

Con Law-Sec 2- Harpaz- 2003 Exam No. \_\_\_\_\_ Raw Score \_\_\_\_\_ Final Grade \_\_\_\_\_

Question I (Federal Punishment of Arson at Clinics Act) (50 points)

Category 3-reg of local activities w/sub'l eco effect on interstate commerce(IC)------(3)\_\_\_\_  
is it reg of noncommercial/noneconomic activity or reg of commercial/economic activity(7)\_\_\_\_  
if reg of economic activity, could Congress rationally conclude that the local activity has a sub'l  
eco effect on IC, judged in the aggregate-apply to facts------(7)\_\_\_\_  
if reg of noneconomic activity, then Lopez applies and standard is stricter------(3)\_\_\_\_  
did Congress make findings-testimony on eco effects-but findings not determinative-----(4)\_\_\_\_  
statute doesn't contain jurisdictional element to limit its application to IC------(3)\_\_\_\_  
is it a traditional area of state control-criminal law, injury to property, health care------(4)\_\_\_\_  
direct eco effect on IC or only indirect?-patients, doctors, \$ on goods, \$ in damages, etc-(8)\_\_\_\_  
as applied to def and not in aggregate, are there sufficient links to IC - no patients or MDs from  
out of state, acted w/in state, no nat'l org, slight damage, but purchase of goods------(8)\_\_\_\_  
miscellaneous \_\_\_\_\_(3)\_\_\_\_

Question II (Speedway Pass)

dormant commerce clause-identification of issue------(1)\_\_\_\_  
eco protectionism-does discount protects local commerce from expense imposed on IC--(4)\_\_\_\_  
discrimination against interstate commerce (am't of toll & no Fast Pass), nondiscrim alts(5)\_\_\_\_  
burden on interstate commerce-benefit vs. burden (am't of toll and no Fast Pass)------(6)\_\_\_\_  
market participant exception-no reg of private rds, only managing state rd, but monopoly(6)\_\_\_\_  
privileges and immunities of state citizens-Article IV-identification of issue------(1)\_\_\_\_  
discrim betw flesh & blood residents (Rs) & nonresidents (NRs)-discount only for Rs-----(2)\_\_\_\_  
right fund'l to interstate harmony?-driving for commercial not recreational purposes-----(4)\_\_\_\_  
important reason for dif treatment of Rs and NRs (NRs peculiar source of evil-no taxes)-(6)\_\_\_\_  
degree of discrim sub related to imp state int-use rd, pay more, discount amt, old rd, alts(6)\_\_\_\_  
privileges of national citizenship-move freely from one state to another-14th amendment(2)\_\_\_\_  
due process/equal protection/minimum rationality review-applied to facts------(4)\_\_\_\_  
miscellaneous \_\_\_\_\_(3)\_\_\_\_

Question III (school district anti-divorce hiring policy) (50 points)

due process - infringement on right to divorce - is it a fund'l or nonfund'l rt------(1)\_\_\_\_  
rt to divorce- analogy - akin to rt to marry in Zablocki, breaks up family unit-Michael H.(5)\_\_\_\_  
rt to terminate marriage- is it life-altering intimate decision essential to personal identity(3)\_\_\_\_  
rt to divorce-long tradition? not freely available for most of country's history------(4)\_\_\_\_  
argue not absolute rt-undue burden?-can divorce only lose job eligibility;or only rt to job(3)\_\_\_\_  
strict scrutiny-nec'y means to compell'g end, alts means-apply to facts-AA & school dist(6)\_\_\_\_  
minimum scrutiny-rational rel. to legitimate end-apply to facts-AA and school district-----(4)\_\_\_\_  
equal protection- nature of classification-divorced vs. single and married------(1)\_\_\_\_  
nature of classification-traits of suspectness as applied to divorced people-history, immutable,  
unrelated to ability, inferior, invisible, political power------(10)\_\_\_\_  
intermediate scrutiny-sub'l rel to imp objective, alts-applied to facts-AA and school dist(6)\_\_\_\_  
minimum scrutiny-rational rel to legit obj - as applied to facts-AA and school district-----(4)\_\_\_\_  
miscellaneous \_\_\_\_\_(3)\_\_\_\_