

## Index

### A

Aboriginal title, 3-17

Accidents, motor vehicle

causes, 4-3

data collection, 4-11, 4-18 to 4-19

patterns, 4-3

*See also* Safety responsibility and authority

Act to Regulate Commerce, 4-7

Administrative Procedure Act, 2-6, 2-48 to 2-49, 2-51

judicial review provisions, 2-50, 2-53, 2-56

standing to bring claims under, 2-55

Adopt-a-Highway programs, 1-76 to 1-77, 1-83, 2-56 to 2-57, 2-68 to 2-69

Advertising, regulation of, 2-69 to 2-70, 2-72

*See also* Billboard regulation; Signs, roadside

Affirmative action programs

in college admissions, 1-35 to 1-37

constitutionality, 1-77 to 1-79

equal protection claims, 2-76 to 2-78

evidence of need for, 1-25 to 1-27

exemptions and waivers, 1-17 to 1-18

federal requirements vs. state constitutional requirements, 1-33 to 1-34

goal-setting for disadvantaged business participation, 1-16 to 1-17, 1-19 to 1-20, 1-29 to 1-30

in hiring and promotions, 1-34 to 1-35

mootness of challenges to, after policy change, 1-23

narrow tailoring requirement, 1-27 to 1-31

Native American preference requirements, 3-81 to 3-82

public contracting case law, 1-3 to 1-34

race-neutral, 1-15 to 1-16

standard of judicial scrutiny, 1-4, 1-5 to 1-8, 1-77, 2-77

standing to challenge, 1-22 to 1-23, 1-78

state and local programs, 1-20 to 1-22

state law prohibitions, 3-86

Age Discrimination in Employment Act

elements of claims under, 1-62 to 1-63

sovereign immunity to claims arising from, 1-59, 1-60, 1-61 to 1-63

Air bags, motor vehicle, 2-52, 4-11, 4-25, 4-36, 4-37

Airports

concession rules, 1-14

free speech restrictions in, 2-71

security, 4-12

Alaska, 3-86

Alcohol use, motor vehicle operations and

alcohol-related vehicle accidents, 4-3

police checkpoints, 2-72 to 2-74

American Indian Religious Freedom Act, 3-15, 3-74 to 3-77

Americans with Disabilities Act, 1-69, 1-82

elements of claims under, 1-65 to 1-67

Indian tribal immunity, 3-35

scope, 1-63

sovereign immunity to claims arising from, 1-59, 1-60, 1-63 to 1-65, 2-42

#### Appropriation

Indian lands right-of-way acquisition, 3-61 to 3-62

*See also* Eminent domain; Takings

Archeological Resources Protection Act, 3-15, 3-80

Arizona, 3-52, 3-59

Arkansas, 1-76, 2-22

Attorney's fees, recovery of, in Section 1983 claims, 1-57 to 1-59

Aviation and Transportation Security Act, 4-12

#### B

Billboard regulation, 2-18 to 2-19, 2-60, 2-69

free speech issues, 2-67 to 2-68

*See also* Signs, roadside

Bureau of Indian Affairs, 3-58 to 3-62, 3-64 to 3-65, 3-73, 3-81 to 3-82

Burial sites, Native American, 3-16

Bus Regulatory Reform Act, 4-10, 4-26

#### C

California, 1-33 to 1-34, 2-27, 3-52 to 3-53, 3-86, 4-26

Canada, 4-33

Checkpoints, 2-72 to 2-74

Civil Rights Act, 1-36, 1-37 to 1-39, 1-44, 3-84

antidiscrimination provisions, 1-68 to 1-69, 1-79

disparate impact regulations, 1-38 to 1-39, 1-40 to 1-42, 1-68 to 1-69, 1-70, 1-71, 1-72, 1-79

