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Chapter 2 Constitutional Law

TRUEFALSE

1. A confederal form of government is a confederation of independent states with a central government of very limited powers.

(A) True

(B) False

Answer : (A)

2. In a federal form of government, the national government does not share sovereign power with the states.

(A) True

(B) False

Answer : (A)

3. All powers not specifically delegated to the federal government are reserved to the states.

(A) True

(B) False

Answer : (A)

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

(A) True

(B) False

Answer : (A)

5. Under the Constitution, the judicial branch interprets the laws.

(A) True

(B) False

Answer : (A)

6. Under the Constitution, the judicial branch is responsible for foreign affairs.

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(A) True

(B) False

Answer : (B)

7. The President determines the jurisdiction of the federal courts.

(A) True

(B) False

Answer : (B)

8. The judicial branch has the power to hold actions of the other branches of government unconstitutional.

(A) True

(B) False

Answer : (A)

9. The Constitution permits Congress to regulate interstate commerce.

(A) True

(B) False

Answer : (A)

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

(A) True

(B) False

Answer : (A)

11. Federal legislation can affect how businesses compete.

(A) True

(B) False

Answer : (A)

12. The states can establish laws and regulations that would interfere with trade and commerce

among the states.

(A) True

(B) False

Answer : (B)

13. The term *police powers* encompasses just the enforcement of criminal laws.

(A) True

(B) False

Answer : (B)

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

(A) True

(B) False

Answer : (B)

15. Under the supremacy clause, a valid federal statute or regulation will preempt a conflicting state or local law or regulation on the same general subject.

(A) True

(B) False

Answer : (A)

16. Some constitutional protections apply to business entities.

(A) True

(B) False

Answer : (A)

17. The Second Amendment to the U.S. Constitution reserves all powers not delegated to the federal government to the states.

(A) True

(B) False

Answer : (B)

18. The Fifth Amendment prohibits unreasonable searches and seizures of persons or property.

(A) True

(B) False

Answer : (B)

19. The Eighth Amendment prohibits excessive bail and fines.

(A) True

(B) False

Answer : (A)

20. The Bill of Rights protects individuals against various types of conduct by the federal government.

(A) True

(B) False

Answer : (A)

21. The First Amendment does *not* protect symbolic speech.

(A) True

(B) False

Answer : (A)

22. Speech-oral, written, or symbolized by conduct-is not subject to restrictions.

(A) True

(B) False

Answer : (B)

23. The First Amendment prevents limits from being placed on independent political expenditures by corporations.

(A) True

(B) False

Answer : (A)

24. The First Amendment protects defamatory speech.

(A) True

(B) False

Answer : (B)

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

(A) True

(B) False

Answer : (B)

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

(A) True

(B) False

Answer : (B)

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

(A) True

(B) False

Answer : (B)

28. The Fourteenth Amendment guarantees a right to due process of law.

(A) True

(B) False

Answer : (A)

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

(A) True

(B) False

Answer : (A)

30. Substantive due process limits what the government can do in its legislative and executive capacities.

(A) True

(B) False

Answer : (A)

31. A law that prohibits or inhibits only *some* persons from exercising a fundamental right will be subject to "strict scrutiny" under the equal protection clause.

(A) True

(B) False

Answer : (A)

32. A law that discriminates based on gender must substantially relate to an important government objective to be valid under the equal protection clause.

(A) True

(B) False

Answer : (A)

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

(A) True

(B) False

Answer : (A)

34. State laws protect individuals' privacy rights.

(A) True

(B) False

Answer : (A)

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

(A) True

(B) False

Answer : (B)

MULTICHOICE

36. The United Energy Resources Association would like a certain law enacted, administered, interpreted, and enforced in the best interest of its members, which include fossil fuel companies. Under the Constitution, Congress

(A) administers the laws.

(B) enforces the laws.

(C) interprets the laws.

(D) enacts the laws.

Answer : (D)

37. 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)

38. The Constitution sets forth specific powers that can be exercised by the national government and provides that the national government has the implied power to undertake actions necessary to carry its expressly designated powers. All other powers are expressly reserved to

(A) none of the choices.

(B) the states.

(C) the national government.

(D) the people.

Answer : (B)

39. Savers Mart, Inc., distributes its merchandise to retail outlets on an inter-state basis. Under the commerce clause, Congress has the power to regulate

(A) any commercial activity in the United States.

(B) only activities that are in intrastate commerce.

(C) only activities that are in local commerce.

(D) only activities that are not in commerce.

Answer : (A)

40. The state of Indiana regulates private activities to protect or promote the public order, health, safety, and general welfare under

(A) its police powers.

(B) the Tenth Amendment.

