

CONSTITUTIONAL LAW QUESTION

State A, suffering from declining tax revenues, sought ways to save money by reducing expenses and performing services more efficiently. Accordingly, various legislative committees undertook examinations of the services performed by the state. One service provided by State A is firefighting. The legislative committee with jurisdiction over firefighting held extensive hearings and determined that older firefighters, because of seniority, earn substantially more than younger firefighters but are unlikely to perform as well as their younger colleagues. In particular, exercise physiologists testified at the committee's hearings that, in general, a person's physical conditioning and ability to work safely and effectively as a firefighter decline with age (with the most rapid declines occurring after age 50) and that, as a result, firefighting would be safer and more efficient if the age of the workforce was lowered.

State A subsequently enacted the Fire Safety in Employment Act (the Act). The Act provides that no one may be employed by the state as a firefighter after reaching the age of 50.

A firefighter, age 49, is employed by State A. He is in excellent physical condition and wants to remain a firefighter. His work history has been exemplary for the last two decades. Nonetheless, he has been told that, as a result of the Act, his employment as a firefighter will be terminated when he turns 50 next month.

The firefighter is considering (a) challenging the Act on the basis that it violates his rights under the Fourteenth Amendment's Equal Protection Clause, and (b) lobbying for the enactment of a federal statute barring states from setting mandatory age limitations for firefighters.

1. Does the Act violate the Equal Protection Clause of the Fourteenth Amendment? Explain.
2. Would Congress have authority under Section Five of the Fourteenth Amendment to enact a statute barring states from establishing a maximum age for firefighters? Explain.

Question Presented

State A, facing declining tax revenues, sought to **save money and perform services more efficiently**. A legislative committee studied firefighting and found that older firefighters, because of seniority, earn more but may not perform as well as younger ones.

← cost + efficiency = legitimate interests

Exercise physiologists testified that a person's fitness and ability to work safely as a firefighter **decline with age**, most rapidly after age 50, so firefighting would be safer and more efficient with a younger workforce.

← evidence in the record → supplies the rational fit

State A enacted the Fire Safety in Employment Act: **no one may be employed by the state as a firefighter after reaching the age of 50.**

← age classification → age is NOT suspect → rational basis

A firefighter, **age 49, in excellent physical condition with an exemplary two-decade record**, wants to stay but will be terminated at 50 under the Act.

← his individual fitness is irrelevant under rational basis

He is considering (a) challenging the Act under the Equal Protection Clause, and (b) lobbying for a **federal statute barring states from setting mandatory age limits for firefighters.**

← Q2: Section 5 enforcement-power question

1. Does the Act violate the Equal Protection Clause of the Fourteenth Amendment?

← → rational basis review

2. Would Congress have authority under Section Five of the Fourteenth Amendment to bar states from setting a maximum age for firefighters?

← → congruence & proportionality

Question 1: Equal Protection Challenge to the Mandatory Retirement Age

Issue. Whether the Act's mandatory retirement age of 50 for firefighters violates the Equal Protection Clause of the Fourteenth Amendment.

Rule. The Equal Protection Clause bars a state from denying any person the equal protection of the laws. The level of review depends on the classification: strict scrutiny for suspect classes (such as race or national origin) or fundamental rights; intermediate scrutiny for quasi-suspect classes (such as sex); and rational-basis review for everything else. Age is not a suspect or quasi-suspect classification, so an age-based line is upheld if it is rationally related to a legitimate government interest, with substantial deference to the legislature.

Analysis. Here, the Act draws a line based on **age**, and because age is not a suspect classification, rational-basis review applies. State A has legitimate interests in **safe and efficient firefighting and in reducing costs**. Lowering the retirement age is rationally related to those interests: the legislature heard expert testimony that firefighting fitness **generally declines with age**, most rapidly after 50, so a mandatory retirement age is a reasonable way to raise the overall fitness of the workforce. That this particular firefighter, **age 49 and in excellent condition**, remains capable does not matter, because rational-basis review asks only whether the general classification is reasonable, not whether the fit is perfect, and the fact that State A also acted to save money does not defeat the law, since one legitimate purpose rationally served is enough.

Conclusion. Therefore, Question 1 resolves for the state: the Act survives rational-basis review and most likely does not violate the Equal Protection Clause.

Age classification → which tier of scrutiny?

Age is not suspect → rational basis: legitimate interest + rational relation, with deference.

Legit interests (safety, efficiency, cost) + record evidence of age-related decline = rational fit. His personal fitness is irrelevant.

Upheld. Rational basis is a very low bar.

Question 2: Congress's Power Under Section 5 of the Fourteenth Amendment

Issue. Whether Congress has authority under Section 5 of the Fourteenth Amendment to enact a statute barring states from setting a maximum age for firefighters.

Rule. Section 5 empowers Congress to enforce the Fourteenth Amendment, but the power is only remedial and preventive. Congress may reach some conduct that is not itself unconstitutional, but only where there is congruence and proportionality between the constitutional injury to be remedied or prevented and the means adopted. Congress may not use Section 5

Does §5 let Congress ban state age limits?

§5 is remedial only: congruence + proportionality to a constitutional injury. No new rights.

to define the substance of the Amendment's rights or to outlaw conduct that is not itself a likely constitutional violation.

Analysis. Here, as Question 1 shows, a state mandatory retirement age for firefighters does not violate the Equal Protection Clause, because age classifications survive rational-basis review. A federal statute barring states from setting any maximum age would therefore prohibit conduct that is constitutional and would address no pattern of constitutional violations by the states. With no constitutional injury to remedy or prevent, the statute would not be congruent and proportional; it would instead make a substantive change in the meaning of the Equal Protection Clause, which Section 5 does not authorize.

Conclusion. Therefore, Question 2 resolves against congressional power: Congress would not have authority under Section 5 to enact the statute.

Age limits are constitutional (Q1), so there is no injury to remedy. Banning them = substantive, not remedial.

No §5 authority. Congress cannot outlaw constitutional conduct.

Step-by-Step: Equal Protection + Section 5 Enforcement

Fix the tier of scrutiny first, resolve the equal-protection claim, then test any Section 5 statute against it.

1. What does the law classify on, or what right does it burden?

- Suspect class (race, national origin, alienage) or a fundamental right: **strict scrutiny** (narrowly tailored to a compelling interest).
- Quasi-suspect class (sex, illegitimacy): **intermediate scrutiny** (substantially related to an important interest).
- Anything else, including AGE: **rational basis**. **Q1: age is not suspect**



2. Rational basis: is the law rationally related to a legitimate government interest? (very deferential; an imperfect fit is fine)

- Yes: **CONSTITUTIONAL**. **Q1: safety, efficiency, cost + record evidence → VALID**
- No: unconstitutional.



3. Section 5: does the federal statute remedy or prevent an actual constitutional violation, with congruence and proportionality?

- Yes: valid enforcement legislation (it may reach some lawful conduct to prevent violations).
- No, it bans conduct that is itself constitutional: **EXCEEDS Section 5 power**. **Q2: age limits are valid → no injury → INVALID**