hostile work environment claims, 1-75

interstate commerce and, 2-8 to 2-9

proof of discrimination under, 1-72 to 1-75, 1-82 to 1-83

requirements for claims, 1-72, 2-76

retaliation claims, 1-75 to 1-76

sexual harassment claims, 1-75

sovereign immunity to claims arising from, 1-59, 1-60, 1-69 to 1-72

*See also* Section 1983, U. S. Code 42

Civil rights violations

actionable rights, 1-3

employee freedom of speech, 2-63 to 2-67

equal protection claims, 2-75 to 2-79

freedom of religion, 2-61 to 2-62

Privileges and Immunities Clause, 2-60 to 2-61

remedies, 1-56 to 1-59

right to travel, 2-61

transportation department liability to suit, 1-3

in transportation projects, 1-37 to 1-39

U. S. Code 42, Section 1983 provisions, 1-44 to 1-45

*See also* Civil Rights Act; First Amendment; Nondiscrimination law

Clean Air Act, 3-81, 4-9, 4-10 to 4-11, 4-41 to 4-42

Code of Federal Regulations

Title 14, Section 380, 1-42

Title 36, Section 800, 3-78

Title 40, Section 1508, 3-74

Title 49, Part 21, 1-39

Title 49, Part 23, 1-14, 1-39

- Title 49, Part 26, 1-14, 1-26
- Colorado, 1-20 to 1-21, 1-24 to 1-25, 1-26, 2-78
- Color of state law, 1-50 to 1-51
- Comity, Indian tribal jurisdiction and, 3-32 to 3-33
- Commerce Clause, 4-24
- Commercial motor vehicles
  - driver licensing, 4-4, 4-20
  - driver licensing and regulation, 4-37 to 4-40
  - governing legislation and case law, 4-9 to 4-10, 4-22 to 4-36
  - hazardous material transport, 4-40 to 4-41
  - legal definition, 4-4 to 4-5
  - Mexican, 4-33 to 4-36
  - safety regulation of National Network of highways, 4-27 to 4-33
- Commercial Motor Vehicle Safety Act, 4-4, 4-10
- Compelling government interest
  - evidence requirements, 1-23 to 1-27
  - narrow tailoring requirement for affirmative action regulation, 1-30, 1-35, 1-36 to 1-37
  - in nondiscrimination law, 1-7 to 1-8, 1-18, 1-78
- Comprehensive Environmental Response, Compensation, and Liability Act, 3-81
- Condemnations, 2-25, 2-27 to 2-31
  - Indian lands right-of-way acquisition, 3-62 to 3-63
- Conditional grants, 2-16 to 2-20, 4-15, 4-21
- Connecticut, 2-25, 4-22 to 4-23
- Constitutional law
  - affirmative action case law, 1-3 to 1-13
  - Commerce Clause, 2-3, 2-7 to 2-11, 2-12, 2-16, 2-32 to 2-37, 2-40, 2-41 to 2-42, 4-20, 4-21 to 4-24
  - constitutionality of affirmative action regulations, 1-77 to 1-79
  - Contracts Clause, 2-39
  - Due Process Clause, 2-37 to 2-39
  - eminent domain and takings authority, 2-21
  - Establishment Clause, 2-62 to 2-63, 3-76 to 3-77
  - federal actions as coercive, 2-19 to 2-20
  - federal plenary power over Indian tribes, 3-7 to 3-9
  - Free Exercise Clause, 2-61 to 2-62
  - Interstate Compact Clause, 2-44 to 2-45
  - Privileges and Immunities Clause, 2-60 to 2-61
  - review of administrative agency actions, 2-50 to 2-54
  - Savings Clause, 2-14, 4-25 to 4-26
  - search and seizure protections, 2-72 to 2-75
  - sovereign immunity, 1-59 to 1-61
  - Spending Clause, 2-3, 2-16, 2-20, 4-21
  - standards of judicial review, 1-6
  - state law and, 2-3, 2-5, 2-31 to 2-45
  - structure and authority of government, 2-6
  - Supremacy Clause, 2-11 to 2-15, 4-21, 4-22, 4-23
  - Takings Clause, 2-3
  - transportation law and, 2-3 to 2-6, 2-79 to 2-80
  - See also* Due process; Equal protection; *specific amendment*
- Contracting, public
  - affirmative action case law, 1-3 to 1-34, 2-76 to 2-78
  - compelling government interest to redress discrimination, 1-7 to 1-8, 1-18, 1-23 to 1-27
  - constitutionality of affirmative action in, 1-77 to 1-79
  - Department of Transportation regulations, 1-13 to 1-20