(C) the Bill of Rights.

(D) the supremacy clause.

Answer : (A)

41. A statute enacted by the Arizona state legislature to regulate trucking affects interstate commerce. In evaluating this statute, the courts will balance the burden that it imposes on interstate commerce against

(A) the courts' authority to determine that a law is unconstitutional.

(B) the purpose of interstate commerce.

(C) the state's interest in regulating the matter.

(D) the statute's impact on noneconomic activity.

Answer : (C)

42. The commerce clause's express grant of exclusive authority to regulate commerce that substantially affects trade and commerce among states is referred to as the

(A) dormant aspect.

(B) regulatory aspect.

(C) substantive aspect.

(D) exclusive aspect.

Answer : (B)

43. 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)

44. A decision by the federal Environmental Protection Agency (EPA) on the amount of carbon that can be emitted from a car's exhaust system conflicts with a California state law. In this situation, under the supremacy clause,

(A) both the decision and the law are invalid.

(B) both the decision and the law apply concurrently.

(C) California's law takes precedence.

(D) the EPA's decision takes precedence.

Answer : (D)

45. A federal law regarding the labeling of pesticides directly conflicts with a state law. The state law will be rendered invalid due to

(A) the supremacy clause.

(B) the commerce clause.

(C) the equal protection clause.

(D) the due process clause.

Answer : (A)

46. Bree, 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)

47. Bob, the president of Commerce & Trade, Inc., claims that certain actions by the federal government and the state of Delaware infringe on rights guaranteed by the Bill of Rights. *All* of these rights limit

(A) none of the choices.

(B) the federal government.

(C) private citizens and corporations.

(D) the states.

Answer : (B)

48. George burns a U.S. flag in his backyard. He posts a video of the event on YouTube.com. George's actions are

(A) expressly prohibited by the Constitution.

(B) protected by the First Amendment.

(C) subject to reasonable restrictions under the due process clause.

(D) given strict scrutiny under the equal protection clause.

Answer : (B)

49. Keralyn creates a Web site to post threatening messages about celebrities. 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)

50. Don, a U.S. citizen, is the owner of Egrets Unlimited, Inc. Egret's competitors include Feathered Friends Company (FFC). The Bill of Rights embodies a series of protections for Don against types of conduct by

(A) FFC only.

(B) FFCand the government.

(C) none of the choices.

(D) the government only.

Answer : (D)

51. Ryan, a follower of a certain religion, sells an article to *Sunday!* magazine in which he insists that Congress base all federal law on his religious principles. The First Amendment guarantees Ryan's

(A) freedom of religion.

(B) right to engage in interstate commerce.

(C) right to due process.

(D) right to privacy.

Answer : (A)

52. The members of Citizens Aware believe that a recently enacted federal law is unconstitutional. They write and sign a petition to the government to repeal the law, refuse to obey the law, and stop others from complying with the law. Under the First Amendment, these individuals have a right to

(A) petition the government.

(B) refuse to obey any law with which they disagree.

(C) stop others from complying with the law.

(D) all of the choices.

Answer : (C)

53. 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

(A) constitutional under the First Amendment.

(B) not subject to the U.S. Constitution.

(C) unconstitutional under the commerce clause.

(D) unconstitutional under the First Amendment.

Answer : (D)

54. Mary creates a t-shirt design that expresses her support for a presidential candidate and

distributes t-shirts imprinted with the design to her friends. The t-shirts represent

(A) unprotected speech.

(B) controlled speech.

(C) symbolic speech.

(D) illegal speech.

Answer : (C)

55. A federal law requires public libraries to install filtering software on computers to prevent children from accessing adult content online. This law

(A) is expressly prohibited by the Constitution.

(B) does no substantially burden free speech.

(C) is subject to reasonable restrictions under the due process clause.

(D) is given strict scrutiny under the equal protection clause.

Answer : (B)

56. Sustainable Crops Corporation regularly expresses opinions on political issues, including whether to ban the use of genetically modified organisms (GMOs). Under the First Amendment, corporate political speech is

(A) discouraged.

(B) forbidden.

(C) protected.

(D) required.

Answer : (C)

57. California 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 national interests.

Answer : (A)

58. Serenity City enacts an ordinance that bans the use of "sound amplifying systems" on public streets. Tyler wants to campaign for a seat on the city council by broadcasting his message through speakers mounted on a truck. In Tyler's suit against the city, a court would likely hold the ordinance 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 national interests.

Answer : (B)

59. Taco Hot Dogs, Inc., regularly advertises its products. Under the First Amendment, in comparison with noncommercial speech, the protection given these ads is

(A) equally extensive.

(B) less extensive.

(C) more extensive.

