

TRUE/FALSE - Write 'T' if the statement is true and 'F' if the statement is false.

1) The Bill of Rights recognizes fundamental constitutional rights of citizens.

true false

2) In *U.S. v. Lopez*, the Supreme Court found a legitimate economic interest in making it a federal crime to possess a gun within a certain distance from schools.

true false

3) Congress's broadest powers are derived from the Commerce Clause.

true false

4) According to the decision in *Brown v. Entertainment Merchants Association*, the Court applied an intermediate-level scrutiny standard because the state's action was related to a fundamental right—freedom of speech.

true false

5) Corporations and other business entities receive the same level of constitutional protection as individuals.

true false

6) The Equal Protection Clause requires the government to treat all people the same, regardless of whether they are similarly situated.

true false

7) Most privacy rights afforded in the Constitution do not extend to the workplace.

true false

8) Strict scrutiny requires that a state prove that it is acting to promote an important government objective and that the proposed act is substantially related to the government's objective.

- true false

9) Growing marijuana for purely personal medical use while possessing a valid prescription in a state that has approved medical use of marijuana has been found to be interstate commerce.

- true false

10) The inherent right of the federal government to protect its citizenry's health, safety, and welfare is referred to as the federal government's police powers.

- true false

11) States may never regulate commerce that crosses state borders as this is an exclusive federal power.

- true false

12) Federal legislation or regulation must be authorized by a specific enumerated power in the Constitution.

- true false

13) In *U.S. v. Morrison*, the Supreme Court found that commerce power was a legitimate justification to validate the right of women to sue their attackers for monetary damages under the Violence Against Women Act.

- true false

14) Congress may tax activities and property that it might not be authorized to regulate under any of the enumerated regulated powers.

- true false

15) Congress may place limits on the use of federal money by states as long as the limit does not affect or infringe on a citizen's constitutional rights.

- true false

16) Both commercial speech and corporate political speech are subject to intermediate scrutiny.

- true false

17) A business owner's expectation of privacy in commercial property is the same as the privacy interest afforded to a private homeowner.

- true false

18) The Fourth Amendment protects against all searches or seizures by the government when the government's actions are not supported by a warrant.

- true false

19) Substantive due process requires that a state statute must be published for public inspection and be clear and specific.

- true false

20) Enumerated powers are those rights and powers granted in the Constitution to the individual states.

- true false

21) Placing conditions on the use of federal money given to states is most often accomplished by interpreting the Commerce Clause.

- true false

22) The right to privacy is a specifically named right established in the Bill of Rights.

- true false

23) Obscenity regulation of commercial speech is subject to the same scrutiny as any other government regulation of commercial speech.

- true false

24) Professor Jones accuses Kim, one of his students, of cheating on an exam. Professor Jones arranges a hearing to be held in front of the university's Academic Honesty Board, and Kim is informed that she must prove her innocence first, before Professor Jones must prove her guilt. Kim is being denied her substantive due process rights.

- true false

25) Typically, political speech by corporations is fully protected by the First Amendment.

- true false

26) Commercial speech has always been afforded protection under the First Amendment.

- true false

27) *Marbury v. Madison*, decided in 1803, is no longer considered valid precedent and has been preempted by statute.

- true false

28) The First Amendment prohibits individuals from encroaching on or prohibiting another person's freedom of speech.

- true false

29) Under the Constitution, Congress has the enumerated power to appoint federal officers and judges.

- true false

30) Under the federal system used by the United States, the federal government has only limited power to regulate individuals and businesses.

- true false

MULTIPLE CHOICE - Choose the one alternative that best completes the statement or answers the question.

31) Which of the following is correct of federal powers in the U.S. system?

- A) They are limited and granted.
- B) They are unlimited and granted.
- C) They are limited and inherent.
- D) They are unlimited and inherent.

32) According to the text, which of the following is not a general function of the U.S. Constitution?

- A) Enumerating and limiting the powers of the states
- B) Providing a structure for the federal government
- C) Delegating powers to the federal branches
- D) All of the answer choices are functions of the U.S. Constitution.

