

Con Law Fall 05 Harpaz Exam No. _____ Raw Score _____ Final Grade _____

Question I (catfish labeling) (50 points)

preemption-valid federal labeling law? - commerce power?-----(4) _____
preemption - express permission to add labeling reqs, but not to confuse - which is this?(6) _____
conflict-is it impossible to comply w/ both - Imported Catfish label complies with both?(6) _____
conflict - undermines purpose of fed'l law?----- (5) _____
occupation of field----- (4) _____
dormant commerce clause - protectionism-evidence of lobbying, but state purpose----- (6) _____
discrimination against interstate com-not on face, but in effect?, nondiscrim means?----- (6) _____
benefit (do consumers benefit, don't see package) vs. burden analysis (lost income)----- (8) _____
no market participant exception since state is regulating----- (2) _____
miscellaneous _____ (3) _____

Q II (Traditional Family Amendment to Federal Railroad Pricing Act) (75 points)

Commerce Power-reg of IC itself or an instrumentality of IC, or purely intrastate----- (6) _____
if reg of IC itself - power is plenary and morality justification is irrelevant----- (2) _____
reg of local activity with an eco effect on IC - is it an economic or noneconomic activity (5) _____
if eco, test-could Congress rationally conclude . . . and application of test to facts----- (5) _____
interstate eco enterprise-comprehensive reg'y scheme, reg intrastate aspects-Raich----- (3) _____
if noneco-Lopez factors-no jur element, no findings, attenuated effect, trad'l area st reg- (6) _____
10th Amend-interfere w/state train, but part of reg of all RRs-no protection under Garcia (3) _____
not forcing state to adopt or administer prog- st must comply w/ TFA- not the same thing (3) _____
Equal Protection-classification-same sex marital couple vs. male/female marital couple-- (2) _____
apply traits-history of discrim, pol power, immutable, unrelated to ability, inferiority---- (8) _____
if rational basis review - standard and application of standard to facts----- (4) _____
if strict or intermediate scrutiny - standard and application of standards to facts----- (6) _____
Due Process-fund'l or nonfund'l rt?-rt of privacy - tradition, personal identity, analogy-- (3) _____
rt to enjoy privileges of family status-like Moore, right to marry like Zablocki, Lawrence (4) _____
history & tradition-Michael H, eco rt-no infringemt w/living arrangement, eco benefit--- (4) _____
standard of review and application of standard to facts - rat'l and/or strict----- (5) _____
undue burden analysis-not an absolute ban, is it an undue burden on exercise of rt?----- (3) _____
miscellaneous _____ (3) _____

Q III (excursion train residency discount) (25 points)

privileges and immunities clause - individual not corporation----- (1) _____
discrim ag nonresidents (not discount)-res vs. nonres or pt time vs full time residents---- (4) _____
is it a right essential to interstate harmony - recreational activity not income producing-- (4) _____
subst'l reason for discrim- residents contribute to taxes but so do all prop'y owners----- (4) _____
degree of discrim subst'ly related to subst'l reason-100 % discrim, but nonres property tax (4) _____
are there less discrim alt means - could grant partial discount to summer residents----- (4) _____
no market participant exception available under P&I----- (1) _____
miscellaneous _____ (3) _____