

Con Law §3-Harpaz-Sp 09 Exam No. _____ Raw Score _____ Final Grade _____

Question I (Tow Truck Licensing Law) (48 points)

Dormant Commerce Cl-applies even to local ordinance------(1)____
Eco Protectionism-illegit purpose, safety or prevent competition from out-of-staters?-----(4)____
Discrimination-facial (all must be licensed) vs in effect (burden on o-o-s, pass thru, etc.)(5)____
Strict test (if discrim)- legit local purpose? reasonable nondiscrim alt means?------(4)____
Balancing test-Burdens-\$, licensing even if “passing through” or tow only a few times--(4)____
Benefits - safety (avoid tow truck “racing” accidents like the one that occurred)------(4)____
Preemption - valid fed’l law?------(3)____
Express preemption/nonpreemption provision - safety - is this safety?------(4)____
If not express - implied? - conflict - can’t comply with both? conflict in purpose?------(4)____
Implied - Occupation of Field? Is state or federal interest dominant?------(4)____
P and I-no discrim ag oos residents, everyone needs license (but if applies)------(4)____
DP/EP-eco rt, can towing law satisfy rational basis?-rationally related to legit purpose---(4)____
Miscellaneous _____(3)____

Question II (Federal Single Sex Educational Opportunity Act) (60 points)

1) Com Cl- category 3, local activity, eco/noneco, could Congress rationally conclude....(4)____
Is education an economic or a noneconomic activity?------(4)____
If eco-sub’l effect on IC in aggregate?------(4)____
If noneco, Lopez factors, no jur element, no findings, trad’l st function, attenuated link?-(8)____
2) Spending clause - grants to schools on condition - apply 4 part Doe test - gen’l welfare, unambiguous, rationally related to purpose of spending, independent const’l bar (EP),---(6)____
3) EP-gender; intermediate, apply to facts; perpetuate stereotypes?, alts?, sep but equal?-(6)____
4) 10th Amend-state emp’ees (teachers/admins) to implement fed law-commandeering?-(4)____
Reg state’s own activities-Condon vs. require states to “regulate”? their citizens-Printz--(3)____
5) If applied to private also-argue regulating all underperforming schools, pub & private-(4)____
6) EP/DP-random (rational- all applicants get same chance) (not a class so DP not EP)---(3)____
Weakest students 1st-rat’l relationship betw class of low rank & helping students achieve(3)____
7) EP-racial discrim-strict scrutiny - compelling interest? educate minority students?-----(4)____
Least restrictive means- race neutral means? Less race conscious than quota?------(4)____
Miscellaneous _____(3)____

Question III (Law 911 - vasectomy regulation) (36 points)

Due Process - rt to have vasectomy-is it a fund’l unenumerated rt- identification of issue(1)____
History/Tradition of allowing men to have vasectomies (narrow tradition) vs. broad tradition (history/tradition of allowing people to decide whether to bear a child; marital privacy)--(5)____
Precedent-Griswold (rt to procreate/not), Roe (abortion for men?), Michael H, Lawrence(5)____
Right that is central to personal identity- decision not to bear child as in Roe------(4)____
Undue burden test-less than total ban; applied to Informed Consent/Spousal Notification(6)____
Strict scrutiny-applied to facts- compelling gov’t interest, least restrictive alternative------(6)____
Rational basis review - applied to Informed Consent and Spousal Notification------(6)____
Miscellaneous _____(3)____