

A county in State A is located adjacent to the border of State B. The communities located in the county are principally suburbs of a large city located in State B, and therefore there is a large volume of traffic between that city and the county. While most of that traffic is by private passenger automobiles, some of it is by taxicabs and other kinds of commercial vehicles.

A county ordinance provides that only taxicabs registered in the county may pick up or discharge passengers in the county. The stated purpose of this ordinance is to reduce traffic congestion. The ordinance also provides that only residents of the county may register taxicabs in that county.

Which of the following is the proper result in a suit brought by State B taxicab owners challenging the constitutionality of this county ordinance?

- A. Judgment for the county, because State B taxicab owners do not constitute a suspect or quasi-suspect class and the ordinance is reasonably related to the legitimate governmental purpose of reducing traffic congestion.
- B. Judgment for the county, because the ordinance forbids taxicabs registered in other counties of State A as well as in states other than State A to operate in the county and, therefore, it does not discriminate against interstate commerce.
- C. Judgment for the State B taxicab owners, because the fact that private passenger automobiles contribute more to the traffic congestion problem in the county than do taxicabs indicates that the ordinance is not a reasonable means by which to solve that problem.
- D. Judgment for the State B taxicab owners, because the ordinance unduly burdens interstate commerce by insulating the county taxicab owners from out-of-state competition without adequate justification.

Explanation:

Dormant commerce clause

(state regulation of interstate commerce)

Type of regulation	Examples	Standard
Discriminatory (favors in-state interests)	<ul style="list-style-type: none">• Taxing out-of-state products more heavily• Requiring use of in-state products/services	Unconstitutional unless: <ul style="list-style-type: none">• furthers legitimate state interest <i>and</i>• no reasonable alternative
Nondiscriminatory (otherwise burdensome)	<ul style="list-style-type: none">• Prohibiting all commercial vehicles on state highways• Overly strict requirements for all commercial shipments	Unconstitutional if: <ul style="list-style-type: none">• burden clearly exceeds local benefits

The ability of state and local governments to regulate [interstate commerce](#) is limited by the **dormant commerce clause**. Under this clause, these entities are generally prohibited from discriminating against or otherwise unduly burdening interstate commerce. As a result, a **state or local action that discriminates against interstate commerce**—ie, an action that protects in-state over out-of-state economic interests—is **invalid unless**:

- it furthers a **legitimate, noneconomic** state or local **interest** *and*
- **no reasonable alternative** is available to achieve this interest.

Here, the State A county ordinance discriminates against interstate commerce since it only allows county residents to register and operate taxicabs in the county—thereby insulating them from out-of-state competition. The ordinance furthers the county's legitimate, noneconomic interest in reducing traffic congestion. But reasonable alternatives are available (eg, investing in public transportation). Therefore, the ordinance unduly burdens interstate commerce without adequate justification, and judgment for the State B taxicab owners is proper.

(Choice A) Taxicab owners are not a suspect or quasi-suspect class (ie, [protected class](#)), so the ordinance likely satisfies the Fourteenth Amendment equal protection clause under mere rational basis scrutiny. Nevertheless, the ordinance is invalid because it violates the dormant commerce clause.

(Choice B) The ordinance's unlawful discrimination against interstate commerce is not negated by the fact that it also discriminates against residents of other State A counties.

(Choice C) Although private passenger automobiles contribute more to traffic congestion in the county than taxicabs, the ordinance *is* a reasonable means to solve that problem since it alleviates some congestion. But it is still invalid because it discriminates against interstate commerce despite the availability of reasonable alternatives.

Educational objective:

A state or local action that discriminates against interstate commerce violates the dormant commerce clause unless (1) it furthers a legitimate, noneconomic state or local interest and (2) no reasonable alternatives exist.

References

- U.S. Const. art. I, § 8, cl. 3 (commerce clause).
- *Dean Milk Co. v. Madison*, 340 U.S. 349, 354–55 (1951) (holding that a city's ban on the sale of milk processed outside city limits discriminates against interstate commerce and violates the dormant commerce clause).
- 15A Am. Jur. 2d Commerce § 105 (2019) (explaining the proper standard of review for a law that discriminates against interstate commerce).

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