(D) non-existent.

Answer : (B)

60. VidGames, Inc. markets a variety of shooting, fighting, and hunting video games. A state statue is enacted that requires all video game manufacturers to label any games with an option to kill something as "excessively violent". A court would likely hold this regulation 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 national interests.

Answer : (A)

61. Congress enacts the Ad Restriction Act (ARA) to limit advertising in certain circumstances. The ARA will be considered valid if it directly advances a substantial government interest

(A) and goes no further than necessary to achieve its purpose.

(B) without regard to how "far" it goes.

(C) and the parties affected by it can elect how "far" to go in applying it.

(D) and goes further than necessary to ensure full coverage.

Answer : (A)

62. Brad stands in front of Rooster's Round-Up Café, shouting "fighting words" that are likely to incite Rooster'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)

63. Adult Shop in Bay City sells a variety of publications, including child pornography. Bay City enacts an ordinance prohibiting the sale of such materials. This ordinance is most likely

(A) an invalid restriction of individuals' privacy.

(B) an unconstitutional restriction of speech.

(C) a violation of adults' rights to enjoy certain privileges.

(D) constitutional under the First Amendment.

Answer : (D)

64. Under the First Amendment, in comparison with commercial speech, the protection given obscene speech is

(A) equally extensive.

(B) less extensive.

(C) more extensive.

(D) non-existent.

Answer : (D)

65. Oklahoma enacts a law requiring all businesses in the state to donate 10 per-cent of their profits to Protestant churches that provide certain services to persons whose income is below the poverty level. Price Less Stores files a suit to block the law's enforcement. The court would likely hold that this law violates

(A) no clause in the U.S. Constitution.

(B) the establishment clause.

(C) the free exercise clause.

(D) the supremacy clause.

Answer : (B)

66. Marie claims that a Nebraska state statute infringes on her "procedural due process" rights. This claim focuses on

(A) procedures used in making decisions to take life, liberty, or property.

(B) the content of the statute.

(C) the similarity of the treatment of similarly situated individuals.

(D) the steps to be taken to protect Marie's privacy.

Answer : (A)

67. Orin claims that a Pennsylvania state statute infringes on his "substantive due process" rights. This claim focuses on

(A) procedures used to make decisions to take life, liberty, or property.

(B) the content of the statute.

(C) the similarity of the treatment of similarly situated individuals.

(D) the steps to be taken to protect Orin's privacy.

Answer : (B)

68. 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

(A) equal protection.

(B) free exercise.

(C) due process.

(D) free speech

Answer : (C)

69. Bay Town enacts an ordinance to allow only a few recreational boating outfits to operate in certain areas of its harbor, for the purpose of reducing traffic. A court would likely review this ordinance under the principles of

(A) equal protection.

(B) free exercise.

(C) due process.

(D) free speech.

Answer : (A)

70. Jon, 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

(A) equal protection.

(B) privacy.

(C) due process.

(D) engage in interstate commerce.

Answer : (B)

ESSAY

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

Graders Info :

Under the commerce clause, at least in theory, Congress has the power to regulate any activity-interstate or intrastate-that affects interstate commerce. Thus, under that clause, it could be argued that the 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 in this problem might be that in his case these activities and their effects are purely local. But because of the economic character of these activities, and hence their effect on interstate commerce, however minimal and despite their local character, it is unlikely that a court would accept this argument.

72. The Arkansas 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?

Graders Info :

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 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.

TRUEFALSE

73. A confederal form of government is a confederation of independent states with a central government of very limited powers.

(A) True

(B) False

Answer : (A)

74. In a federal form of government, the national government does not share sovereign power with the states.

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80. The judicial branch has the power to hold actions of the other branches of government unconstitutional.

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81. The Constitution permits Congress to regulate interstate commerce.

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

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91. The Eighth Amendment prohibits excessive bail and fines.

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

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106. State laws protect individuals' privacy rights.

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

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MULTICHOICE

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Answer : (C)

114. The commerce clause's express grant of exclusive authority to regulate commerce that substantially affects trade and commerce among states is referred to as the

(A) dormant aspect.

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Answer : (B)

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119. Bob, the president of Commerce & Trade, Inc., claims that certain actions by the federal government and the state of Delaware infringe on rights guaranteed by the Bill of Rights. *All* of these rights limit

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(B) refuse to obey any law with which they disagree.

(C) stop others from complying with the law.

(D) all of the choices.

Answer : (C)

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(D) unconstitutional under the First Amendment.

Answer : (D)

126. Mary creates a t-shirt design that expresses her support for a presidential candidate and distributes t-shirts imprinted with the design to her friends. The t-shirts represent

(A) unprotected speech.

