

TEST BANK

**BUSINESS LAW
TODAY**

Comprehensive Edition

Text & Cases | E-Commerce | Legal | Ethical | Global Environment

MILLER & JENTZ



8th EDITION

Chapter 2

Constitutional Law

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. A federal form of government is one in which sovereign power is vested entirely in a central governing authority.

ANSWER: F PAGE: 36 TYPE: =
NAT: AACSB Analytic LOC: AICPA Critical Thinking

2. Under the Constitution, the judicial branch enforces the laws.

ANSWER: F PAGE: 36 TYPE: N
NAT: AACSB Analytic LOC: AICPA Legal

3. The courts can hold acts of the legislative and executive branches unconstitutional.

ANSWER: T PAGE: 36 TYPE: +
NAT: AACSB Analytic LOC: AICPA Legal

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

ANSWER: T PAGE: 36 TYPE: N
NAT: AACSB Analytic LOC: AICPA Legal

5. The Constitution provides for three branches of government.

ANSWER: T PAGE: 36 TYPE: =
NAT: AACSB Analytic LOC: AICPA Legal

6. The federal government cannot regulate commerce within a state, even if the commerce concerns more than one state.

ANSWER: F PAGE: 38 TYPE: =
 NAT: AACSB Analytic LOC: AICPA Critical Thinking

7. Congress may regulate any activity that substantially affects interstate commerce.

ANSWER: T PAGE: 38 TYPE: =
 NAT: AACSB Analytic LOC: AICPA Critical Thinking

8. State police powers relate solely to criminal law enforcement.

ANSWER: F PAGE: 39 TYPE: =
 NAT: AACSB Analytic LOC: AICPA Critical Thinking

9. Local governments, including cities, can exercise police powers.

ANSWER: T PAGE: 39 TYPE: N
 NAT: AACSB Analytic LOC: AICPA Critical Thinking

10. When state regulations impinge on interstate commerce, commerce must yield to the regulations.

ANSWER: F PAGE: 41 TYPE: =
 NAT: AACSB Analytic LOC: AICPA Critical Thinking

11. Under the supremacy clause, when there is a direct conflict between a federal and a state law, both laws are given equal effect.

ANSWER: F PAGE: 41 TYPE: N
 NAT: AACSB Analytic LOC: AICPA Legal

12. Whether the federal government has preempted a certain area is always clear.

ANSWER: F PAGE: 41 TYPE: N
 NAT: AACSB Analytic LOC: AICPA Critical Thinking

13. The Bill of Rights protects individuals against various types of interference by the federal government.

ANSWER: T PAGE: 42 TYPE: =
NAT: AACSB Analytic LOC: AICPA Legal

14. Some constitutional protections apply to business entities.
- ANSWER: T PAGE: 42 TYPE: =
NAT: AACSB Analytic LOC: AICPA Critical Thinking
15. The federal government retains all powers not specifically delegated to the states.
- ANSWER: F PAGE: 42 TYPE: =
NAT: AACSB Analytic LOC: AICPA Legal
16. The Bill of Rights confers absolute rights, not subject to interpretation by the United States Supreme Court.
- ANSWER: F PAGE: 42 TYPE: =
NAT: AACSB Analytic LOC: AICPA Critical Thinking
17. The Bill of Rights protects individuals against various types of interference by the states.
- ANSWER: T PAGE: 42 TYPE: +
NAT: AACSB Analytic LOC: AICPA Legal
18. The First Amendment protects symbolic speech.
- ANSWER: T PAGE: 43 TYPE: +
NAT: AACSB Reflective LOC: AICPA Critical Thinking
19. Expression of all kinds is subject to reasonable restrictions.
- ANSWER: T PAGE: 43 TYPE: =
NAT: AACSB Analytic LOC: AICPA Legal
20. The First Amendment does not protect commercial speech as extensively as noncommercial speech.
- ANSWER: T PAGE: 44 TYPE: +
NAT: AACSB Reflective LOC: AICPA Critical Thinking
21. A restriction on commercial speech that implements a substantial government interest may be valid.

22 UNIT ONE: THE LEGAL ENVIRONMENT OF BUSINESS

ANSWER: T

PAGE: 44

TYPE: +

NAT: AACSB Analytic

LOC: AICPA Critical Thinking

22. Political speech that would otherwise be protected by the First Amendment is prohibited if its source is a corporation.