33) Judicial review is best represented by which of the following hypotheticals?

A) Alisha, an attorney for a civil litigant, is asking the judge to review the legal documents that her opponent wants to submit as evidence because Alisha believes they should be inadmissible.

B) Sanford, a member of the U.S House of Representatives, is currently reviewing legislation that would create a new federal court in Washington, D.C.

C) Laura, a federal appellate court judge, is researching the language of a statute to determine if it is unconstitutional.

D) All of the answer choices represent the application of judicial review.

34) At an event on the White House lawn, the President declared that the second Tuesday of April would be "National Be Kind to Lawyers Day." Which of the following is this declaration?

A) Executive order

B) Presidential declaration

C) Ceremonial proclamation

D) Substantive proclamation

35) Act Now!, an organization devoted to voting rights, applied for a permit to protest the closing of polling places in poor neighborhoods. Genevieve, the head of the organization, wanted the protest to be on the lawn of the county courthouse. The county denied the permit on grounds that it would prevent people from accessing the courthouse. If Act Now! challenges this action in court, it will be reviewed by the judge using

A) rational basis scrutiny.

B) intermediate scrutiny.

C) strict scrutiny.

D) no particular form of scrutiny (none is required in this situation)

36) Karin is a federal court judge looking at a bill passed by Congress and signed by the president into law. A case challenging this law on constitutional grounds is before her appellate court and she has determined the law to be unconstitutional. What is the name for this judicial action?

- A) Federal preemption
- B) Jurisprudential scrutiny
- C) Judicial veto
- D) Judicial review

37) The Supremacy Clause holds that

- A) state law and federal law are coequal under states' rights theory.
- B) state law trumps federal law if there is a conflict.
- C) federal law trumps state law if there is a conflict.
- D) federal law and state law can coexist while in conflict

38) The state of Massachusetts passed a law requiring all commercial trucks driving on Massachusetts highways to install special pollution scrubbers on their exhausts. These devices cost \$1,500 per truck and any truck entering the state must have the scrubber installed or the driver is subject to a large fine. Massachusetts has justified this regulation on grounds of air quality health for residents and alleviation of global warming. This Massachusetts law

A) is valid because it applies only to Massachusetts roads and such a law is entirely intrastate.

B) is valid because Massachusetts's right to protect its citizens under its police powers will override any outside challenges to this law.

C) is invalid because this law is intended to regulate interstate commerce, an enumerated federal power.

D) is invalid because, although on its face it's an intrastate law, this statute will have a significant economic effect on interstate commerce, causing an undue burden.

39) Which of the following is correct about the powers of the president?

- A) The president has the power to issue executive orders which have the full force of law.
- B) Article II explicitly gives the president power to regulate commerce.
- C) The president regulates patents and copyrights.
- D) All of the answer choices are correct.

40) Congress passed a law that permitted government agents to tap the phones of the executives of internet service providers (ISPs) without the probable cause and warrant normally required by the Fourth Amendment. The rationale was that ISPs were involved in frequent violations of citizen's' privacy rights and the taps were needed to uncover evidence of this illegal activity. Allen, the president of an ISP, had his phone tapped. He has challenged the law in federal court. What level of scrutiny will the courts apply to this law?

- A) Rational basis scrutiny
- B) Intermediate scrutiny
- C) Strict scrutiny
- D) No scrutiny is required because nothing in the hypothetical indicates Allen is in a suspect classification and the search had a constitutional public interest purpose.

41) Billy's Barbecue was a small business with 20 employees in Tinyville, a town that seldom had visitors from other states. Billy refused to serve people of Middle Eastern descent. Billy's only contact with other states was purchasing some of his beef from a butcher in a neighboring state. May Congress regulate Billy's activity under the Civil Rights Act? Why/why not?

- A) No, because Billy's is a private business.
- B) No, because Billy's business is primarily local in nature, he is not engaged in substantial interstate commerce.
- C) Yes, because all businesses of public or private accommodation are subject to congressional regulation under the Civil Rights Act.
- D) Yes, because Billy's is engaged in interstate commerce under the Commerce Clause.

