACSB Reflective AICPA Critical Thinking

6. Under the U.S. Constitution, each branch of government limits some actions of the other branches.

ANSWER: T PAGE: 33 TYPE: N  
 NAT: AACSB Analytic AICPA Legal

7. Congress can regulate all commerce in the United States.

ANSWER: T PAGE: 34 TYPE: N  
 NAT: AACSB Analytic AICPA Critical Thinking

8. The Constitution expressly excludes state regulation of commerce.

ANSWER: F PAGE: 34 TYPE: N  
 NAT: AACSB Analytic AICPA Legal

9. Preemption is a doctrine under which a state law takes precedence over a conflicting federal law.

ANSWER: F PAGE: 37 TYPE: N  
 NAT: AACSB Analytic AICPA Critical Thinking

10. When there is a direct conflict between a federal and a state law, the state law is rendered invalid.

ANSWER: T PAGE: 37 TYPE: N  
 NAT: AACSB Analytic AICPA Legal

11. Congress may tax some states and exempt others.

ANSWER: F PAGE: 37 TYPE: N  
 NAT: AACSB Analytic AICPA Critical Thinking

20 UNIT ONE: THE LEGAL ENVIRONMENT OF BUSINESS

12. Some constitutional protections apply to business entities.

ANSWER: T PAGE: 38 TYPE: N  
NAT: AACSB Reflective AICPA Critical Thinking

13. The Bill of Rights protects individuals against various types of interference by the government.
- ANSWER: T PAGE: 38 TYPE: N  
 NAT: AACSB Analytic AICPA Legal
14. The courts determine when the laws restricting free speech are justified by the need to protect other rights.
- ANSWER: T PAGE: 39 TYPE: N  
 NAT: AACSB Analytic AICPA Legal
15. The First Amendment does not protect corporate political speech.
- ANSWER: F PAGE: 40 TYPE: N  
 NAT: AACSB Reflective AICPA Critical Thinking
16. The First Amendment does not protect commercial speech as extensively as noncommercial speech.
- ANSWER: T PAGE: 40 TYPE: N  
 NAT: AACSB Reflective AICPA Critical Thinking
17. The First Amendment protects obscene speech.
- ANSWER: F PAGE: 41 TYPE: N  
 NAT: AACSB Reflective AICPA Critical Thinking
18. The First Amendment requires a complete separation of church and state.
- ANSWER: F PAGE: 42 TYPE: N  
 NAT: AACSB Reflective AICPA Critical Thinking
19. The establishment clause of the U.S. Constitution prohibits the federal government from promoting a religion.
- ANSWER: T PAGE: 42 TYPE: N  
 NAT: AACSB Analytic AICPA Legal

22 UNIT ONE: THE LEGAL ENVIRONMENT OF BUSINESS

20. A law that has any impact on religion is unconstitutional.

ANSWER: F PAGE: 42 TYPE: N  
NAT: AACSB Reflective AICPA Critical Thinking

21. A search warrant must particularly describe whatever is to be searched.

ANSWER: T PAGE: 45 TYPE: N  
 NAT: AACSB Analytic AICPA Critical Thinking

22. Generally, government inspectors have the right to enter business premises without a warrant.

ANSWER: F PAGE: 46 TYPE: N  
 NAT: AACSB Analytic AICPA Legal

23. Substantive due process limits what the government can do in its legislative capacity.

ANSWER: T PAGE: 47 TYPE: N  
 NAT: AACSB Analytic AICPA Legal

24. A law that limits only some persons' exercise of a fundamental right is valid under any circumstances.

ANSWER: F PAGE: 47 TYPE: N  
 NAT: AACSB Analytic AICPA Legal

25. The right to due process of law applies to corporations.

ANSWER: T PAGE: 47 TYPE: N  
 NAT: AACSB Analytic AICPA Legal

26. A law that regulates economic matters violates the equal protection clause.

ANSWER: F PAGE: 47 TYPE: N  
 NAT: AACSB Analytic AICPA Critical Thinking

27. There is a specific guarantee of a right to privacy in the Constitution.

ANSWER: F PAGE: 48 TYPE: N  
 NAT: AACSB Reflective AICPA Critical Thinking

28. Pretexting is the process of obtaining information by false means.

ANSWER: T PAGE: 48 TYPE: N  
NAT: AACSB Analytic AICPA Legal

29. Law enforcement officials can track the e-mail communications of one party to find out the identities of other parties.