ANSWER: F PAGE: 44 TYPE: =
 NAT: AACSB Reflective LOC: AICPA Critical Thinking

23. The First Amendment protects obscene speech.

ANSWER: F PAGE: 44 TYPE: =
 NAT: AACSB Reflective LOC: AICPA Critical Thinking

24. A federal law that promotes a religion is unconstitutional.

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

25. The First Amendment requires a complete separation of church and state.

ANSWER: F PAGE: 47 TYPE: =
 NAT: AACSB Reflective LOC: AICPA Critical Thinking

26. A state law that places a significant burden on religion is unconstitutional.

ANSWER: T PAGE: 47 TYPE: =
 NAT: AACSB Reflective LOC: AICPA Critical Thinking

27. Procedural due process requires that any taking of a person's life, liberty, or property by government must be made fairly.

ANSWER: T PAGE: 52 TYPE: =
 NAT: AACSB Analytic LOC: AICPA Legal

28. A law that restricts a fundamental right does not violate substantive due process if it promotes a compelling state interest.

ANSWER: T PAGE: 53 TYPE: +
 NAT: AACSB Analytic LOC: AICPA Legal

29. A law that restricts a fundamental right violates substantive due process regardless of the type of state interest that the law "promotes."

ANSWER: F PAGE: 53 TYPE: N

NAT: AACSB Analytic

LOC: AICPA Legal

30. A law that distinguishes between or among individuals violates the equal protection clause.

ANSWER: F PAGE: 53 TYPE: N
 NAT: AACSB Analytic LOC: AICPA Critical Thinking

31. The terms “procedural due process” and “equal protection” mean the same thing.

ANSWER: F PAGE: 53 TYPE: +
 NAT: AACSB Analytic LOC: AICPA Legal

32. Equal protection means that the government must treat similarly situated individuals in a similar manner.

ANSWER: T PAGE: 53 TYPE: =
 NAT: AACSB Analytic LOC: AICPA Legal

33. State laws often significantly protect individuals’ privacy rights.

ANSWER: T PAGE: 55 TYPE: N
 NAT: AACSB Reflective LOC: AICPA Critical Thinking

34. The Constitution specifically guarantees a right to privacy.

ANSWER: F PAGE: 56 TYPE: +
 NAT: AACSB Reflective LOC: AICPA Critical Thinking

35. Any person can ask for copies of any information on that person contained in federal government files.

ANSWER: T PAGE: 57 TYPE: N
 NAT: AACSB Analytic LOC: AICPA Legal

MULTIPLE-CHOICE QUESTIONS

1. Under the U.S. Constitution
 - a. neither the national government nor the states have sovereign power.
 - b. the national government and the states share sovereign power.

- c. the national government exercises all sovereign power.
- d. the states exercise all sovereign power.

ANSWER: B PAGE: 36 TYPE: N
NAT: AACSB Analytic LOC: AICPA Legal

2. Under the U.S. Constitution, the legislative branch of the government
- administers the laws.
 - enforces the laws.
 - interprets the laws.
 - makes the laws.

ANSWER: D PAGE: 36 TYPE: =
 NAT: AACSB Analytic LOC: AICPA Legal

3. 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 president balances the budget.
 - each branch of government has some power to limit the actions of the other branches.
 - each branch of government may exercise the authority of the other branches.
 - the president “checks” the courts, which “balance” the laws.

ANSWER: B PAGE: 36 TYPE: =
 NAT: AACSB Analytic LOC: AICPA Legal

4. Household Furnishings, Inc., distributes its merchandise on an interstate basis. Under the commerce clause, Congress has the power to regulate
- any commercial activity in the United States that substantially affects interstate commerce.
 - only activities that are in intrastate commerce.
 - only activities that are in local commerce.
 - only activities that are not in commerce.

ANSWER: A PAGE: 36 TYPE: +
 NAT: AACSB Analytic LOC: AICPA Legal

5. Wisconsin, like other states, may regulate private activities to protect or promote the public order, health, safety, and general welfare under its
- police powers.
 - taxing powers.
 - spending powers.
 - supreme powers.

ANSWER: A PAGE: 39 TYPE: =
NAT: AACSB Reflective LOC: AICPA Legal

6. The Michigan state legislature enacts a transportation statute that impinges on interstate commerce. The courts will
- balance the burden the law imposes on the state against the merit and purpose of interstate commerce.
 - balance the state's interest in regulating the subject of the law against the burden the law imposes on interstate commerce.
 - strike down the law.
 - uphold the law.

ANSWER: B PAGE: 41 TYPE: =
NAT: AACSB Reflective LOC: AICPA Legal

7. Tom 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 interstate commerce.
 - promotes the public order, health, safety, morals, or general welfare.
 - regulates activities within Utah's borders.
 - regulates private activities.