Native American preference requirements, 3-14 to 3-15, 3-81 to 3-86  
 setting goals for disadvantaged business participation, 1-16 to 1-17, 1-19 to 1-20

Contract law

Indian tribes and tribal entities, 3-43 to 3-47

*See also* Contracting, public

Council on Environmental Quality, 3-70, 3-73, 3-74

D

Data collection

driver registry, 4-38

motor vehicle accidents, 4-11, 4-18 to 4-19

racial profiling, 1-13

Department of Defense, 1-19

Department of Transportation

antidiscrimination regulation, 1-38 to 1-39

constitutionality of affirmative action regulations, 1-77 to 1-79

disadvantaged business regulations, 1-13 to 1-20, 2-77 to 2-78

disparate impact regulations, 1-41 to 1-42, 1-43 to 1-44

judicial review of agency action, 2-50 to 2-52

narrow tailoring requirement for affirmative action regulation, 1-27 to 1-28, 1-29 to 1-30

origins, 4-8

safety program structure, 4-12 to 4-14

structure of federal transportation authority, 2-6 to 2-7

transportation for individuals with disabilities, 1-67

*See also specific agency or program*

Department of Transportation Act, 3-79 to 3-80, 4-8

Department of Transportation and Related Agencies Appropriations Act, 4-11

Disabilities, persons with

antidiscrimination law, 1-38, 1-67 to 1-68

definition, 1-66

due process rights, 2-47

*See also* American with Disabilities Act

Disadvantaged businesses

airport concession rules, 1-14

compelling government interest to redress discrimination, 1-7 to 1-8, 1-18, 1-23 to 1-27

constitutionality of federal regulations, 1-77 to 1-79

definition, 1-6, 1-7, 1-15

Department of Transportation regulations, 1-13 to 1-20

economic disadvantage, 1-7

equal protection issues in minority set-asides, 2-76 to 2-78

evolution of affirmative action in public contracting, 1-3 to 1-13

federal transit program and, 3-68 to 3-69

Native American, 3-69, 3-81 to 3-86

resources for, 1-13

Section 1983 claims, 2-58

set-aside requirements, 1-4 to 1-5, 1-7

*See also* Affirmative action programs

Disparate impact, 1-37 to 1-39, 1-40 to 1-42

Civil Rights Act liability, 1-38 to 1-39, 1-68 to 1-69, 1-70, 1-71, 1-72, 1-79, 1-82 to 1-83

discrimination claims by persons with disabilities, 1-65 to 1-66

enforcement, 1-43 to 1-44

Section 1983, U. S. Code 42 coverage, 1-45

Drinking age regulation, 2-17 to 2-18

- Driver licensing and regulation, 2-9
  - checkpoint examinations, 2-72 to 2-73
  - commercial drivers, 4-4, 4-10, 4-37 to 4-40
  - data collection and management, 4-38
  - driver fitness, 4-37 to 4-39
  - drug testing, 4-39 to 4-40
  - language of test, 2-79
  - national regulation, 4-10, 4-20
  - national security checks, 4-40
  - operational restrictions, 4-40
- Driver's Privacy Protection Act, 2-9
- Drug searches, 2-72 to 2-74
- Drug testing, 2-18, 4-39 to 4-40
  - search and seizure protection and, 2-74 to 2-75
- Drug use, employment discrimination based on, 2-78 to 2-79
- Due process, 1-13
  - Administrative Procedure Act and, 2-48 to 2-49
  - constitutional sources, 2-45
  - judicial review of administrative agency action, 2-50 to 2-54
  - protected rights, 2-45 to 2-46
  - requirements for claims, 2-46 to 2-48
  - state liability under Section 1983, U. S. Code 42, 1-53, 1-80
  - state police powers and, 2-37 to 2-39

