

Chapter 2

Business and the Constitution

TRUE/FALSE QUESTIONS

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

ANSWER: T
BUSPROG: Analytic

PAGES: Section 1
AICPA: BB-Legal

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

ANSWER: F
BUSPROG: Analytic

PAGES: Section 1
AICPA: BB-Critical Thinking

3. The privileges and immunities clause prevents a state from imposing unreasonable burdens on citizens of another state.

ANSWER: T
BUSPROG: Analytic

PAGES: Section 1
AICPA: BB-Critical Thinking

4. The checks and balances in the U.S. Constitution prevent any one branch of government from exercising too much power.

ANSWER: T
BUSPROG: Reflective

PAGES: Section 1
AICPA: BB-Critical Thinking

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5. The national government can regulate almost every commercial enterprise in the United States.

ANSWER: T PAGES: Section 1
BUSPROG: Analytic AICPA: BB-Critical Thinking

6. The Constitution expressly delegated to the states the power to regulate interstate commerce.

ANSWER: F PAGES: Section 1
BUSPROG: Analytic AICPA: BB-Legal

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

ANSWER: T PAGES: Section 1
BUSPROG: Analytic AICPA: BB-Legal

8. Whether the federal government has preempted a certain subject area against state regulation is always clear.

ANSWER: F PAGES: Section 1
BUSPROG: Analytic AICPA: BB-Critical Thinking

9. If a tax measure is reasonable, it is generally held to be within the national taxing power.

ANSWER: T PAGES: Section 1
BUSPROG: Analytic AICPA: BB-Legal

10. Some constitutional protections apply to business entities.

ANSWER: T PAGES: Section 2
BUSPROG: Analytic AICPA: BB-Critical Thinking

11. The First Amendment does not protect symbolic speech.

ANSWER: F PAGES: Section 2
BUSPROG: Analytic AICPA: BB-Critical Thinking

12. The First Amendment protects commercial speech more extensively than noncommercial speech.

ANSWER: F PAGES: Section 2
BUSPROG: Analytic AICPA: BB-Critical Thinking

13. The establishment clause of the U.S. Constitution prohibits the federal government establishing a state-sponsored religion.

ANSWER: T PAGES: Section 2
BUSPROG: Analytic AICPA: BB-Legal

14. The establishment clause requires a complete separation of church and state.

ANSWER: F PAGES: Section 2
BUSPROG: Analytic AICPA: BB-Critical Thinking

15. The due process clause applies to “legal persons,” which does not include corporations.

ANSWER: F PAGES: Section 3
BUSPROG: Analytic AICPA: BB-Critical Thinking

16. Equal protection means that the government cannot enact laws that treat similarly situated individuals differently.

ANSWER: T PAGES: Section 3
BUSPROG: Analytic AICPA: BB-Legal

17. Procedural due process requires that any government decision to take a person’s property must be made fairly.

ANSWER: T PAGES: Section 3
BUSPROG: Analytic AICPA: BB-Legal

18. A law that discriminates based on gender must substantially relate to an important government objective to be valid.

ANSWER: T PAGES: Section 3
BUSPROG: Analytic AICPA: BB-Legal

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19. The U.S. Constitution explicitly mentions a general right to privacy.

ANSWER: F PAGES: Section 4
BUSPROG: Analytic AICPA: BB-Critical Thinking

20. Law enforcement officials can track the phone and e-mail communications of one party to find out the identity of the other party.

ANSWER: T PAGES: Section 4
BUSPROG: Analytic AICPA: BB-Legal

MULTIPLE-CHOICE QUESTIONS

1. National Hospital Organization (NHO), a political lobbying group, wants a certain healthcare cost-reimbursement policy enacted into law. If NHO's policy conflicts with the U.S. Constitution, a law embodying it can be imposed by

- a. Congress.
- b. a federal court.
- c. the President.
- d. none of the choices.