ANSWER: A PAGE: 41 TYPE: +
NAT: AACSB Reflective LOC: AICPA Decision Modeling

8. If there is a direct conflict between a federal law and an Alaska state law
- Alaska's law takes precedence.
 - both laws are invalid.
 - both laws govern concurrently.
 - the federal law takes precedence.

ANSWER: D PAGE: 41 TYPE: =
NAT: AACSB Reflective LOC: AICPA Legal

9. A New Hampshire state law that directly conflicts with a federal law is invalid under
- the commerce clause.

- b. the equal protection clause.
- c. the establishment clause.
- d. the supremacy clause.

ANSWER: D PAGE: 41 TYPE: =
 NAT: AACSB Reflective LOC: AICPA Legal

10. When there is a direct conflict between a decision by a federal Environmental Protection Agency (EPA) administrator on a matter that comes within the EPA's jurisdiction and a Hawaii state law

- a. Hawaii's law takes precedence.
- b. both the decision and the law are invalid.
- c. both the decision and the law apply concurrently.
- d. the EPA's decision takes precedence.

ANSWER: D PAGE: 41 TYPE: =
 NAT: AACSB Reflective LOC: AICPA Legal

11. 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

- a. religion only.
- b. speech only.
- c. the press only.
- d. religion, speech, and the press.

ANSWER: D PAGE: 42 TYPE: =
 NAT: AACSB Reflective LOC: AICPA Legal

12. Dian, a U.S. citizen, is the owner of Eagle, Inc. The Bill of Rights embodies a series of protections for Dian against various types of interference by

- a. business entities only.
- b. private individuals only.
- c. the government only.
- d. business entities, private individuals, and the government.

ANSWER: C PAGE: 42 TYPE: +
 NAT: AACSB Reflective LOC: AICPA Legal

13. The police obtain a search warrant and search Dave’s apartment. After yelling obscenities at the officers, Dave confesses to a crime and implicates his friends. The Constitution protects against
- a. obscene speech only.
 - b. implication of others only.
 - c. unreasonable searches only.
 - d. obscene speech, implication of others, and unreasonable searches.

ANSWER: C PAGE: 42 TYPE: N
NAT: AACSB Reflective LOC: AICPA Legal

14. Gabe, the president of Hot Sales Company, claims that certain actions by the federal government and by the state of Idaho infringe on rights guaranteed by the Bill of Rights. All of these rights limit
- a. neither the state government nor the federal government.
 - b. the federal government only.
 - c. the state government and the federal government.
 - d. the state government only.

ANSWER: B PAGE: 42 TYPE: +
NAT: AACSB Reflective LOC: AICPA Critical Thinking

15. Fred, the president of Good Retail Corporation, claims that certain actions by the federal government and the state of Hawaii infringe on rights guaranteed by the Bill of Rights. Most of these rights limit
- a. neither the state government nor the federal government.
 - b. the federal government only.
 - c. the state government and the federal government.
 - d. the state government only.

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

16. An Alabama state statute prohibits business entities from using bill inserts to express controversial views. A court would likely hold this law 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: 44 TYPE: =
 NAT: AACSB Reflective LOC: AICPA Legal

17. Alpha Corporation regularly expresses opinions on political issues. Under the First Amendment, corporate political speech is given

- a. little protection.
- b. no protection.
- c. significant protection.
- d. total protection.

ANSWER: C PAGE: 44 TYPE: +
 NAT: AACSB Reflective LOC: AICPA Critical Thinking

18. Indiana 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: 44 TYPE: N
 NAT: AACSB Reflective LOC: AICPA Critical Thinking

19. A Minnesota state statute restricts certain kinds of advertising to protect consumers from being misled. A court would likely hold this statute 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: 44 TYPE: =
 NAT: AACSB Reflective LOC: AICPA Decision Modeling

20. Cordial Drinks, Inc., markets alcoholic beverages. A federal regulation bans the disclosure of the alcohol content of liquor on Cordial's labels and those of other marketers. 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 PAGE: 44 TYPE: =
NAT: AACSB Reflective LOC: AICPA Legal

21. Congress enacts the Tight Money Act (TMA) of 2009 to prohibit “major business entities” from making political contributions that individuals can make. A court would likely hold the TMA 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 PAGE: 44 TYPE: +
NAT: AACSB Reflective LOC: AICPA Decision Modeling

22. Best Sales Corporation regularly advertises its products. Under the First Amendment, these ads and other commercial speech are given

- a. less protection than noncommercial speech.
- b. more protection than noncommercial speech.
- c. no protection.
- d. the same protection as noncommercial speech.

ANSWER: A PAGE: 44 TYPE: =
NAT: AACSB Reflective LOC: AICPA Critical Thinking

23. 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 state interests.