ANSWER: T PAGE: 49 TYPE: N  
NAT: AACSB Reflective AICPA Legal

30. State laws often significantly protect individuals' privacy rights.

ANSWER: T PAGE: 50 TYPE: N  
NAT: AACSB Reflective AICPA Critical Thinking

MULTIPLE CHOICE QUESTIONS

1. The state of New York regulates private activities to protect or promote the public order, health, safety, and general welfare under its
- a. police powers.
  - b. taxing powers.
  - c. spending powers.
  - d. supremacy powers.

ANSWER: A PAGE: 32 TYPE: N  
NAT: AACSB Reflective AICPA Legal

2. The Financial Institutions Association would like a certain law enacted, administered, interpreted, and enforced in the best interest of its members, which include banks. Under the Constitution, Congress
- a. administers the laws.
  - b. enforces the laws.
  - c. interprets the laws.
  - d. makes the laws.

ANSWER: D PAGE: 33 TYPE: N



NAT: AACSB Analytic

AICPA Legal

3. Ulrich, a citizen of Virginia, wants to enforce in the state of Washington certain rights that he has under a contract with Xtreme SnoBoards Inc. A Washington state court is most likely to enforce such rights under
- a. no provision in the U.S. Constitution.
  - b. the commerce clause.
  - c. the full faith and credit clause.
  - d. the privileges and immunities clause.

ANSWER: C PAGE: 33 TYPE: N  
NAT: AACSB Reflective AICPA Legal

4. The Constitution sets out the authority and the limits of the branches of the government. The term checks and balances means that
- a. Congress writes checks and the other branches balance the budget.
  - b. each branch has some power to limit the actions of the others.
  - c. the courts balance their authority to the other branches' checklists.
  - d. the president "checks" the courts, which "balance" the laws.

ANSWER: B PAGE: 33 TYPE: N  
NAT: AACSB Analytic AICPA Legal

5. Tami's Tasty Tacos, a mobile vendor, files a suit against the state of Utah, claiming that a Utah state law violates the commerce clause. The court will agree if the statute imposes a substantial burden on
- a. a local government.
  - b. interstate commerce.
  - c. noneconomic activity.
  - d. the state.

ANSWER: B PAGE: 35 TYPE: N  
NAT: AACSB Reflective AICPA Legal

6. The state legislature of Kansas enacts a statute to regulate trucking that affects interstate commerce. This statute will be balanced in part in terms of
- the courts' authority to determine that a law is unconstitutional.
  - the purpose of interstate commerce.
  - the state's interest in regulating the matter.
  - the statute's impact on noneconomic activity.

ANSWER: C                      PAGE: 35                      TYPE: N  
 NAT: AACSB Reflective                      AICPA Legal

7. Congress enacts a law that sets out a medical-device approval process for the Food and Drug Administration to follow. The law includes a preemption provision. A device that goes through the process injures Joe, who files a claim under state law to recover. The court will most likely rule that
- Joe's state law claim preempts the federal law.
  - the federal law and state law claim are concurrent.
  - the federal and state law claim cancel each other out.
  - the federal law preempts Joe's state law claim.

ANSWER: D                      PAGE: 37                      TYPE: N  
 NAT: AACSB Reflective                      AICPA Legal

8. Len, a citizen of Maryland, obtains a federal license to operate a commercial fishing boat in Chesapeake Bay. The Maryland state legislature enacts a law that bans all commercial fishing in the bay. The state law most likely violates
- no provision in the U.S. Constitution.
  - the commerce clause.
  - the due process clause.
  - the supremacy clause.

ANSWER: D                      PAGE: 37                      TYPE: N  
 NAT: AACSB Reflective                      AICPA Critical Thinking

9. Congress enacts a law prohibiting toys made in China from being sold in the United States. The Hawaii state legislature enacts a law allowing the sale of Chinese-made toys. Hawaii's law will most likely be
- a. rendered invalid under the supremacy clause.
  - b. rendered valid the equal protection clause.
  - c. struck down under the taxing and spending clause.
  - d. upheld under the commerce clause.