ANSWER: D PAGES: Section 1
BUSPROG: Reflective AICPA: BB-Legal

2. The Abundant Resources for Energy Association would like a certain law enacted, administered, interpreted, and enforced in the best interest of its members, which include coal and oil companies. Under the Constitution, Congress

- a. administers the laws.
- b. enforces the laws.
- c. interprets the laws.
- d. enacts the laws.

ANSWER: D PAGES: Section 1
BUSPROG: Reflective AICPA: BB-Legal

3. The state of Texas 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 PAGES: Section 1
BUSPROG: Reflective AICPA: BB-Legal

4. Orinoco.com, an online seller of books, CDs, DVDs, games, and a variety of other consumer entertainment products, files a suit against the state of Nevada, claiming that a Nevada 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 PAGES: Section 1
BUSPROG: Reflective AICPA: BB-Legal

5. Brayden, a citizen of California, obtains a federal license to operate a commercial fishing boat in a certain area off the Northern California coast. The California state legislature enacts a law that bans all commercial fishing in that area. The state law most likely violates
- a. no provision in the U.S. Constitution.
 - b. the commerce clause.
 - c. the due process clause.
 - d. the supremacy clause.

ANSWER: D PAGES: Section 1
BUSPROG: Reflective AICPA: BB-Critical Thinking

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6. Mia, a citizen of North Dakota, has certain rights under an employment contract with Oil Shale Mining, Inc., and wants to enforce them in the state of South Dakota. A South Dakota state court is most likely to enforce Mia's rights under
- no provision in the U.S. Constitution.
 - the commerce clause.
 - the full faith and credit clause.
 - the privileges and immunities clause.

ANSWER: C PAGES: Section 1
BUSPROG: Reflective AICPA: BB-Legal

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

ANSWER: B PAGES: Section 1
BUSPROG: Analytic AICPA: BB-Legal

8. Congress enacts a law that sets out a process for the Food and Drug Administration (FDA) to follow when approving new pharmaceuticals for consumer use. The law includes a preemption provision. A pharmaceutical that the FDA approved injures Deanna, a child whose mother Ella files a claim under state law to recover. The court will most likely rule that
- Ella's state-law claim preempts the federal law.
 - concurrent claims can be brought under the federal and state laws.
 - the federal and state laws preempt each other.
 - the federal law preempts Ella's state-law claim.

ANSWER: D PAGES: Section 1
BUSPROG: Reflective AICPA: BB-Legal

9. The Rapid Transit Institute wants the federal government to spend money on inner city and inter-city light rail systems. Congress can spend revenue
- only to carry out Congress's enumerated powers.
 - to promote any objective that Congress deems worthwhile.
 - without regard to whether the expenditure violates the Bill of Rights.
 - without regard to whether the expenditure violates the Constitution.

ANSWER: B PAGES: Section 1
BUSPROG: Reflective AICPA: BB-Legal

10. Ryan, a follower of a certain religion, publishes an article in *Secular Sunday* magazine insisting that Congress base all federal law on his religious principles. The First Amendment guarantees Ryan's freedom of
- religion only.
 - speech and the press only.
 - none of the choices.
 - the press, speech, and religion.

ANSWER: D PAGES: Section 2
BUSPROG: Reflective AICPA: BB-Legal

11. Lake City enacts an ordinance that bans the distribution of all printed materials on city streets. Mackensie opposes the city's latest "revenue-enhancing" measure and wants to protest by distributing handbills. In her suit against Lake City, a court would likely hold the ban on printed materials to be
- constitutional under the First Amendment.
 - not subject to the U.S. Constitution.
 - unconstitutional under the commerce clause.
 - unconstitutional under the First Amendment.

ANSWER: D PAGES: Section 2
BUSPROG: Reflective AICPA: BB-Critical Thinking

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12. The owners of Coach Industries, Inc., a privately owned corporation, regularly express opinions on political issues through their company. Under the First Amendment, corporate political speech is
- discouraged.
 - forbidden.
 - protected.
 - required.

ANSWER: C PAGES: Section 2
BUSPROG: Reflective AICPA: BB-Legal

13. Tennessee enacts a statute that bans advertising that is in “bad taste.” A court would likely hold that this statute is
- an unconstitutional restriction of speech.
 - constitutional under the First Amendment.
 - justified by the need to protect individual rights.
 - necessary to protect state interests.

