

A federal statute authorizes the Interstate Commerce Commission (ICC) to permit interstate carriers to discontinue any unprofitable route.

An interstate bus company that operates in a five-state area applied to the ICC for permission to drop a very unprofitable route through a sparsely populated mountain region. The ICC granted that permission even though the bus company provided the only public transportation into that region.

A woman owns a mountain resort in this region. The resort's customers usually arrived on buses operated by the company. After exhausting all available federal administrative remedies, the woman filed suit against the bus company in the trial court of the state in which the resort is located to enjoin the discontinuance by the bus company of its service to that area. The woman alleged that the discontinuance of service would violate a state statute that prohibits common carriers from abandoning service to communities having no alternate form of public transportation.

What action should the state court take?

- A. Deny the injunction, because a valid federal law preempts the state statute on which the woman relies.
- B. Direct the removal of the case to federal court, because this suit involves a substantial federal question.
- C. Dismiss the action, because the woman lacks standing to sue.
- D. Grant the injunction because, on these facts, a federal agency is interfering with essential state functions.

Explanation:

Preemption

(federal law supersedes state law)

Type	Applicability
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- | | |
|----------------|---|
| Express | <ul style="list-style-type: none">• Constitution grants federal government exclusive power to regulate area <i>or</i>• Federal law expressly prohibits state regulation in same area |
|----------------|---|

Implied	Field preemption:
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- Congressional intent to occupy entire field inferred from pervasive regulations that leave no room for state involvement

Conflict preemption:

- Direct conflict makes it impossible (or nearly impossible) to comply with federal & state law *or*
- Indirect conflict frustrates accomplishment of federal law's purpose

Under the Article VI **supremacy clause**, a valid **federal law preempts** (ie, supersedes) **conflicting state law**. Such preemption can be express or implied. One type of **implied** preemption is **conflict preemption**, which stems from either:

- **direct conflict** – when it is impossible or nearly **impossible to comply with both** the federal and state laws *or*
- **indirect conflict** – when the **state law frustrates** the accomplishment of the **federal law's purpose**.

Here, the Interstate Commerce Commission (ICC) acted pursuant to a federal statute when it permitted the bus company to drop an unprofitable route. But a state statute prohibits the bus company from dropping that route since the area has no alternate form of public transportation. This frustrates the federal statute's purpose to let the ICC determine whether an interstate carrier may discontinue a given route. And since the federal statute impliedly preempts the conflicting state one, the woman's request to enjoin the discontinuance of the route should be denied.

(Choice B) A state court cannot **remove** a case to federal court on its own initiative—even if the suit involves a substantial federal question. Instead, the defendant must request removal (not seen here).

(Choice C) The woman has **standing** because she can allege an injury-in-fact (loss of customers) that is caused by the challenged action (dropped bus route) and redressable by the remedy sought (injunction).

(Choice D) An essential function of a state is to enact and enforce laws to protect the health, safety, and welfare of the public (ie, police power). But a federal agency can interfere with such functions when acting pursuant to a valid federal law (as seen here).

Educational objective:

A federal law will impliedly preempt a conflicting state law that makes it impossible or nearly impossible to comply with both laws (ie, direct conflict) OR frustrates the accomplishment of the federal law's purpose (ie, indirect conflict).

References

- Hines v. Davidowitz, 312 U.S. 52, 67 (1941) (stating that implied preemption occurs when a state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress").
- Chi. & Nw. Transp. Co. v. Kalo Brick & Tile Co., 450 U.S. 311, 331 (1981) (holding that ICC approval of an abandonment of a common-carrier route preempts conflicting state law).

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