## E

- Economic disadvantage, 1-7
- Eleventh Amendment
  - recovery of attorney's fees against state, 1-57, 1-59
  - sovereign immunity under, 1-44, 1-45 to 1-46, 1-47 to 1-48, 1-59 to 1-61, 1-64, 1-65, 1-69, 1-80, 1-81, 1-83, 2-40 to 2-43, 3-36 to 3-37
- Emergency Highway Energy Conservation Act, 2-18
- Emergency Relief for Federally Owned Roads, 3-67
- Eminent domain
  - definition, 2-24
  - Indian lands right-of-way acquisition, 3-62 to 3-63
  - mechanisms of taking, 2-27 to 2-31
  - requirements, 2-24
  - taking authority, 2-23 to 2-24
- Emission standards, 4-41 to 4-42
  - origins and development, 4-8, 4-9, 4-10 to 4-11
- Employee Retirement and Income Security Act, 2-15
- Employment
  - affirmative action in hiring and promotions, 1-13 to 1-14, 1-34 to 1-35
  - American with Disabilities Act coverage, 1-63
  - Civil Rights Act coverage, 1-68, 1-72 to 1-75, 1-82 to 1-83
  - due process rights in, 2-45 to 2-47
  - freedom of speech issues, 2-63 to 2-67
  - hostile work environment claims, 1-75
  - labor regulation, Supremacy Clause and, 2-15
  - minimum wage regulation, 2-40
  - Native American preference requirements, 3-81 to 3-89
  - political activity of government employees, 2-67
  - religious freedom and, 2-62

- rights of former drug users, 2-78 to 2-79
  - rights of political appointees, 2-65 to 2-66
  - sexual harassment claims, 1-75
  - sovereign immunity to discrimination claims, 1-61 to 1-63, 1-82 to 1-83
  - urine testing, 2-74 to 2-75
  - Energy Policy Act, 4-11
  - Environmental justice, 2-79
  - Environmental regulations, 3-70 to 3-71
    - evolution of highway system and, 4-8
    - Indian tribes and, 3-72 to 3-74, 3-80 to 3-81
    - motor vehicle, 4-41 to 4-42
    - See also* Emission standards
  - Equal protection
    - affirmative action in college admissions, 1-36
    - affirmative action in hiring and promotions, 1-34 to 1-35
    - affirmative action law and, 1-5, 1-12 to 1-13
    - challenges to affirmative action programs, 1-4, 1-18 to 1-19, 1-21
    - disadvantaged business set-aside programs and, 2-76 to 2-78
    - discrimination prohibition, 1-37 to 1-38
    - narrow tailoring requirement for affirmative action regulation, 1-31
    - prima facie* cases, 2-75 to 2-76
    - Privileges and Immunities Clause, 2-60 to 2-61
    - rights of former drug users, 2-78 to 2-79
    - rights of homosexuals, 2-78 to 2-79
  - Evidentiary requirements
    - Civil Rights Act claims, 2-58
    - compelling government interest in discrimination remedies, 1-23 to 1-27
    - discrimination, 1-25 to 1-27, 1-72 to 1-75
    - judicial review of administrative agency action, 2-50 to 2-54
    - narrow tailoring of affirmative action requirements, 1-30 to 1-31
    - substantial evidence rule, 2-50, 2-52
  - Executive Orders
    - 13084, 13175, 13336 (consultation with Indian tribal governments), 3-72
    - 13007 (Indian sacred sites), 3-76
    - 12898 (protections for disadvantaged populations), 1-39 to 1-40
  - Exhaustion doctrine, 2-57
    - Indian tribal jurisdiction and, 3-29 to 3-31
- F
- Fair Labor Standards Act, 1-46, 1-61 to 1-62, 2-40
  - Family and Medical Leave Act, 1-61, 1-69, 1-81 to 1-82
  - Family Educational Rights and Privacy Act, 1-41
  - Federal Agricultural Adjustment Act, 2-16 to 2-17
  - Federal-Aid Highway Act, 2-6, 3-60, 3-64
  - Federal-Aid Highway Program, 3-83 to 3-84, 3-85 to 3-86
    - purpose, 3-63
    - requirements for participation, 3-63 to 3-64
  - Federal-Aid Primary System Highways, 4-27
  - Federal-Aid Road Act, 2-3, 2-5, 4-6
  - Federal Aviation Act, 1-42
  - Federal Aviation Administration Authorization Act, 2-12, 4-25 to 4-26
  - Federal Aviation Authorization Act, 4-11
  - Federal government

