

Question I (ban on marriage by illegal immigrants) (50 points)

Due Process - fundamental vs. nonfund'l rt - rt to marry vs. marry illegal immigrant----- (2) _____
tradition, fund'l to personal identity, precedent -as applied to rt to marry (illegal immig't) (8) _____
right of child to be born to a married couple; right to form nuclear family----- (3) _____
undue burden-ban on right is automatically an undue burden since it precludes marriage- (3) _____
strict scrut-comp'g int/narrowly tailored applied to facts- compg int? less restrictive alts? (5) _____
min rationality-legit int? punish lawbreakers?, rational relationship----- (3) _____
Equal Protection-classif-illegal immigrants vs other residents-including legal immigrants (2) _____
traits applied to facts-history,immutable,unrelated to ability, stamp inferior,powerless--- (10) _____
strict scrut-suspect like race-use of classif narrowly tailored to compg int-apply to facts-- (4) _____
intermediate scrutiny-quasi suspect like gender-application to facts-imp just/sub'l rel---- (4) _____
minimum scrut-rat'l rel to legit int-harm pol unpopular group?illegit just-Romer,Moreno (3) _____
Miscellaneous _____ (3) _____

Question II (ban on sale of horsemeat) (50 points)

Dormant Commerce Clause issue----- (1) _____
discrimination - no discrim on face, but discrim in effect (ostrich, etc. vs. horsemeat)---- (3) _____
protectionist motive?-protection of horses vs. protection of local ostrich industry----- (4) _____
if discrim-legit purpose? any less discrim alt means to protect horses?----- (4) _____
benefit vs burden-\$ loss to horsemeat industry vs protection of horses-more than slight?-(6) _____
Preemption issue----- (1) _____
valid federal law?Commerce Power-inspection, packaging, labeling of product sold in IC (4) _____
express preemption-as to inspection & labeling, not insp/labeling so not preempted?----- (3) _____
express nonpreemption-if not inconsistent with the act not preempted by express terms--- (3) _____
implied-conflict-compliance w/both is possible-if don't sell comply with FMIA----- (4) _____
conflict-Law 66 doesn't undermine fed purpose-doesn't interfere w/safety of meat----- (4) _____
field preemp-preempts field of inspection and labeling not whether meat should be sold-- (4) _____
Due Process- nonfund'l rt, min rationality - applied to facts----- (3) _____
Equal Protection-horsemeat vs other meat and poultry products, min rat - apply to facts-- (3) _____
Miscellaneous _____ (3) _____

Question III (Genetic Discrimination in Employment Act) (50 points)

States-10th Amendment-no claim based on argument that burdens employmt decisions-regulated along w/private employers-NLC overturned by Garcia----- (5) _____
state sov-like Printz-compelled to assist enforcemt of fed reg program-report violations-- (5) _____
state sov-not like Printz-only required to provide info-feds enforce-reporting is dif----- (5) _____
Employers-beyond power of Congress under Commerce Clause-category 3-local activity (4) _____
economic or noneconomic activity-employment relationship is eco activity vs discrim---- (5) _____
Could Congress rationally conclude local activity in aggregate has subs eco effect on IC? (3) _____
application to facts-reg all employers w/ 5 or more-no nexus to IC, in aggregate, motive- (7) _____
part of a class of activities or comprehensive regulatory scheme, or enterprise----- (3) _____
N & P Clause-is it necy to reg of IC itself, part of gen'l regulatory scheme----- (3) _____
if Lopez-no jur elem,no findings on IC link, no aggregation, too attenuated, area of st reg (7) _____
Miscellaneous _____ (3) _____

Bonus Questions: 4. A (could not consider race); 5. B (could consider race); 6. A (DCC);
7. B (sell processed glasssex); 8. - C (uphold - Spending Power)-----Bonus points (up to 5) _____