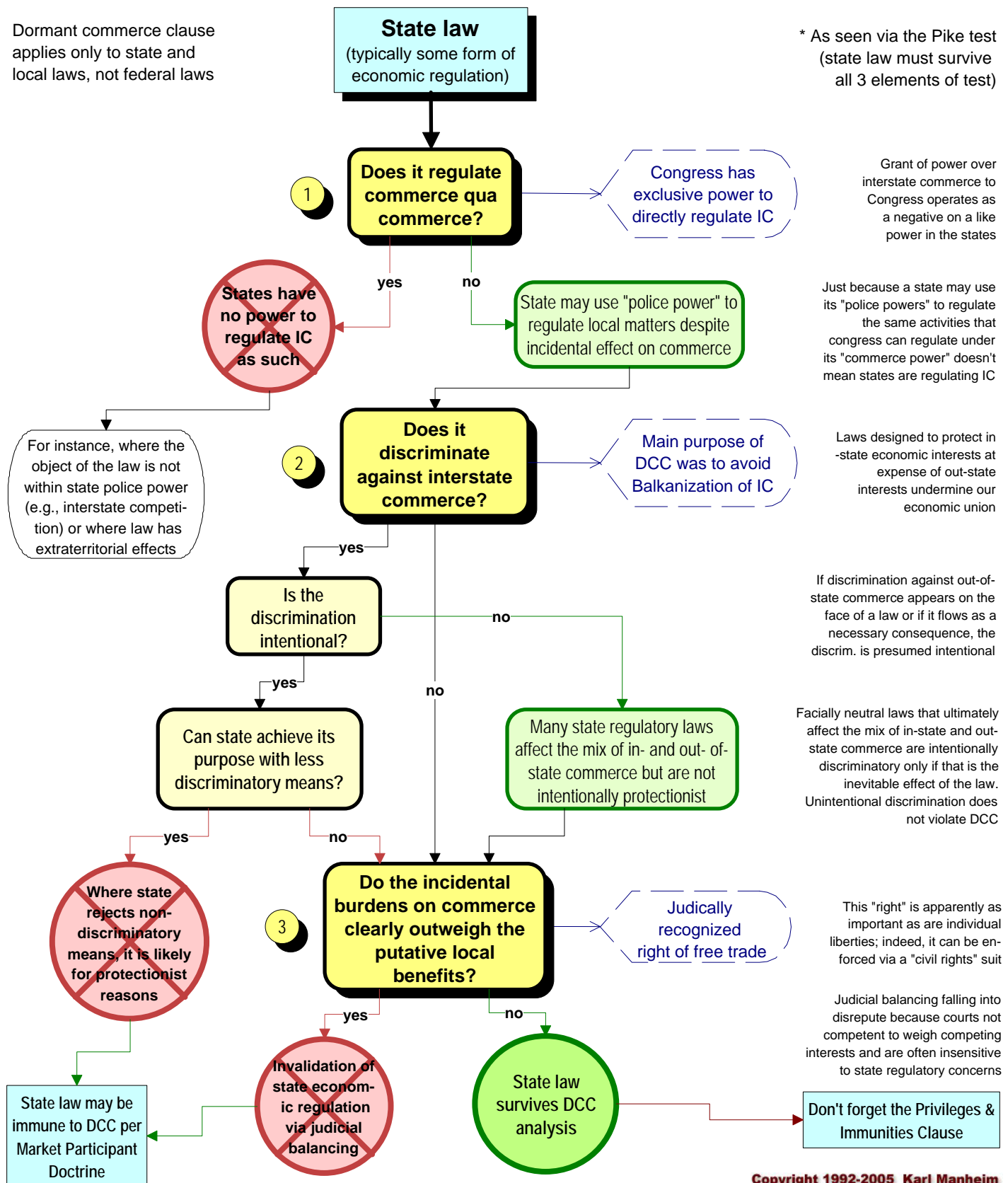


**THE DORMANT COMMERCE CLAUSE \***

Dormant commerce clause applies only to state and local laws, not federal laws

\* As seen via the Pike test (state law must survive all 3 elements of test)



Grant of power over interstate commerce to Congress operates as a negative on a like power in the states

Just because a state may use its "police powers" to regulate the same activities that congress can regulate under its "commerce power" doesn't mean states are regulating IC

Laws designed to protect in-state economic interests at expense of out-state interests undermine our economic union

If discrimination against out-of-state commerce appears on the face of a law or if it flows as a necessary consequence, the discrim. is presumed intentional

Facially neutral laws that ultimately affect the mix of in-state and out-state commerce are intentionally discriminatory only if that is the inevitable effect of the law. Unintentional discrimination does not violate DCC

This "right" is apparently as important as are individual liberties; indeed, it can be enforced via a "civil rights" suit

Judicial balancing falling into disrepute because courts not competent to weigh competing interests and are often insensitive to state regulatory concerns