42) The state of South Carolina passed a law charging an extra fee for out-of-state poultry processors and demanding that their poultry be inspected before it could be sold retail in South Carolina. There was not a similar requirement for in-state poultry. This is justified on grounds that it protects the health and welfare of state residents. Is this law likely to be upheld by a federal court if challenged on constitutional grounds by Braxton Poultry, a Georgia poultry processor?

A) Yes, the law will likely be upheld because it is within the health, safety or welfare rights of a state to promote legitimate state objectives.

B) Yes, the law will likely be upheld because the states have broad, plenary powers to regulate intrastate commerce.

C) No, the law will likely be struck down on grounds that a state may not regulate health issues due to the Supremacy Clause and preemption.

D) No, the law will likely be struck down on grounds that a state may not discriminate against or place undue burdens on interstate commerce under the Dormant Commerce Clause.

43) The federal government imposed a tax on all oil companies to fund a federal agency devoted to researching alternatives to fossil fuels. If Big Oil Incorporated challenges this tax in federal court, what level of scrutiny will the court apply?

A) rational basis scrutiny.

B) intermediate scrutiny.

C) strict scrutiny.

D) no particular form of scrutiny (none is required in this situation).

44) Judicial review is the power

A) of the courts to invalidate a law inconsistent with the constitution.

B) of the president to review judges and chose those qualified for elevation to the federal courts.

C) of the Senate to review judges nominated by the president to federal courts.

D) of the people to replace judges by citizen's recall.

45) Which of the following is true of judicial review?

- A) It is contained in Article III of the Constitution.
- B) It is established by a constitutional amendment contained in the Bill of Rights.
- C) It is established by common law precedent.
- D) It is a power of the Executive and Legislative Branches contained in Articles I and II of the Constitution.

46) Congress attached spending conditions to federal funds granted to states to maintain interstate highways. The conditions stated that a state would have federal highway repair funds cut back by 10 percent if a state raised its speed limit on public roads higher than 70 miles per hour on grounds that safer highways would promote the federal welfare. The state of Wyoming raised their speed limit to 80, had their funds reduced, and challenged the congressional conditions in federal court. What is the likely result of their challenge?

- A) The federal conditions will be struck down as unconstitutional, as Congress may not discriminate in the allocation of funds.
- B) The federal conditions will be struck down as unconstitutional, as Congress may not cut back on funds to any state once allocated.
- C) The federal conditions will be upheld as constitutional, as a constitutional exercise of Congress's spending authority.
- D) The federal conditions will be upheld as constitutional, as Congress has inherent federal powers to place any and all conditions on the allocations of funds to the states.

47) The Necessary and Proper Clause holds that

- A) state officials may do whatever they think necessary and proper to arrest a criminal suspect.
- B) Congress may set limits and conditions on federal spending
- C) The president may do whatever is necessary and proper to exercise executive powers.
- D) All of the answer choices are correct.

48) The city of Happy Trails passed an ordinance which prohibited women from working for the police department or sheriff's department in a law enforcement position. If Geneva and a group of women who were denied law enforcement jobs challenge the city ordinance in federal court, when considering the city ordinance, the courts will employ

- A) rational basis scrutiny.
- B) intermediate scrutiny.
- C) strict scrutiny.
- D) no particular form of scrutiny (none is required in this situation).

49) What type of restrictions may the government place on political expression?

- A) Absolute restrictions if public safety is involved
- B) Minimal restrictions on time, place and manner
- C) No restrictions under any circumstances
- D) Reasonable restrictions on time, place and manner

50) Hardcore Brewery featured photos of young people giving gestures considered obscene by many people on their beer cans and beer bottle labels. The state of Oregon banned the sale of Hardcore Brewery beer in their state based on a law forbidding obscene speech. If Hardcore Brewery challenges this law in federal court, which of the following standards will the court apply to the Oregon law?