ANSWER: A PAGE: 37 TYPE: N  
NAT: AACSB Reflective AICPA Legal

10. Congress enacts the Supplemental Income Tax Act (SITA) to exempt the citizens of Louisiana from their federal taxes until New Orleans is rebuilt from the ravages of Hurricane Katrina. SITA will most likely be
- a. rendered invalid under the supremacy clause.
  - b. rendered valid the equal protection clause.
  - c. struck down under the taxing and spending clause.
  - d. upheld under the commerce clause.

ANSWER: C PAGE: 37 TYPE: N  
NAT: AACSB Reflective AICPA Legal

11. The Tourist Travelers Association wants the federal government to spend money to build a new highway. Congress can spend revenues
- a. only to carry out its enumerated powers.
  - b. to promote any objective that it deems worthwhile.
  - c. as long as the funds are spent uniformly among the states.
  - d. without regard to whether the expense violates the Constitution.

ANSWER: B PAGE: 37 TYPE: N  
NAT: AACSB Reflective AICPA Legal

12. Mike, an advocate of a certain religion, publishes an article in *New Times* magazine insisting that Congress base all federal law on his religion's principles. The First Amendment guarantees Mike's freedom of
- religion only.
  - speech only.
  - the press only.
  - the press, speech, and religion.

ANSWER: D                      PAGE: 38                      TYPE: N  
 NAT: AACSB Reflective                      AICPA Legal

13. Mercy, the chief executive officer of Medico Hospital Corporation, claims that certain actions by the state of New York infringe on rights guaranteed by the Bill of Rights. Most of these rights are held to limit
- federal governmental actions only.
  - federal and state governmental actions.
  - state governmental actions only.
  - actions by non-governmental entities only.

ANSWER: B                      PAGE: 38                      TYPE: N  
 NAT: AACSB Reflective                      AICPA Legal

14. Reusable Energy Corporation regularly expresses opinions on political issues. Under the First Amendment, corporate political speech is
- discouraged.
  - forbidden.
  - protected.
  - required.

ANSWER: C                      PAGE: 39                      TYPE: N  
 NAT: AACSB Reflective                      AICPA Legal

15. Colorado enacts a statute that bans the distribution of anonymous political leaflets. A court would likely hold this to be
- a. an unconstitutional restriction of speech.
  - b. constitutional under the First Amendment.
  - c. justified by the need to protect individual rights.
  - d. necessary to protect state interests.

ANSWER: A                      PAGE: 40                      TYPE: N  
NAT: AACSB Reflective                      AICPA Critical Thinking

16. Minnesota enacts a statute to ban advertising in “bad taste.” This statute would likely be held by a court to be
- a. an unconstitutional restriction of speech.
  - b. constitutional under the First Amendment.
  - c. justified by the need to protect individual rights.
  - d. necessary to protect state interests.

ANSWER: A                      PAGE: 40                      TYPE: N  
NAT: AACSB Reflective                      AICPA Decision Modeling

17. Direct Mail Sales, Inc., regularly advertises its products. Under the First Amendment, in comparison to noncommercial speech, these ads are given
- a. equal protection.
  - b. less protection.
  - c. more protection.
  - d. no protection.

ANSWER: B                      PAGE: 40                      TYPE: N  
NAT: AACSB Reflective                      AICPA Critical Thinking

18. Iowa enacts a law that restricts certain kinds of advertising to protect consumers from being misled. This law would likely be held by a court to be
- a. an unconstitutional restriction of speech.
  - b. constitutional under the First Amendment.
  - c. justified by the need to protect individual rights.

d. necessary to protect state interests.

ANSWER: B                      PAGE: 40                      TYPE: N  
NAT: AACSB Reflective                      AICPA Decision Modeling

19. Congress enacts the Advertising Restriction Act (ARA). The ARA will be considered valid if it directly advances a substantial government interest and
- a. goes no further than necessary.
  - b. without regard to how “far” it goes.
  - c. parties affected by it can elect how “far” to apply it.
  - d. goes further than necessary to ensure full coverage.

ANSWER: A PAGE: 40 TYPE: N  
NAT: AACSB Reflective AICPA Legal

20. Brad stands in front of Rustler’s Round-Up Café, shouting “fighting words” that are likely to incite Rustler’s patrons to respond violently. The First Amendment protects such speech
- a. all of the time.
  - b. none of the time.
  - c. only if it is noncommercial.
  - d. only if it is symbolic.