- commerce power, 2-7 to 2-11
- conditional transportation grants, 2-16 to 2-19, 4-15, 4-21
- evolution of national road system, 2-3 to 2-6, 4-5 to 4-8
- Indian reservation jurisdiction, 3-22 to 3-23, 3-47
- Indian tribe road programs, 3-63 to 3-68
- judicial review of administrative agency action, 2-50 to 2-54
- labor regulation, 2-15
- legal force of rules and regulations, 2-53
- limits to authority over states, 2-19 to 2-20, 2-39 to 2-40
- preemption of state motor vehicle law, 4-20 to 4-27
- relationship with Indian tribes, 3-3, 3-7 to 3-9, 3-71 to 3-72
- state government motor vehicle regulation and, 4-7, 4-14 to 4-20
- state government transportation regulation and, 2-5, 2-7
- structure of transportation authority, 2-6 to 2-7, 4-8, 4-12 to 4-14
- Supremacy Clause authority, 2-11 to 2-15
- transportation safety regulation, 2-12 to 2-14
- See also specific government entity or program*
- Federal Highway Act, 4-8
- Federal Highway Administration, 2-13, 2-67
  - disadvantaged business set-aside programs, 2-77 to 2-78
  - Emergency Relief for Federally Owned Roads, 3-67
  - environmental regulations, 3-70 to 3-71
  - highway operation and maintenance on Indian lands, 3-64 to 3-65, 3-90 to 3-95
  - Indian employment and contracting preference programs, 3-82, 3-83, 3-84, 3-85 to 3-87
  - Indian lands right-of-way acquisition, 3-61 to 3-62
  - motor vehicle and vehicular behavior oversight, 4-3, 4-4
  - nondiscrimination requirements, 1-15, 1-43
  - public lands highway funding, 3-67 to 3-68
  - relationship with Indian tribes, 3-71 to 3-72
  - role of, 4-12 to 4-13, 4-27
  - safety program, 4-13 to 4-14
  - safety regulation of National Network of highways, 4-27 to 4-33
  - structure and authority, 2-6, 2-7, 2-16, 2-20, 4-13
- Federal Motor Carrier Safety Administration, 4-3, 4-11, 4-13, 4-14, 4-19, 4-36, 4-38, 4-41
- Federal Railroad Administration, 4-8
- Federal Railroad Safety Act, 2-13
- Federal Rehabilitation Act, 1-63 to 1-64
- Federal Water Pollution Control Act, 3-81
- Fifth Amendment, 1-13, 1-18 to 1-19, 1-58, 2-21, 2-45
- First Amendment, 1-3
  - Adopt-a-Highway programs and, 1-76 to 1-77, 1-83
  - free speech rights, 2-63 to 2-72
  - Indian religious practice and, 3-74 to 3-77
  - license plate logo restrictions and, 1-77, 1-83
  - religious freedom under, 2-61 to 2-63
- Flags on overpasses, 2-68
- Florida, 1-21 to 1-22, 2-41 to 2-42, 3-86, 4-23
- Fourteenth Amendment
  - abrogation of sovereign immunity under, 1-60, 1-61, 1-62, 1-64, 1-65, 1-69 to 1-70, 1-71, 1-79, 1-80, 1-81, 1-83
  - due process obligations, 2-37, 2-45, 2-54
  - eminent domain and takings authority, 2-21
  - equal protection, 1-4, 1-5, 1-18 to 1-19, 1-34 to 1-35, 1-36, 2-60, 2-61, 2-75 to 2-79

