

A federal law provides that all motor vehicle tires discarded in this country must be disposed of in facilities licensed by the federal Environmental Protection Agency. Pursuant to this federal law and all proper federal procedural requirements, that agency has adopted very strict standards for the licensing of such facilities. As a result, the cost of disposing of tires in licensed facilities is substantial.

A state has a very large fleet of motor vehicles, including trucks used to support state-owned commercial activities and police cars. The state disposes of used tires from both kinds of state motor vehicles in a state-owned and operated facility. This state facility is unlicensed, but its operation in actual practice meets most of the standards imposed by the federal Environmental Protection Agency on facilities it licenses to dispose of tires.

Is it consistent with United States Supreme Court precedent for the state to continue disposing of its used tires in this manner?

- A. No, because a state must comply with valid federal laws that regulate matters substantially affecting interstate commerce.
- B. No, because some of the tires come from vehicles that are used by the state solely in its commercial activities.
- C. Yes, because some of the tires come from vehicles that are used by the state in the performance of core state governmental functions such as law enforcement.
- D. Yes, because the legitimate needs of the federal government are satisfied by the fact that the unlicensed state disposal scheme meets, in actual practice, most of the federal standards for the licensing of such facilities.

Explanation:

Commerce clause

(U.S. Const. art. I, § 8)

Congress can regulate:

- channels of interstate commerce
- instrumentalities of interstate commerce
- persons/things moving in interstate commerce
- activities that substantially affect interstate commerce

The **commerce clause** gives **Congress** the broad authority to **regulate interstate commerce**. This power extends to nearly any activity that involves two or more states—including in-state activities that, in the aggregate, **substantially affect** interstate commerce. And under the **supremacy clause**, these regulations are the supreme law of the land. Therefore, **states must comply*** with federal regulations just as any other entity or person must do.

Here, a federal law requires the disposal of all motor vehicle tires at facilities licensed by the EPA. The state disposes of used tires at in-state facilities, but the aggregate effect of this activity likely has a substantial effect on interstate commerce. This means that the federal law is a valid exercise of Congress's commerce powers. And since that law is supreme, the state must comply with it and cannot continue to dispose of its tires at the unlicensed facility.

*Under the Tenth Amendment **anti-commandeering principle**, the state would have been immune from the federal law had it required the state to (1) enact state legislation or (2) enforce federal law.

(Choice B) Although some of the disposed tires come from vehicles that are used solely in the state's commercial activities, the aggregate effect of tire disposal on interstate commerce is likely substantial. Therefore, the federal law is a valid exercise of Congress's commerce power with which states must comply.

(Choice C) The **dormant commerce clause** generally prohibits states from discriminating against out-of-state economic interests. And though such discrimination is permitted when states perform core government functions (eg, law enforcement, waste disposal), this does not authorize states to violate valid federal laws.

(Choice D) A state must *fully* comply with a federal law even if the state could satisfy the legitimate needs of the federal government by *mostly* complying with that law.

Educational objective:

States must comply with all valid federal laws. This includes laws that are passed under Congress's broad commerce powers, which extend to any activities that substantially affect interstate commerce.

References

- Reno v. Condon, 528 U.S. 141, 151 (2000) (holding that a state must comply with a federal law regulating commerce since it does not require the state to enact or enforce any laws).

Copyright © 1995 by the National Conference of Bar Examiners. All rights reserved.

Copyright © UWorld. All rights reserved.