

A proposed federal statute would prohibit all types of discrimination against minorities on the basis of their race in every business transaction executed anywhere in the United States by any person or entity, governmental or private.

Is this proposed federal statute likely to be constitutional?

- A. No, because it would invade the powers reserved to the states by the Tenth Amendment.
- B. No, because it would regulate purely local transactions that are not in interstate commerce.
- C. Yes, because it could reasonably be viewed as a means of enforcing the provisions of the Thirteenth Amendment.
- D. Yes, because it could reasonably be viewed as an exercise of Congress's authority to enact laws for the general welfare.

Explanation:

Congress's power to enforce the Civil War Amendments

Amendment	Effects	Congress's enforcement powers
Thirteenth	Prohibits government & private actors from engaging in slavery/involuntary servitude	<ul style="list-style-type: none">• Prohibit badges/incidents of slavery• Override state 11th Amendment immunity
Fourteenth	Prohibits states from denying equal protection, due process, or privileges/immunities of national citizenship	<ul style="list-style-type: none">• Remedy/prevent violations with proportional & congruent legislation• Override state 11th Amendment immunity
Fifteenth	Prohibits states & federal government from denying or abridging voting rights based on race, color, or previous servitude	<ul style="list-style-type: none">• Ban methods of voter discrimination• Override state 11th Amendment immunity

Section 1 of the **Thirteenth Amendment prohibits** all government and private entities from engaging in **slavery or involuntary servitude**. And the Section 2 **enforcement clause** gives **Congress the power to forbid any racial discrimination** that can reasonably be viewed as a "**badge or incident of slavery**" (eg, discrimination in housing, education, or employment). Since racial discrimination against minorities in business transactions can reasonably be viewed as a relic of slavery, the proposed federal statute banning this conduct is likely constitutional.

(Choice A) The Tenth Amendment reserves to the states all powers that the Constitution does not expressly grant to the federal government (eg, [police powers](#)). But the Thirteenth Amendment expressly grants Congress the authority to enact legislation addressing slavery and involuntary servitude (as seen here).

(Choice B) The fact that the statute would regulate purely local transactions that do not have a substantial effect on interstate commerce shows that it cannot be supported by the [commerce clause](#). But Congress can still enact this statute pursuant to its power to enforce the Thirteenth Amendment.

(Choice D) The [taxing and spending clause](#) gives Congress the authority to *tax or spend* for the general welfare—not to enact *any* type of law for this purpose (eg, prohibiting discrimination).

Educational objective:

The Thirteenth Amendment (1) prohibits all government and private entities from engaging in slavery or involuntary servitude and (2) empowers Congress to ban any type of racial discrimination that can reasonably be viewed as a badge or incident of slavery.

References

- Patterson v. McLean Credit Union, 491 U.S. 164, 192 (1989) (explaining that the Thirteenth Amendment empowers Congress to identify the badges and incidents of slavery and to legislate to end them).

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