- A) The court will ask whether Oregon has a substantial government interest in regulating the speech.
- B) The court will ask whether Oregon has a compelling purpose for regulating the speech.
- C) The court will ask whether there is any rational reason for regulating the speech.
- D) The court will apply no standard to the analysis and rule the ban constitutional, as a state may always ban speech that it determines to be obscene without fear of court review.

51) Freddie was approached by Byron, a police officer, who asked him if he could search Freddie's backpack. Freddie gave Byron permission to conduct the search. Byron had no warrant and no probable cause to believe that Freddie was involved in criminal activity. Byron found an illegal switchblade in Freddie's backpack and arrested him. Is this a legal search? Why/why not?

- A) This is an illegal search because it was not supported by probable cause.
- B) This is an illegal search because it was not supported by a warrant.
- C) This is a legal search because Freddie was guilty of the crime for which he was arrested.
- D) This is a legal search because it was consensual, Freddie gave Byron permission.

52) Which of the following laws involves a quasi-suspect classification under the Fourteenth Amendment?

- A) Police in the city of Searchville are allowed by law to search people with ancestry from South America and Central America without a warrant or probable cause.
- B) The city of Discrimville prohibits people who were born to unwed mothers from working in government run daycare facilities.
- C) The city of Taxville passed an ordinance raising taxes on local businesses from 10 percent to 20 percent.
- D) The city of Trialville passed a statute allowing former victims of fraud to sit on the jury in criminal fraud cases.

53) Graphic Games, a video game developer, had its latest game "Mega Zombie Kill" banned for sale in Iowa to children under the age of 18 pursuant to a new Iowa law restricting the sales of games featuring extreme violence. Graphic Games challenged this action in court on grounds that it was unconstitutional. Which of the following would be the best constitutional theory for Graphic Games to pursue?

A) First Amendment Free Speech
B) Fourteenth Amendment Equal Protection
C) Substantial relationship test
D) There are no valid constitutional grounds for Graphic Games to challenge this law, because Iowa has unrestricted rights to regulate in the interests of the public health, safety and welfare.

54) Attempts by the government to regulate political speech by corporations are subject to

- A) rational basis scrutiny.
- B) intermediate scrutiny.
- C) strict scrutiny.
- D) no particular form of scrutiny (none is required in this situation).

55) Excel Manufacturing, a corporation, hired a private investigator to conduct surveillance of DeJuan, the Chief Financial Officer, because he was suspected of committing corporate espionage. Without DeJuan's consent, the private investigator approached DeJuan and demanded to be allowed to search him and his cell phone without either a warrant or probable cause. Which of the following does this action violate?

- A) Fourth Amendment search and seizure.
- B) Fourteenth Amendment procedural due process.
- C) Fourteenth Amendment substantive due process.
- D) The action violates no constitutional amendment.

56) The rights of a business compared with an individual under the Fourth Amendment are best described as:

- A) A business has greater rights to be free from government searches than an individual.
- B) A business has equal rights to be free from government searches as an individual.
- C) A business has lesser rights to be free from government searches than an individual.
- D) The rights of a business compared with an individual under the Fourth Amendment have not yet been defined by the federal courts.

57) Stelissa was driving her 25-year-old rusty car through a rich neighborhood. Glenn, a police officer, pulled her over because he didn't like the looks of a junky car in a fancy area. Glenn demanded that she step out of the car for a pat-down search. Glenn had no suspicion that Stelissa was committing a crime at the time of the stop. Glenn found a tiny bag of cocaine on Stelissa. Under these circumstances, this is

- A) an illegal search under the Fourth Amendment.
- B) an illegal search under Fifth Amendment.
- C) a legal search because illegal drugs were found, justifying the police officer's actions.
- D) a legal search because police are given broad discretion to use their experience to fight crime and obviously the police officer was right in this case.

58) The Equal Protection Clause of the Fourteenth Amendment would prohibit

- A) the University of Utah, a public school, from charging higher rates for out-of-state students.
- B) the University of Delaware, a public school, from charging \$500 per credit hour for students from West Virginia, a lower income state, while charging \$700 per credit hour for students from Connecticut, a higher income state
- C) the state of Illinois from creating different categories of people who are treated differently under the law.
- D) none of the states in the hypotheticals from the described actions, each of the distinctions that Utah, Delaware and Illinois are recognizing are permissible under the Fourteenth Amendment.

