

A federal statute prohibits the sale or resale, in any place in this country, of any product intended for human consumption or ingestion into the human body that contains designated chemicals known to cause cancer, unless the product is clearly labeled as dangerous.

The constitutionality of this federal statute may be justified most easily on which of the following bases?

- A. Congress's power to enforce the Fourteenth Amendment.
- B. Congress's power to promote science and the useful arts.
- C. Congress's power to provide for the general welfare.
- D. Congress's power to regulate commerce among the states.

Explanation:

Commerce clause

(U.S. Const. art. I, § 8)

Congress can regulate:

- channels of interstate commerce
- instrumentalities of interstate commerce
- persons/things moving in interstate commerce
- activities that substantially affect interstate commerce

The Article I **commerce clause** grants **Congress** broad authority to **regulate commerce among the states**. This includes any **activity** that has a substantial effect on interstate commerce. If the regulated activity is **economic** in nature, a **substantial effect is presumed**.

Here, the federal statute requires sellers to clearly label products that contain cancer-causing chemicals as dangerous. Selling dangerous consumables is an economic activity that is presumed to substantially affect interstate commerce. Therefore, Congress can regulate this activity under its commerce power.

(Choice A) The Fourteenth Amendment's enforcement clause enables Congress to pass laws enforcing the amendment's **other provisions**. But since these provisions only apply to *state* action, Congress cannot regulate the labeling practices of *private* entities on this basis.

(Choice B) The Article I copyright and patent clause empowers Congress to pass laws that promote science and the useful arts—which are not implicated here.

(Choice C) The taxing and spending clause only allows Congress to *tax and spend* for the general welfare of the United States. Since the federal statute does not involve such activities, this would not justify the statute.

Educational objective:

The Article I commerce clause grants Congress broad authority to regulate commerce among the states. This includes any activity that substantially affects interstate commerce (eg, economic activities).

References

- United States v. Sullivan, 332 U.S. 689, 697–98 (1948) (holding that a federal drug-labeling statute is a proper exercise of Congress's commerce power).

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