

Handout 2: Can Congress Make This Law?

Review each proposed law to determine whether Congress has the power to make that law under the Commerce Clause.

Recently, a freight train crashed when it entered Kansasippi, because the train operator didn't recognize Kansasippi's unique warning signal. Congress wants to pass a law that requires all states to use uniform warning signs and signals for trains.

- Does Congress have the power to make this law?

Congress wants to pass a law that bans factories which make products that are sold in other states from employing children under the age of 18.

- Does Congress have the power to make this law?

Tomato prices have been plummeting and tomato farmers aren't making enough money to keep planting their crops. In order to limit the overall tomato crop, thereby raising tomato prices, Congress wants to pass a law that prohibits all U.S. farmers that sell vegetables from growing more than 500 pounds of tomatoes each – even for their own consumption.

- Does Congress have the power to make this law?

Lawmakers are dismayed by the number of shootings that take place in schools. Congress wants to pass a law that makes it a federal crime to possess a gun on the property of a public school.

- Does Congress have the power to make this law?

Congress wants to pass a law setting a national speed limit at 55 mph.

- Does Congress have the power to make this law?

Congress is concerned about drug use, so it wants to pass a law making it a crime to manufacture, distribute, or possess certain drugs and narcotics, including marijuana, cocaine, heroin, and methamphetamines.

- Does Congress have the power to make this law?

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US Congress
Powers Expressed or Implied?

Read each item below and decide whether it describes an expressed power given to Congress (**E**), an implied power given to Congress (**I**), or a power not given to Congress (**N**).

- _____ 1. The power to collect taxes and borrow money.
- _____ 2. The power to regulate foreign trade and interstate commerce.
- _____ 3. The power to declare war on another nation.
- _____ 4. The power to favor one state over another.
- _____ 5. The power to draft soldiers into the military.
- _____ 6. The power to enact laws that interfere with the legal rights of individuals.
- _____ 7. The power to set up a postal system.
- _____ 8. The power to create a minimum wage.
- _____ 9. The power to maintain armed services
- _____ 10. The power to regulate and limit immigration.
- _____ 11. The power to tax exports and interstate commerce.
- _____ 12. The power to create the Federal Reserve Banks.

Answer Key!

- Uniform warning signs and signals for trains: Yes...trains travel on railways from state to state.
- A law that bans factories which make products by juveniles: No...can ban products not factories, but can fine the factory for violating child labor laws.
- A law that prohibits farmers from growing more than 500 pounds of tomatoes: No...cannot ban production of legal products. Can give subsidies to entice farmers NOT to grow products, though.
- A federal crime to possess a gun on the property of a public school: No...schools are run by states and are not interstate commerce.
- A law setting a national speed limit at 55 mph: No...but can tie federal highway funds to force states into adopting this mandate.
- A law making it a crime to manufacture or to distribute certain drugs: Yes...because they are trafficked from foreign countries and from state to state, congress can intervene.

1. E
2. E
3. E
4. N
5. I
6. N
7. E
8. I
9. E
10. I
11. N
12. I