Fourth Amendment search and seizure protections, 2-72 to 2-74

Free speech

Adopt-a-Highway program regulation and, 1-76 to 1-77, 1-83, 2-56 to 2-57, 2-68 to 2-69  
employee rights, 2-63 to 2-67

signage and advertising restrictions, 2-67 to 2-70

time, manner and place restrictions, 2-71 to 2-72

*See also* First Amendment

FTA, 1-15, 3-68 to 3-69

relationship with Indian tribes, 3-71

structure and authority, 2-6, 2-7, 2-16, 2-20

Funding of transportation projects

conditional grants, 2-16 to 2-19, 2-20, 4-15, 4-21

federal–state relationship, 2-5, 2-7, 4-6

limits of federal power, 2-19 to 2-20

national highway system, 4-8

safety programs, 4-15 to 4-18

## G

Gender-conscious remedies, 1-25

Gender discrimination, 2-78

General Allotment Act, 3-11

Georgia, 3-8

## H

Hatch Act, 2-67

Hazardous materials transport, 4-40 to 4-41

Hazardous Materials Transportation Act, 3-34 to 3-35, 3-93 to 3-94, 4-9, 4-24

Hazardous Materials Transportation Uniform Safety Act, 4-11

Highway Beautification Act, 2-18 to 2-19, 2-20, 2-69, 3-90 to 3-93

Highway Revenue Act, 2-6, 4-8

Highway Safety Act, 2-9, 4-9

Highway Safety Improvement Program, 4-12

Highway Safety Research and Development Program, 1-13

Homeland Security Act, 4-12

## I

ICC Termination Act, 4-4, 4-11

Illinois, 1-21, 1-25, 1-26 to 1-27, 1-28 to 1-29, 1-31, 1-34

Immigration, traffic checkpoints, 2-73

Immunity

absolute, 1-48 to 1-49

for persons acting under color of state law, 1-50 to 1-51

qualified, 1-49 to 1-50, 1-79

*See also* Sovereign immunity

Indian Child Welfare Act, 3-54

Indian Civil Rights Act, 3-13 to 3-14, 3-38 to 3-39

Indian Education Act, 3-14

Indian Financing Act, 3-14

Indian Gaming Regulatory Act, 3-15 to 3-16, 3-18, 3-36, 3-54

Indian Removal Act, 3-10

Indian Reorganization Act, 3-4, 3-12, 3-18, 3-35, 3-44 to 3-45

Indian Right of Way Act, 3-58, 3-62

Indian Self-Determination and Education Assistance Act, 3-4, 3-14 to 3-15, 3-81 to 3-84, 3-87



### Indian tribal sovereignty and jurisdiction

- accidents/violations on state highways, 3-25 to 3-26, 3-40 to 3-43
- acts of non-Indians, 3-23, 3-27 to 3-29, 3-46
- areas of tribal self-government, 3-20 to 3-21
- comity on judgments, 3-32 to 3-33
- contract law, 3-43 to 3-44
- criminal jurisdiction, 3-38 to 3-43
- environmental regulation, 3-72 to 3-73, 3-80 to 3-81
- extension of full faith and credit to, 3-31 to 3-32
- federal preemption, 3-22 to 3-23
- highway right-of-way grants, 3-60 to 3-62
- historical evolution, 3-95 to 3-97
- immunity issues, 3-33 to 3-38
- Indian Reservations and Indian Country, 3-5 to 3-6, 3-12 to 3-13, 3-21 to 3-22
- infringement test, 3-22, 3-23
- inherent sovereignty, 3-9, 3-20 to 3-21
- judicial limitations, 3-23 to 3-29
- state eminent domain actions, 3-62 to 3-63
- subject matter jurisdiction, 3-46 to 3-47
- tax regulation, 3-27 to 3-28
- tests for impermissible state jurisdiction, 3-22 to 3-23
- tribal court exhaustion rule, 3-29 to 3-31
- tribe–state cooperative agreements, 3-53 to 3-57
- zoning regulations, 3-25