59) Which of the following would be economic activity that the federal government could regulate under the Commerce Clause?

A) Jessie drives a diesel truck, but just in two states, Nevada and Arizona, he never crosses other state lines and in fact does 99% of his business in Nevada.

B) Christa has an organic farm in the state of Vermont, selling produce only at a local farmer's market. There are thousands of farms just like Christa's around the country that have a substantial impact on interstate commerce, of which, Christa's farm has only a tiny effect.

C) Marcus has an internet business that ships products to five states in the Southeast, but no employee in his business ever crosses state lines for a business purpose.

D) All of the answer choices involve economic activity that the federal government may regulate under the Commerce Clause.

60) Katelyn was suspended from State University after a professor suspected her of cheating on an economics exam. The determination of whether the state government acted properly and gave her an opportunity to present her evidence at a fair and neutral hearing is an analysis of

- A) procedural due process.
- B) substantive due process.
- C) quasi-suspect classifications.
- D) the Commerce Clause.

FILL IN THE BLANK. Write the word or phrase that best completes each statement or answers the question.

61) The legal authority that a court must have to decide a case is called _____.

62) The right of a state to protect its citizenry is called its _____.

63) The government's system of checks and balances is called _____.

64) Powers granted in the Constitution to the three branches of the federal government are known as _____ powers.

- 65) Veto power is a power granted to the _____ branch of government.
- 66) The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act is commonly called the _____ Act.
- 67) The case of *Marbury v. Madison* established the federal courts' power of _____.
- 68) Government acts that affect semi-suspect or quasi-suspect classifications require that a court apply _____ scrutiny to determine the act's validity.
- 69) Commerce that is wholly contained within a state and has no effect on other states or foreign countries is called _____ commerce.
- 70) A question put to voters during a state election to decide a particular issue may be called a ballot initiative, a referendum, or a[n] _____.

ESSAY. Write your answer in the space provided or on a separate sheet of paper.

- 71) Explain the origin and justification of judicial review.
- 72) The U.S. Supreme Court has established three standards of review used when applying constitutional law. Name these three standards and discuss each in terms of how it relates to state objectives.

73) The state of Colorado has enacted a statute limiting the size of freight trains entering the state to no more than 80 cars other than the locomotive(s) and the caboose. Assume that there is no federal law mandating a maximum limit of cars, and further assume that freight trains frequently consist of over 100 cars. Colorado has justified the law by saying that shorter trains are safer, but the state's evidence is not persuasive. Colorado also claims that very long trains inconvenience drivers and can cause major traffic jams. Trains longer than 80 cars must stop and reduce their size, employing additional locomotives to transport the cars through the state to the border, where they may again recouple and proceed. Discuss whether this law is valid.

74) Congress has provided the state of Ohio \$50 million for highway construction and renovation. As a condition, Ohio must award 30 percent of the contracts to firms that are owned by women or minorities. Ohio sues, claiming that such a condition is an intrusion on Ohio's right to seek competitive bids and make the best use of the money. Ohio also asserts that this condition will make it difficult to seek the best-quality companies and that how it allocates the money is purely a state function as long as it uses the money for the purposes intended. How will a court likely decide this dispute?

75) Name the four-part test established by the Court in *Central Hudson Gas v. Public Service Commission* that subjects government restrictions on commercial speech to a form of intermediate-level scrutiny.

76) In what manner was a citizen's right to privacy initially established? Explain.

77) Mike has moved into a privately owned apartment complex. The stated rules of the complex prohibit unmarried men and women from living together in the same apartment. When Mike's girlfriend Kathy moves into his apartment, he is served with eviction papers. Mike claims that the apartment complex is violating his constitutional rights since it allows only married people to live together. Is he correct?

78) Describe Congress's authority to regulate under the Commerce Clause.

79) Explain the structure of the U.S. government and how the checks and balances system operates to maintain equalization of power between the different parts of the government.