ANSWER: A PAGE: 44 TYPE: +
NAT: AACSB Reflective LOC: AICPA Decision Modeling

24. In 2009, Congress enacts the Act to Restrict Commercial Speech (ARCS). The ARCS will be considered valid
- if it directly advances a substantial government interest but goes no further than necessary.
 - if it directly advances a substantial government interest regardless of how “far” it goes.
 - under any circumstances.
 - under no circumstances.

ANSWER: A PAGE: 44 TYPE: N
 NAT: AACSB Reflective LOC: AICPA Legal

25. The First Amendment protects Gail and other individuals who engage in speech that harms others’ good reputations
- all of the time.
 - none of the time.
 - only if it is commercial speech.
 - only if it is political speech.

ANSWER: B PAGE: 44 TYPE: =
 NAT: AACSB Reflective LOC: AICPA Critical Thinking

26. Xtreme Publications, Inc., disseminates obscene materials. Under numerous state and federal statutes, this is
- a crime.
 - a privilege.
 - a right under the commerce clause.
 - a right under the First Amendment.

ANSWER: A PAGE: 44 TYPE: N
 NAT: AACSB Analytic LOC: AICPA Legal

27. The First Amendment protects Ira and other individuals who engage in speech that violates state criminal laws
- all of the time.
 - none of the time.
 - only if it is commercial speech.
 - only if it is political speech.

ANSWER: B PAGE: 44 TYPE: =
NAT: AACSB Reflective LOC: AICPA Legal

28. Oklahoma 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. PriceLess Stores files a suit to block the law's enforcement. The court would likely hold that this law violates
- a. no provision in the U.S. Constitution.
 - b. the full faith and credit clause.
 - c. the First Amendment.
 - d. the supremacy clause.

ANSWER: C PAGE: 48 TYPE: N
NAT: AACSB Reflective LOC: AICPA Decision Modeling

29. The requirement that no person be deprived of "life, liberty, or property without due process of law" is found in
- a. the First Amendment only.
 - b. the Fifth Amendment only.
 - c. the Fourteenth Amendment only.
 - d. the Fifth Amendment and the Fourteenth Amendment.

ANSWER: D PAGE: 52 TYPE: =
NAT: AACSB Analytic LOC: AICPA Legal

30. Mary 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 Mary's privacy.

ANSWER: A PAGE: 52 TYPE: =
NAT: AACSB Reflective LOC: AICPA Legal

31. A Rhode Island state statute imposes a prison term, without a trial, on all street vendors who operate in certain areas. A court would likely hold this statute to be
- a. constitutional under the due process clause.
 - b. constitutional under the equal protection clause.
 - c. unconstitutional under the due process clause.
 - d. unconstitutional under the equal protection clause.

ANSWER: C PAGE: 52 TYPE: =
NAT: AACSB Reflective LOC: AICPA Legal

32. Owen 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 Owen’s privacy.

ANSWER: B PAGE: 53 TYPE: =
NAT: AACSB Reflective LOC: AICPA Legal

33. Colorado 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: 53 TYPE: N
NAT: AACSB Reflective LOC: AICPA Risk Analysis

34. A law that limits the liberty of all persons to do something may violate
- a. equal protection.
 - b. procedural due process.
 - c. substantive due process.
 - d. none of the choices.

ANSWER: C PAGE: 53 TYPE: =
NAT: AACSB Reflective LOC: AICPA Legal

35. A Metro City ordinance allows only a few street vendors to operate in certain areas, for the purpose of reducing traffic. A court would likely hold this ordinance to be
- a. constitutional under the due process clause.
 - b. constitutional under the equal protection clause.
 - c. unconstitutional under the due process clause.
 - d. unconstitutional under the equal protection clause.

ANSWER: B PAGE: 54 TYPE: =
NAT: AACSB Reflective LOC: AICPA Critical Thinking

ESSAY QUESTIONS

1. Ann operates Ann'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 Ann's activities? What is Ann'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 are 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 these activities are economic in nature and hence, despite their local character, have an effect on interstate commerce, it is unlikely that a court would accept this argument, however.

PAGES: 36–39

TYPE: =

NAT: AACSB Reflective

LOC: AICPA Decision Modeling

2. Acorn 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.” Acorn 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 Acorn’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 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. The interest of OSLA, as a state agency, in protecting children from vulgar advertising is “substantial.” The question is whether banning Acorn’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 Acorn’s products may be displayed in stores.

PAGE: 44

TYPE: N

NAT: AACSB Reflective

LOC: AICPA Decision Modeling