ANSWER: B PAGE: 41 TYPE: N  
NAT: AACSB Reflective AICPA Legal

21. Xtreme Publications, Inc., disseminates obscene materials. This is
- a. a crime under numerous state and federal statutes.
  - b. a privilege under Article IV, Section 2.
  - c. a right under the commerce clause.
  - d. a right under the First Amendment.

ANSWER: A PAGE: 41 TYPE: N  
NAT: AACSB Analytic AICPA Legal



22. The police obtain a search warrant and search Errol's apartment. After yelling obscenities at the officers, Errol confesses to a crime and implicates his friends. The Constitution protects against
- obscene speech.
  - implication of others.
  - unreasonable searches.
  - none of the choices.

ANSWER: C                      PAGE: 45                      TYPE: N  
 NAT: AACSB Reflective                      AICPA Legal

23. Kansas enacts a law requiring all businesses in the state to donate 10 percent of their profits to Protestant churches that provide certain services to persons whose income is below the poverty level. Lo-Price Stores files a suit to block the law's enforcement. The court would likely hold that this law violates
- no clause in the U.S. Constitution.
  - the establishment clause.
  - the free exercise clause.
  - the supremacy clause.

ANSWER: C                      PAGE: 45                      TYPE: N  
 NAT: AACSB Reflective                      AICPA Decision Modeling

24. Ralph, an investigator for the Securities and Exchange Commission, goes to the offices of Trust & Worthy Accountants to inspect Trust & Worthy's clients' business records. Government inspectors generally have a right to enter business premises
- only with a warrant.
  - without a warrant.
  - once the issuance of a warrant has been sought.
  - under no circumstances.

ANSWER: A                      PAGE: 47                      TYPE: N  
 NAT: AACSB Analytic                      AICPA Legal

25. Wyoming enacts a statute that limits the liberty of all persons, including corporations, to broadcast “annoying” radio commercials. This may violate
- a. equal protection.
  - b. procedural due process.
  - c. substantive due process.
  - d. the right to privacy.

ANSWER: C                      PAGE: 47                      TYPE: N  
NAT: AACSB Reflective                      AICPA Legal

26. Parker owns and operates Rancho Mirage Corporation, a destination resort in Arizona that features horseback riding and bunkhouse accommodations. The Constitution provides that no person shall be deprived of “life, liberty, or property without due process of law.” Included as “legal persons” under this clause are
- a. the bunkhouses and other “manmade creations.”
  - b. the corporation and Parker.
  - c. horses and other “beings in nature.”
  - d. none of the choices.

ANSWER: B                      PAGE: 47                      TYPE: N  
NAT: AACSB Reflective                      AICPA Legal

27. A Massachusetts state statute imposes a prison term, without a trial, on all street entertainers who operate in certain areas. A court would likely review this statute under the principles of
- a. equal protection.
  - b. free exercise.
  - c. procedural due process.
  - d. substantive due process.

ANSWER: C                      PAGE: 47                      TYPE: N  
NAT: AACSB Reflective                      AICPA Legal

28. Myra claims that a Nebraska state statute infringes on her “procedural due process” rights. This claim focuses on
- procedures used in making decisions to take life, liberty, or property.
  - the content of the statute.
  - the similarity of the treatment of similarly situated individuals.
  - the steps to be taken to protect Mary’s privacy.

ANSWER: A                      PAGE: 47                      TYPE: N  
 NAT: AACSB Reflective                      AICPA Legal

29. Harbor Town enacts an ordinance to allow only a few street vendors to operate in certain areas, for the purpose of reducing traffic. A court would likely review this ordinance under the principles of
- the commerce clause.
  - the equal protection clause.
  - the due process clause.
  - the First Amendment.

ANSWER: B                      PAGE: 48                      TYPE: N  
 NAT: AACSB Reflective                      AICPA Critical Thinking

30. Jolene, a law enforcement official, monitors Kelsey’s Internet activities—e-mail and Web site visits—to gain access to her personal financial data and student information. This may violate Kelsey’s right to
- equal protection of the law.
  - privacy.
  - procedural due process.
  - substantive due process.

ANSWER: B                      PAGE: 49                      TYPE: N  
 NAT: AACSB Reflective                      AICPA Risk Analysis

#### ESSAY QUESTIONS

1. Jen operates Jen's Fruits & Vegetables, a small market stocked entirely with produce grown on her adjacent farm. Under what clause of the Constitution can the federal government regulate Jen's activities? What is Jen's best argument against federal regulation of her farm and business?