(B) controlled speech.

(C) symbolic speech.

(D) illegal speech.

Answer : (C)

127. A federal law requires public libraries to install filtering software on computers to prevent children from accessing adult content online. This law

(A) is expressly prohibited by the Constitution.

(B) does no substantially burden free speech.

(C) is subject to reasonable restrictions under the due process clause.

(D) is given strict scrutiny under the equal protection clause.

Answer : (B)

128. Sustainable Crops Corporation regularly expresses opinions on political issues, including whether to ban the use of genetically modified organisms (GMOs). Under the First Amendment, corporate political speech is

(A) discouraged.

(B) forbidden.

(C) protected.

(D) required.

Answer : (C)

129. California 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 national interests.

Answer : (A)

130. Serenity City enacts an ordinance that bans the use of "sound amplifying systems" on public streets. Tyler wants to campaign for a seat on the city council by broadcasting his message through speakers mounted on a truck. In Tyler's suit against the city, a court would likely hold the ordinance 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 national interests.

Answer : (B)

131. Taco Hot Dogs, Inc., regularly advertises its products. Under the First Amendment, in comparison with noncommercial speech, the protection given these ads is

(A) equally extensive.

(B) less extensive.

(C) more extensive.

(D) non-existent.

Answer : (B)

132. VidGames, Inc. markets a variety of shooting, fighting, and hunting video games. A state statue is enacted that requires all video game manufacturers to label any games with an option to kill something as "excessively violent". A court would likely hold this regulation 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 national interests.

Answer : (A)

133. Congress enacts the Ad Restriction Act (ARA) to limit advertising in certain circumstances. The ARA will be considered valid if it directly advances a substantial government interest

(A) and goes no further than necessary to achieve its purpose.

(B) without regard to how "far" it goes.

(C) and the parties affected by it can elect how "far" to go in applying it.

(D) and goes further than necessary to ensure full coverage.

Answer : (A)

134. Brad stands in front of Rooster's Round-Up Café, shouting "fighting words" that are likely to incite Rooster'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)

135. Adult Shop in Bay City sells a variety of publications, including child pornography. Bay City enacts an ordinance prohibiting the sale of such materials. This ordinance is most likely

(A) an invalid restriction of individuals' privacy.

(B) an unconstitutional restriction of speech.

(C) a violation of adults' rights to enjoy certain privileges.

(D) constitutional under the First Amendment.

Answer : (D)

136. Under the First Amendment, in comparison with commercial speech, the protection given obscene speech is

(A) equally extensive.

(B) less extensive.

(C) more extensive.

(D) non-existent.

Answer : (D)

137. Oklahoma enacts a law requiring all businesses in the state to donate 10 per-cent of their profits to Protestant churches that provide certain services to persons whose income is below the poverty level. Price Less Stores files a suit to block the law's enforcement. The court would likely hold that this law violates

(A) no clause in the U.S. Constitution.

(B) the establishment clause.

(C) the free exercise clause.

(D) the supremacy clause.

Answer : (B)

138. Marie claims that a Nebraska state statute infringes on her "procedural due process" rights. This claim focuses on

(A) procedures used in making decisions to take life, liberty, or property.

(B) the content of the statute.

(C) the similarity of the treatment of similarly situated individuals.

(D) the steps to be taken to protect Marie's privacy.

Answer : (A)

139. Orin claims that a Pennsylvania state statute infringes on his "substantive due process" rights. This claim focuses on

(A) procedures used to make decisions to take life, liberty, or property.

(B) the content of the statute.

(C) the similarity of the treatment of similarly situated individuals.

(D) the steps to be taken to protect Orin's privacy.

Answer : (B)

140. 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

(A) equal protection.

(B) free exercise.

(C) due process.

(D) free speech

Answer : (C)

141. Bay Town enacts an ordinance to allow only a few recreational boating outfits to operate in certain areas of its harbor, for the purpose of reducing traffic. A court would likely review this ordinance under the principles of

(A) equal protection.

(B) free exercise.

(C) due process.

(D) free speech.

Answer : (A)

142. Jon, 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

(A) equal protection.

(B) privacy.

(C) due process.

(D) engage in interstate commerce.

Answer : (B)

ESSAY

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

Graders Info :

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Under the commerce clause, at least in theory, Congress has the power to regulate any activity-interstate or intrastate-that affects interstate commerce. Thus, under that clause, it could be argued that the 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 in this problem might be that in his case these activities and their effects are purely local. But because of the economic character of these activities, and hence their effect on interstate commerce, however minimal and despite their local character, it is unlikely that a court would accept this argument.

144. The Arkansas 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?

Graders Info :

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 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.

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