80) Kathy runs a business from her home. Not only is she the sole employee, but she never leaves her home, performing all business functions in her pajamas in front of her computer. Her business consists of buying and reselling various goods over the Internet. She is very successful, with thousands of customers. In terms of regulation of commerce, how would you characterize her business?

Answer Key

Test name: Chapter 02 Test Bank

1) TRUE

The first 10 amendments of the Constitution, called the Bill of Rights, recognizes fundamental constitutional rights “of the people” regarding freedom of speech, religion, and assembly and establishes protections against random searches and seizures and other matters.

2) FALSE

The Court invalidated the Gun-Free School Zones Act on the basis that it was beyond the commerce powers of Congress. In *Lopez*, the Court struck down the Gun-Free School Zones Act of 1990. The Court concluded that the banning of firearms in local schools was a state police power and, therefore, more appropriately handled by the state government.

3) TRUE

Courts are highly differential to congressional action in areas affecting interstate commerce.

4) FALSE

The Court applied a strict scrutiny standard.

5) FALSE

Although corporations and other business entities do receive some of the same constitutional protection as individuals, not all individual protections afforded under the Constitution apply to corporations and other business entities.

6) FALSE

The Equal Protection Clause requires the government to treat people who are similarly situated equally.

7) TRUE

Most privacy rights afforded in the Constitution do not extend to the workplace; however, Congress and the states are currently seeking to clarify and define workplace privacy rights.

8) FALSE

Strict scrutiny requires that a state prove that it is acting to promote a compelling government objective, the proposed act is necessary to achieve the government's objective, and no less restrictive alternatives exist.

9) TRUE

The Court reasoned that Congress could rationally believe that noncommercially grown marijuana could be drawn into interstate commerce, allowing congressional regulation.

10) FALSE

Police powers are a state's power to protect its citizenry's health, safety, and general welfare. There are no inherent federal police powers.

11) FALSE

States may regulate commerce across state borders if doing so does not discriminate against out-of-state businesses and is a legitimate effort to regulate health, safety, and welfare.

12) TRUE

Congress must be authorized by the Constitution in order to enact laws.

13) FALSE

The Court found such an application of the commerce power to be too broad and invalidated the damages portion of the law.

14) TRUE

The power to tax is an independent source of federal authority that is not dependent on an enumerated power.

15) TRUE

The courts have found that Congress may place restrictions on federal money unless a constitutional right is violated. Congress may also place conditions on the use of federal money by the states in order to achieve national public policy objective. Congress generally cites the Necessary and Proper Clause as authorization to set conditions on federal spending.

16) FALSE

Commercial speech is subject to intermediate scrutiny, while corporate political speech is subject to strict scrutiny.

17) FALSE

A business owner's expectation of privacy in commercial property is less than the privacy interest afforded to a private homeowner and is particularly attenuated in commercial property used in closely regulated industries.

18) FALSE

The Fourth Amendment only protects against unreasonable searches or seizures by the government. Generally speaking, a search or seizure conducted with a warrant are presumed reasonable, while warrantless searches and seizures are presumed unreasonable.

19) TRUE

Since statutes affect citizens' rights, substantive due process requires publication and clarity.

20) FALSE

Enumerated powers are powers granted to the federal government under the Constitution.

21) FALSE

Placing conditions on the use of federal money given to states is most often accomplished by interpreting the Necessary and Proper Clause.

22) FALSE

Privacy is not explicitly mentioned in the Constitution.

23) TRUE

All commercial speech is evaluated under the same scrutiny standards.

24) FALSE

The right to have a fair hearing and to be innocent until proved guilty is a procedural due process issue, not a substantive due process issue.

25) TRUE

The form and content may be considered, but, typically, political speech by corporations is fully protected by the First Amendment.

26) FALSE

Traditionally, advertising (commercial speech) had little or no First Amendment protection, but the Supreme Court has gradually increased protections related to advertising (commercial speech).

27) FALSE

Marbury v. Madison has been defined by new authority but is still considered valid precedent.