### Indian tribes

- acquisition of Indian land for public transportation, 3-57 to 3-63
- allotment and assimilation policy, 3-10 to 3-11, 3-18
- canons of construction in cases involving, 3-19 to 3-20
- colonial and post-colonial U.S., 3-6 to 3-7
- consultation contacts, 3-74
- contract and employment preference requirements, 3-81 to 3-89
- contract law, 3-43 to 3-47
- cultural and religious issues, 3-74 to 3-80
- definitions and terminology, 3-4 to 3-6, 3-82 to 3-83
- demographic characteristics, 3-3
- environmental issues, 3-72 to 3-74
- evolution of U.S. policy and law, 3-7 to 3-16, 3-95 to 3-97
- federal highway programs, 3-63 to 3-68
- federal plenary power, 3-7 to 3-9
- federal transit programs, 3-68 to 3-69
- federal trust obligations, 3-9, 3-16 to 3-19
- gaming regulation, 3-15 to 3-16, 3-18, 3-20, 3-36, 3-39
- government-to-government relations, 3-48 to 3-57, 3-69 to 3-70, 3-71 to 3-72, 3-97
- highway operation and maintenance on Indian lands, 3-90 to 3-95
- historical developments, 3-95 to 3-96
- Indian Reorganization Act, 3-12
- Indian Reservation Roads, 3-63 to 3-67, 3-82, 3-83
- Indian Reservation Roads Bridge Program, 3-65, 3-66, 3-67
- information resources, 3-3
- Public Law 280, 3-13 to 3-14, 3-15 to 3-16, 3-21 to 3-22, 3-38 to 3-39
- removal to reservations, 3-9 to 3-10
- reservations, 3-3, 3-5, 3-10, 3-11 to 3-12, 3-21 to 3-22
- scope of transportation issues, 3-3

- state immunity to tort action in courts of, 3-37 to 3-38
- tax law, 3-20
- termination policy, 3-12 to 3-13
- transportation project planning and development, 3-69 to 3-81, 3-74
- treaty history, 3-7, 3-17
- Tribal Employment Rights Ordinances, 3-86 to 3-89
- Tribal Technical Assistance Program, 3-68
- Tribal Transportation Allocation Methodology, 3-66
- See also* Indian tribal sovereignty and jurisdiction; Tribal Employment Rights Ordinances (TERO)
- Intermodal Surface Transportation Efficiency Act (ISTEA), 1-7, 1-29 to 1-30, 2-7, 3-65, 3-68, 3-69 to 3-70, 3-85
  - disadvantaged business programs, 2-58
  - purpose, 4-11
- International transportation, 4-33 to 4-36
- Interstate Commerce Act, 2-49, 4-7
- Interstate Commerce Commission, 4-7, 4-8, 4-26 to 4-27
- Inverse condemnation, 2-28 to 2-29, 2-30 to 2-31, 3-62 to 3-63
- Iowa, 1-67, 2-22, 2-26, 2-36 to 2-37, 3-53
- ISTEA. *See* Intermodal Surface Transportation Efficiency Act

## J

### Judicial review

- of administrative agency action, 2-50 to 2-54
- Constitutional authority, 2-54
- exhaustion doctrine, 2-57
- preclusion, 2-56
- primary jurisdiction, 2-57 to 2-58
- ripeness for, 2-56 to 2-57
- section 1983 U. S. Code 42 and, 2-58 to 2-60
- standing for, 2-54 to 2-56

### Jurisdiction

- federal preemption of state motor vehicle regulation, 4-20 to 4-27
- intrastate transit, 4-26 to 4-27
- judicial review, 2-57 to 2-58
- See also* Indian tribal sovereignty and jurisdiction

## K

Kansas, 2-21 to 2-22

## L

- Length limitations, 4-30 to 4-33
- Liability of government officials
  - for acts in excess of authority, 1-54
  - under color of state law, 1-50 to 1-51
  - for gross negligence, 1-54, 1-80 to 1-81
  - supervisors, 1-54 to 1-55, 1-81
  - under U. S. Code 42, Section 1983, 1-44, 1-45 to 1-52
- License plates, 1-77, 1-83
- Location of transportation projects
  - actionable rights, 1-3
  - antidiscrimination regulations, 1-39, 1-79
- Low-Level Radioactive Waste Policy Amendments Act, 2-19

