

A city ordinance requires every taxicab operator in the city to have a license and permits revocation of that license only for "good cause." The ordinance conditions the issuance of such a license on an agreement that the licensee "not display in or on his or her vehicle any bumper sticker or other placard or sign favoring a particular candidate for any elected municipal office." The ordinance imposes this condition to prevent the possible imputation of the views of taxicab licensees onto the city council, and it states that any licensee who violates this condition shall have his or her license revoked.

A driver who holds a taxicab operator's license decorates his cab with bumper stickers and other signs favoring specified candidates in a forthcoming election for municipal offices. A proceeding is initiated against him to revoke his taxicab operator's license on the sole basis of that admitted conduct.

In this proceeding, does the driver have a meritorious constitutional defense?

- A. No, because a taxicab operator's license is a privilege and not a right and, therefore, is not protected by the due process clause of the Fourteenth Amendment.
- B. No, because he accepted the license with knowledge of the condition and, therefore, has no standing to contest it.
- C. Yes, because such a proceeding threatens the driver with a taking of property, his license, without just compensation.
- D. Yes, because the condition imposed on taxicab operators' licenses restricts political speech based wholly on its content, without any adequate governmental justification.

Explanation:

The city ordinance infringes upon the First Amendment right to **free expression** by conditioning the issuance of a license on the driver's promise not to display signage favoring political candidates. The ordinance regulates speech based on its **content** (ie, message, subject, or ideas), so it is **presumptively invalid** and only enforceable if it survives **strict scrutiny**. This requires the government to prove that the ordinance is **necessary and narrowly tailored** (ie, the least restrictive means) to achieve a compelling government interest.

Here, the city may have a compelling interest in avoiding the imputation of drivers' views onto the city council. But since that interest can be achieved through less restrictive means—eg, by requiring drivers to display a disclaimer—the ordinance cannot survive strict scrutiny. As a result, the driver has a meritorious constitutional defense against his license being revoked based solely on his violation of this invalid ordinance.

(Choice A) The Supreme Court no longer distinguishes between a privilege and a right when considering challenges under the [Fourteenth Amendment due process clause](#).

(Choice B) The driver did not waive his constitutional right to engage in political speech by accepting the license with knowledge of the signage condition. Therefore, the driver *does* have standing to contest the revocation of his license.

(Choice C) The Fifth Amendment takings clause only requires the payment of just compensation when the government takes private property for *public use*, so it does not apply here.

Educational objective:

Content-based speech regulations must pass strict judicial scrutiny. This requires proof that the regulation is necessary and narrowly tailored to achieve a compelling government interest.

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First Amendment speech protections

