

A state statute requires each insurance company that offers burglary insurance policies in the state to charge a uniform rate for such insurance to all of its customers residing within the same county in that state. So long as a company complies with this requirement, it is free to charge whatever rate the market will bear for its burglary insurance policies.

An insurance company located in the state files suit in federal district court against appropriate state officials to challenge this statute on constitutional grounds. The insurance company wishes to charge customers residing within the same county in the state rates for burglary insurance policies that will vary because they would be based on the specific nature of the customer's business, on its precise location, and on its past claims record.

How should the court rule in this suit?

- A. Abstain from ruling on the merits of this case until the state courts have had an opportunity to pass on the constitutionality of this state statute.
- B. Hold the statute constitutional, because the statute is a reasonable exercise of the state's police power.
- C. Hold the statute unconstitutional, because the statute deprives the insurance company of its liberty or property without due process of law.
- D. Hold the statute unconstitutional, because the statute imposes an undue burden on interstate commerce.

## Explanation:

Under the **Tenth Amendment**, any power that the Constitution does not expressly grant to the federal government is **reserved to the states**. This includes the broad **police power** to enact and enforce laws that are reasonably related to protecting **public health, safety, and welfare**—eg, requiring insurers to charge uniform rates to residents is reasonably related to protecting their financial welfare (as seen here). But when exercising this power, states **cannot violate** other **constitutional provisions** like the due process and dormant commerce clauses.

The Fourteenth Amendment **due process clause** prohibits **state deprivations** of life, liberty, or property unless adequately justified. A deprivation impacting an **ordinary right** (eg, an economic right—as seen here) is justified if it satisfies mere **rational basis scrutiny**. Here, the statute satisfies this standard because it is reasonably related to the state's legitimate interest in protecting its citizens from varying insurance rates. As a result, the statute does *not* deprive the insurance company of due process of law **(Choice C)**.

Additionally, the Article I **dormant commerce clause** prohibits states from discriminating against or otherwise unduly burdening interstate commerce. A nondiscriminatory law is **unduly burdensome** if its **burden** on interstate commerce **clearly exceeds** its **local benefits**. Here, the statute is nondiscriminatory since it applies to all insurance companies. And it is not unduly burdensome because there is no indication that it has any effect outside the state **(Choice D)**. Therefore, the statute is a constitutional exercise of the state's police power.

**(Choice A)** A federal court should **abstain** from hearing a case that involves an unsettled issue of *state* law so that state courts can sort out the issue. But since this case concerns whether the statute violates the *federal* Constitution, the court need not abstain.

## Educational objective:

States possess the police power to enact and enforce laws that are reasonably related to protecting public health, safety, and welfare. But states cannot violate other constitutional provisions when exercising this power.

## References

- O'Gorman & Young, Inc. v. Hartford Fire Ins. Co., 282 U.S. 251, 257–58 (1931) (holding that a state regulation of insurance rates is a reasonable exercise of the state's police power and does not violate the due process clause).
- Kassel v. Consol. Freightways Corp., 450 U.S. 662, 669–70 (1981) (describing how a state acting pursuant to its police power can violate the dormant commerce clause).
- 16A Am. Jur. 2d Constitutional Law § 379 (2019) (explaining that a state cannot violate other constitutional provisions when exercising its police powers).

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### **Police power**

Laws reasonably related to protect public:

**Health**



**Safety**



**Welfare**



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