

Freedom of Speech and the First Amendment

1. Be prepared to define and discuss the following terms:
 - a. freedom of speech
 - b. symbolic speech
 - c. protected speech
 - d. unprotected speech
 - e. obscenity
 - f. private speech
 - g. commercial speech
2. Discuss the Constitutional guarantee for free speech, both for private speech and for commercial speech.
 - a. What is the difference between private speech and commercial speech? Which is more strictly protected?
3. Read and be prepared to orally brief the case:
 - *Bad Frog Brewery, Inc. v. New York State Liquor Authority*, 134 F.3d 87 (U.S. Ct. of Appeals, 2nd Circuit) 1998. [online]

As you discuss this case, be sure to address the following questions:

- a. List and discuss the 3 criteria that a governmental restriction on commercial speech must meet in order to be considered valid under the United States Constitution.
 - b. Explain why the restriction on commercial speech in *Bad Frog Brewery* failed to meet these criteria.
 - c. What if Bad Frog had sought to use the offensive label to market toys instead of beer? Would the court's ruling likely have been the same? Why, or why not?
4. Read and be prepared to orally brief the following cases:
 - *Hodgkins v. Peterson* [on-line]
 - *Interactive Digital Software Association v. St. Louis County, Missouri* [on-line]

As you discuss these cases, be sure to address the following questions:

- a. What issue is being addressed by the court in these opinions?
 - b. What do the Courts' rulings teach us about our first amendment rights of free speech?
 - c. How are these cases similar? How are they different, or distinguishable, from each other?
5. Conclusion(s):

Review the protections guaranteed by the First Amendment for private speech and commercial speech.

 - a. How do they apply to our every day lives? For example, can a public school require its students to wear uniforms without violating their First Amendment rights? Can a government ban sexually explicit material from the internet? Can a corporation contribute to a political campaign? Can advertisers call you at home on your private telephone line during the dinner hour? Why and/or why not?