28) FALSE

The First Amendment prohibits Congress from encroaching on or prohibiting another person's freedom of speech.

29) FALSE

The executive branch is granted the power to appoint federal officers and judges subject to confirmation by the Senate.

30) TRUE

States are granted more power than the federal government to regulate individuals and businesses.

31) A

Federal powers in the U.S. are limited and granted by the Constitution.

32) A

The Constitution does not enumerate and limit state powers.

33) C

Judicial review, established in the case of *Marbury v. Madison*, gave federal courts the right to declare a state or federal statute invalid if inconsistent with the Constitution.

34) C

A ceremonial proclamation is a presidential statement that designates special observances or celebrates national holidays.

35) B

Matters involving the time, place and manner of a political demonstration protected by the First Amendment are reviewed using intermediate scrutiny.

36) D

Judicial review, established in the case of *Marbury v. Madison*, gave federal courts the right to declare a state or federal statute invalid if inconsistent with the Constitution.

37) C

The Supremacy Clause establishes that federal law trumps state law when there is a conflict.

38) D

Intrastate laws that place a significant burden on interstate commerce may be regulated by Congress and are subject to preemption.

39) A

The president has the power to issue executive orders, these have the full force of law. 1. Article I gives Congress the power to regulate commerce. The president does not have this power under Article II.

2. Congress regulates patents and copyrights.

3. The president has the power to issue executive orders but does not have explicit powers to regulate commerce or the power to regulate patents and copyrights.

40) C

Discrimination against ISP business owners would normally fall under a rational basis analysis, but in this case, the discrimination impairs a fundamental constitutional right, so strict scrutiny applies.

41) D

Since Billy's purchased some items from interstate sources, this is sufficient for Congress to exercise its power to regulate a restaurant whose business interests are primarily local.

42) D

The law will likely be struck down because the Dormant Commerce Clause prohibits states from discriminating against or placing undue burdens on interstate commerce.

43) A

Courts have used rational basis scrutiny in cases involving purely economic regulations so long as there is a legitimate government objective and the policy is related to that objective.

44) A

Judicial review is the power of the courts to declare federal and state laws that are inconsistent with the Constitution invalid.

45) C

Judicial review is not a constitutional power, it was the holding of the case *Marbury v. Madison* in 1803.

46) C

Congress may attach spending conditions to state funds so long as conditions are clearly stated, in pursuit of the general welfare, related to a federal interest, and not used to induce things that are themselves unconstitutional.

47) B

The Necessary and Proper Clause, which gives Congress the power to make all laws necessary for carrying out its enumerated powers, allows Congress to set limits and conditions on federal spending.

48) B

When dealing with a semi-suspect (or quasi-suspect) classification such as gender, the courts will employ intermediate scrutiny.

49) D

The government may place reasonable restrictions on the time, place and manner of political speech.

50) A

The test for commercial speech and whether a government entity may restrict it includes an analysis by the court of whether the government has a substantial interest in regulating it.

51) D

This action by Byron is permissible because Freddie consented to the search.

52) B

Birth status, being born to an unwed mother, is a quasi-suspect classification.

53) A

The U.S. Supreme Court has held that video games are free speech and that restrictions upon them based on the content should be analyzed under strict scrutiny.

54) C

Government restrictions on the free political speech of corporations are subject to strict scrutiny.

55) D

Constitutional protections apply to government but not private acts.

56) C

While businesses have rights under the Fourth Amendment, they are lesser protections than those given to individuals.

57) A

Police, under the Fourth Amendment, must have just cause or a warrant to conduct searches.

58) B

The Equal Protection Clause would not permit a state to discriminate with different out-of-state tuition rates among different states. Delaware would not be allowed to charge more to Connecticut students than West Virginia students.

59) D

The federal government may regulate economic activity within a state under the Commerce Clause under a broad range of situations, including when a company only does business in two states, when there is a substantial aggregate effect of the activity on a whole on interstate commerce, or when product is merely shipped across state lines.

60) A

The type of hearing the government must give and notice requirements before taking away rights is an analysis of procedural due process.

