

Congress enacted a federal statute providing that any state may "require labeling to show the state or other geographic origin of citrus fruit that is imported into the receiving state."

Pursuant to the federal statute, a state that produced large quantities of citrus fruit enacted a law requiring all citrus fruit imported into the state to be stamped with a two-letter postal abbreviation signifying the state of the fruit's origin. The law did not impose any such requirement for citrus fruit grown within the state. When it adopted the law, the state legislature declared that its purpose was to reduce the risks of infection of local citrus crops by itinerant diseases that have been found to attack citrus fruit.

A national association of citrus growers has sued to have the state law declared unconstitutional. The association claims that the law is prohibited by the negative implications of the commerce clause of the Constitution.

Which of the following is the best argument in favor of the state's effort to have this lawsuit dismissed?

- A. Any burden on interstate commerce imposed by the state law is outweighed by a legitimate state interest.
- B. Congress has the authority to authorize specified state regulations that would otherwise be prohibited by the negative implications of the commerce clause, and it has done so in this situation.
- C. The state law does not discriminate against out-of-state citrus growers or producers.
- D. The state law furthers a legitimate state interest, the burden it imposes on interstate commerce is only incidental, and the state's interest cannot be satisfied by other means that are less burdensome to interstate commerce.

## Explanation:

The **negative implication of the commerce clause** (ie, the dormant commerce clause) **prohibits states from discriminating** against or otherwise unduly burdening interstate commerce. As a result, states generally cannot favor **in-state over out-of-state economic interests** unless:

- the state law furthers a legitimate, noneconomic state interest *and*
- no reasonable, nondiscriminatory alternatives are available.

But this analysis is unnecessary—and states *can* engage in such discrimination—when **Congress explicitly authorizes** the state's conduct (or some other exception to the dormant commerce clause applies).

Here, the state law discriminates against interstate commerce by requiring citrus fruit imported *into* the state—but not citrus fruit grown *within* the state—to have a stamp showing its origin **(Choice C)**. This law would ordinarily violate the dormant commerce clause since there are reasonable alternatives to prevent citrus fruit infections (eg, conducting safety inspections) **(Choice D)**. But since Congress *explicitly* authorized states to require this labeling, this is the state's best argument to have the lawsuit dismissed.

**(Choice A)** Under the undue burden test, a state regulation is justified if its legitimate, local benefits exceed the burdens imposed on interstate commerce. But this test does not apply to *discriminatory* state regulations (as seen here).

## Educational objective:

The dormant commerce clause generally prohibits states from discriminating against or unduly burdening interstate commerce. But states can do so when Congress has explicitly authorized that conduct.

## References

- U.S. Const. art. I, § 8 (commerce clause).
- *Ne. Bancorp, Inc. v. Bd. of Governors of Fed. Reserve Sys.*, 472 U.S. 159, 174 (1985) (explaining that states can discriminate against interstate commerce when Congress authorizes them to do so).
- 15A Am. Jur. 2d Commerce § 27 (2019) (discussing congressional authorization to regulate interstate commerce).

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## Dormant commerce clause analysis