**ANSWER:** Under the commerce clause, according to earlier decisions by the United States Supreme Court, Congress has the power to regulate any activity—interstate or intrastate—that affects interstate commerce. Thus, under that clause, it could be argued that a farmer's growing and selling of produce is subject to federal regulation because these activities affect interstate commerce. The farmer-vendor's best argument against federal regulation of her farm and business is that in her case, these activities and their effects are purely local. Because of the economic character of these activities, and hence an effect on interstate commerce, despite their local character, it is unlikely that a court would accept this argument, however.

**PAGES:** 33–37

**TYPE:** N

**NAT:** AACSB Reflective

**AICPA** Decision Modeling

2. Old Oak Brewery, Inc., makes and sells alcoholic beverages with labels that display a drawing of a squirrel making the gesture generally known as “giving the finger.” Old Oak applies to the Ohio State Liquor Authority (OSLA) for brand-label approval to sell the beer in Ohio. Without considering alternatives, OSLA denies approval because “the label could appear in grocery stores, with obvious exposure on the shelf to children of tender age.” Why would a court hold that the denial of Old Oak's application violates the First Amendment?

**ANSWER:** A court would most likely reason that OSLA's ban on the use of the labels lacks a “reasonable fit” with the state's interest in shielding minors from vulgarity, and OSLA did not adequately consider alternatives to the ban. The interest of OSLA, as a state agency, in protecting children from vulgar advertising is “substantial.” The question is whether banning Old Oak's labels “directly advances” that interest. A court might reason that barring the label at issue in this problem cannot realistically be expected to reduce children's exposure to such displays to any significant degree, considering such displays' wide currency in society. Also, as to whether the ban on the labels is more extensive than necessary to serve such an interest, a court would likely point out that there may be many,

less intrusive alternatives. For example, OSLA might restrict the locations where Old Oak's products may be displayed in stores.

PAGES: 40–41 TYPE: N  
 NAT: AACSB Reflective AICPA Decision Modeling

3. A state legislature enacts a statute that prohibits the advertising of video games “because the games might be harmful to minors.” Despite this new statute, the president of Games Marketing, Inc. (GMI), orders GMI marketers to place ads in any media. When a GMI ad appears on HDTV, a local television station, GMI and HDTV are charged with violating the statute. What is the defendants’ best defense against a conviction?

ANSWER: GMI and HDTV cannot be convicted because a state legislature cannot enact a statute that restricts commercial speech (in this problem, marketing video games) to this extent. The First Amendment protects commercial speech. Commercial speech is not as protected as much as noncommercial speech, however, so states can place some restraints on the former. For example, to protect consumers, a state may ban certain kinds of marketing practices, such as deceptive or misleading advertising. Generally, a restriction on commercial speech will be considered valid as long as it (1) seeks to implement a substantial government interest, (2) directly advances that interest, and (3) goes no further than necessary to accomplish the objective. Here, the complete ban on video ads “because the games might be harmful to minors” is too restrictive: it goes too far in attempting to protect minors for an apparently unsubstantiated purpose.

PAGES: 40–41 TYPE: N  
 NAT: AACSB Reflective AICPA Decision Modeling

4. The Alabama Consumer Protection Agency (ACPA) investigates the marketing practices of Beta Sales, Inc. The ACPA serves a subpoena on Beta, ordering the firm to provide certain business records, including its marketing agreements with other companies. Beta refuses to comply with the subpoena. On what is Beta most likely basing its refusal? Is a court likely to support Beta’s position? Why or why not?

ANSWER: Beta is most likely refusing to comply with the subpoena on the ground that it has a constitutional privilege against self-incrimination A

corporation cannot invoke the U.S. Constitution's privilege against self-incrimination as a basis for refusing to produce documents in response to a subpoena, however, which means that a court is most likely to rule against Beta. A corporation can be compelled to comply with such a subpoena, because a corporation is a legal entity and not a natural person. The Fifth Amendment's guarantee extends only to natural persons. Also, an employee of the corporation in charge of the corporate records cannot rely on his or her personal privilege against self-incrimination as a basis for refusing to produce the records.

PAGES: 46

TYPE: N

NAT: AACSB Reflective

AICPA Decision Modeling