61) jurisdiction

62) police powers

63) separation of powers

64) enumerated

65) executive

66) USA Patriot

67) judicial review

68) intermediate-level

69) intrastate

70) ballot proposition

71) Judicial review is the concept that the federal courts have the power to declare federal or state statutes unconstitutional, and therefore invalid, if they are inconsistent with the U.S. Constitution. This power is not specifically mentioned or granted in the Constitution but was first recognized in the 1803 case of *Marbury v. Madison*. Judicial review was not considered in any preconstitutional debates nor mentioned in the *Federal Register*. Nevertheless, it remains valid precedent to this day.

72) When a state action or statute advances a legitimate state objective such as an economic or social issue that is solely intrastate, the state need only prove a rational basis for the law. When an important state objective is at issue and the state can prove that its law or action is substantially related to that objective, the law or action is reviewed using intermediate-level scrutiny. When a state action or law relates to a fundamental right or a suspect classification, the state action or law is subject to strict scrutiny and the state must prove a compelling state interest to be successful.

73) Colorado is asserting its police powers, claiming to justify the law as protecting its citizens. Since the law applies only within the state's borders, it is also being justified as a purely intrastate law. In reality, the law creates a significant economic burden on interstate commerce. The time delay in coupling and uncoupling cars, as well as the time spent procuring additional locomotives, would make shipping by train much less efficient, and the additional costs would likely have a pass-through effect on customers of the shipped cargo. Going around the state is likely a very poor option. Congress has the power to regulate interstate freight train shipping and can preempt this intrastate Colorado law because of the significant and undue burden it creates on interstate commerce, making it invalid.

74) Congress's taxing and spending powers allow Congress to place conditions and restrictions on how federal money may be spent by the states. Asserting the Necessary and Proper Clause, Congress may require that money be used to achieve some public policy objective. The advocacy and support of women and minorities is an established public policy objective, so the courts will likely support Congress and uphold the conditions. Ohio's arguments, while logical and reasonable, will not be persuasive enough to overcome the public policy Congress is targeting. Only when individual constitutional rights are violated will the conditions be invalidated, and that is not evident here.

75) The four-part test requires that (1) the commercial speech must concern a lawful activity and be truthful; (2) a substantial government interest in regulating the speech must exist; (3) the government must prove that the restriction directly advances the claimed government interest; and (4) the government's restriction must not be more extensive than is necessary to achieve the government's asserted interest.

76) Not specifically cited in the Constitution, a citizen's right to privacy was first formally recognized in the case of *Griswold v. Connecticut*, where the Court used language implied from the First, Third, Fourth, Fifth, and Ninth Amendments to establish a protected zone of privacy. The case resulted from the arrest of counselors who provided contraceptive advice to clients. The arrests were invalidated by the courts, which cited the rights of citizens to obtain information.

77) No, Mike is incorrect. Constitutional rights may not be restricted by the federal government under the Constitution or restricted by states under the Fourteenth Amendment. This apartment complex is privately owned, so most constitutional protections will not apply.

78) Under the Commerce Clause, Congress has the authority to regulate (1) channels of interstate commerce such as railways and highways; (2) the instrumentalities of interstate commerce such as vehicles used in shipping; (3) the articles moving in interstate commerce; and (4) any activity that has substantial economic effect on interstate commerce, including activities that are not commercial in nature.

79) The U.S. government consists of three independent parts. The executive branch (the president) enforces federal law, and the president enters into treaties, appoints judges and federal officials, and functions as the commander in chief of the armed forces. The president may exercise veto power over acts of the legislature. The legislature (Congress) enacts federal law and maintains impeachment and removal power over the president and judiciary. Should the judiciary establish a common law precedent, Congress may pass a statute that would preempt the common law decision. The judiciary (the federal courts) interprets the law and through judicial review may declare a federal or state law unconstitutional and thus invalid.

80) At first look she would appear to be intrastate due to her lack of mobility and single-site setting, but because the Internet reaches the entire world, she would be classified as dealing in interstate commerce and most likely in foreign commerce and would, therefore, be subject to federal regulation.