ANSWER: A PAGES: Section 2
BUSPROG: Reflective AICPA: BB-Critical Thinking

14. The police obtain a search warrant and search Jordan’s apartment. After yelling obscenities at the officers, Jordan 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 PAGES: Section 2
BUSPROG: Reflective AICPA: BB-Legal

15. Vile Periodicals, Inc., disseminates obscene materials. This is a
- crime under numerous state and federal statutes.
 - privilege under Article IV, Section 2.
 - right under the commerce clause.
 - right under the First Amendment.

ANSWER: A PAGES: Section 2
BUSPROG: Reflective AICPA: BB-Legal

16. Bailey owns and operates Nature's Corporation, a destination resort in Colorado that features fresh water fishing, whitewater rafting, and mountain trail camping. 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
- the resort equipment and other "human-made creations."
 - the corporation.
 - fish and other "beings in nature."
 - none of the choices.

ANSWER: B PAGES: Section 3
BUSPROG: Reflective AICPA: BB-Legal

17. Arkansas enacts a statute that limits the liberty of all persons, including corporations, to broadcast "annoying" radio commercials. This may be a violation of
- equal protection.
 - procedural due process.
 - substantive due process.
 - the right to privacy.

ANSWER: C PAGES: Section 3
BUSPROG: Reflective AICPA: BB-Legal

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

ANSWER: A PAGES: Section 3
BUSPROG: Reflective AICPA: BB-Legal

19. A Metro City ordinance imposes a jail term, without a trial, on all vendors who operate in certain areas. A court would likely review this ordinance under the principles of
- equal protection.
 - free exercise.
 - procedural due process.
 - substantive due process.

ANSWER: C PAGES: Section 3
BUSPROG: Reflective AICPA: BB-Legal

20. Dixon, a law enforcement official, monitors Elijah’s online activities, including his e-mail and Web site visits, to gain access to his personal financial data and student information. If this is not relevant to an ongoing criminal investigation, it may violate Elijah’s right to
- equal protection of the law.
 - privacy.
 - procedural due process.
 - substantive due process.

ANSWER: B PAGES: Section 3
BUSPROG: Reflective AICPA: BB-Legal

ESSAY QUESTIONS

1. Chun operates Fresh Spring Fruits, a small market stocked entirely with produce grown on his farm. Under what clause of the Constitution can the

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federal government regulate Chun's activities? What is Chun's best argument against federal regulation of his farm and business?

ANSWER: According to decisions by the United States Supreme Court, under the commerce clause, 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 his farm and business is that his activities and their effects are purely local. Nevertheless, because of the economic character of these activities and, hence, their effect on interstate commerce, a court is unlikely to accept this argument, despite the local character of the farm and market.

PAGES: Section 1

BUSPROG: Reflective

AICPA: BB-Decision Modeling

2. Fatt Boys Brewery, Inc., makes and sells alcoholic beverages with labels that display a drawing of a "Fatt Boy" making the gesture generally known as "giving the finger." Fatt Boys applies to the Georgia State Liquor Authority (GSLA) for approval to sell beer with this label in Georgia. Without considering alternatives, GSLA 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 Fatt Boys's application violates the First Amendment?

ANSWER: A court would most likely reason that GSLA's ban on the use of the label lacks a "reasonable fit" with the state's interest in shielding minors from vulgarity, and that GSLA did not adequately consider alternatives to the ban. As a state agency, GSLA has a "substantial" interest in protecting children from vulgar advertising. The question is whether banning Fatt Boys's label "directly advances" that interest. A court might reason that barring the label cannot realistically be expected to reduce children's exposure to vulgarity to any significant degree, considering vulgar displays' wide currency in society.

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, GSLA might restrict the locations where Fatt Boys's products may be displayed in stores.

PAGES: Section 2

BUSPROG: Reflective

AICPA: BB-Decision Modeling