

Chapter 2

Constitutional Law for Business and E-Commerce

Learning Objectives

1. Describe the concept of federalism and the doctrine of separation of powers.
2. Define and apply the Supremacy Clause of the U.S. Constitution.
3. Explain the federal government's authority to regulate interstate commerce and foreign commerce.
4. Explain how the freedoms of speech, assembly, religion, and the press are protected by the First Amendment and how commercial speech may be limited.
5. Explain the doctrines of equal protection and due process.

Teacher-to-Teacher Dialogue

For many legal academics, constitutional law is not only the reason why they love to teach but also an ultimate challenge in illustrating the constant balance of competing but legitimate rights of the individual vis-à-vis the larger society. The only major drawback to this material is the frustration of having the time constraints inherent in a survey course.

Because of these time limitations, teaching efforts might best be concentrated on achieving two main objectives:

- The concepts of federalism, dual sovereignty, and the balancing of rights among the often-competing sovereigns of federal and state government.
- The enumeration of key individual civil liberties protections listed in the Bill of Rights with an extrapolation of those same theories to business.

The most impressive fact that surfaces in the study of the Constitution is that it never changes but it always changes. This underscores the importance of the courts. To watch students as they uncover the mysteries found in this document is well worth the effort.

The key objective of this chapter is to introduce students to the role of the U.S. Constitution and its pivotal role in the ultimate distribution of powers between the federal government and the states vis-à-vis the control of business conduct in the United States. This aspect of the chapter will introduce students to key terms which they will be using throughout the rest of the course, such as substantive and procedural due process and the like. In all likelihood, because of the breadth of materials covered, the lecture/discussion format will work best for purposes of illustrating as much of the material as possible in the time allowed.

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