

Question I (Bad Frog candy) (50 points)

fully protected speech? BF argues even though on label-satire-social commentary------(3) \_\_\_\_\_  
protected symbolic speech?-BF argues satisfies Spence test-intended to communicate a message  
and message likely to be understood by audience particularly because finger is generally  
recognized symbol & slogans that accompany the frog and the name of the company------(4) \_\_\_\_\_  
as protected symbolic speech analyzed under O'Brien-within power of authority, substantial  
interest to protect young children, narrowly tailored, gov't int unrelated to suppression of  
expression-BF argues gov't interest is related to suppression of expression-regulated only  
because of message communicated by frog-so fails O'Brien and so apply strict scrutiny--(5) \_\_\_\_\_  
strict scrutiny - gov't argues compelling interest to protect young children particularly when  
offensive frog appears on label of product designed to appeal to children like Joe Camel  
necessary means? gov't argues least restrictive-can still sell product in many other ways-(4) \_\_\_\_\_  
BF argues too restrictive of adult access in order to protect children-kept off shelf in most places  
people buy candy, ineffective means to achieve ends, access only behind counter chills adult  
audience (treated like adult entertainment)------(4) \_\_\_\_\_  
commercial speech - BF argues label is a form of adv'g-communicates source of product, not  
false, misleading or illegal------(3) \_\_\_\_\_  
gov't argues unprotected - labels don't communicate any information to consumers------(3) \_\_\_\_\_  
Central Hudson test-not false or misleading, sub'l int, directly advance, narrowly tailored(2) \_\_\_\_\_  
gov't argues sub'l interest in protecting minors from profane ads, ban on labels in places where  
children could be found would directly advance that interest; restriction is narrowly tailored  
because only applies to young children, only in places where they can be found and allows sales  
to adults & BF argues doesn't directly advance given prevalence of profanity throughout our  
culture & not narrowly tailored------(6) \_\_\_\_\_  
fighting words - while giving the finger could be fighting wds in the right circumstance not here  
because no face to face exchange and not directed at a particular individual------(3) \_\_\_\_\_  
obscenity-not obscenity because no appeal to the prurient interest even though reference to a  
sexual act------(3) \_\_\_\_\_  
content-based decision by gov't-based on message communicated-concern with the primary  
effect of speech on child audience not a secondary effect (see strict scrutiny above)------(3) \_\_\_\_\_  
prior restraint -unbridled admin discretion to restrict label------(2) \_\_\_\_\_  
vagueness of basis for gov't decision------(2) \_\_\_\_\_  
miscellaneous (3) \_\_\_\_\_