## M

Major Crimes Act, 3-5 to 3-6  
 Metropolitan Planning Organizations, 2-7  
 Mexican vehicles and drivers, 4-33 to 4-36  
 Michigan, 2-24 to 2-25  
 Minimum age drinking laws, 2-17 to 2-18  
 Minnesota, 3-51 to 3-52, 3-57, 3-62, 4-20  
 Minority-owned businesses  
     definition, 1-4  
     *See also* Disadvantaged businesses  
 Missouri, 1-76  
 Model Act, 2-51  
 Montana, 3-54, 3-60  
 Mortality, 4-3  
 Motor Carrier Act, 4-7, 4-9  
 Motor Carrier Safety Act, 4-4, 4-10, 4-13  
 Motor Carrier Safety Assistance Program, 4-14, 4-18  
 Motor Carrier Safety Improvement Act, 4-5, 4-11, 4-20, 4-33 to 4-34  
 Motor Vehicle Air Pollution Control Act, 4-8  
 Motor Vehicle Information and Cost Savings Act, 4-9  
 Motor vehicle law  
     definitions and terminology, 4-3 to 4-5  
     emission standards, 4-8, 4-9, 4-41 to 4-42, 4-10 to 4-11  
     evolution, 4-5 to 4-12  
     federal governance structure, 4-12 to 4-14  
     federal–state relationship, 4-14 to 4-27  
     need for, 4-3  
     vehicle design and specification, 4-9, 4-27 to 4-33, 4-36 to 4-37  
     *See also* Drivers' license regulation

## N

National Apprenticeship Act, 2-15  
 National Conference of State Legislatures, 3-48 to 3-50  
 National Congress of American Indians, 3-48 to 3-50  
 National Defense Authorization Act, 1-19  
 National Driver Register Act, 4-10  
 National Environmental Policy Act, 3-15, 3-46, 3-70 to 3-71, 3-72, 3-73 to 3-74, 4-36, 4-41  
 National Highway System Designation Act, 4-11  
 National Highway Traffic Safety Administration, 2-52, 4-9, 4-13, 4-15, 4-17, 4-36 to 4-37  
 National Historic Preservation Act, 3-77 to 3-79  
 National Labor Relations Act, 2-15  
 National Network of highways, 4-27 to 4-28  
 National Traffic and Motor Vehicle Safety Act, 2-14, 4-9, 4-25, 4-37  
 Native American Graves Protection and Repatriation Act, 3-16, 3-80  
 Nebraska, 3-56 to 3-57  
 Negligence, state liability under Section 1983, U. S. Code 42, 1-53, 1-54  
 New Hampshire, 4-23 to 4-24  
 New Jersey, 1-22, 1-25, 4-23  
 New Mexico, 3-53, 3-55 to 3-56, 3-59  
 New York, 4-23  
 Noise Control Act, 4-24  
 Nondiscrimination law  
     Adopt-a-Highway program restrictions, 1-76 to 1-77, 1-83

- age discrimination, 1-61 to 1-63
- compelling government interest, 1-7 to 1-8, 1-18, 1-23 to 1-27, 1-78
- Department of Transportation regulations, 1-15, 1-77 to 1-79
- disparate impact regulations, 1-37 to 1-39
- equal protection rights, 2-75 to 2-79
- evidence of discrimination, 1-25 to 1-27
- gender discrimination, 2-78
- legislative evolution, 1-3 to 1-8
- license plate logo restrictions, 1-77, 1-83
- narrow tailoring requirement, 1-27 to 1-31
- privileges and immunities protections, 2-60 to 2-61
- protection for persons with disabilities, 1-63
- race-neutral remedies, 1-15 to 1-16
- religious freedom, 2-62
- rights of drug users, 2-78 to 2-79
- sexual orientation, 2-78
- state immunity from charges under, 1-59 to 1-65, 1-81 to 1-83
  - for transportation projects, 1-37 to 1-44
- North American Free Trade Agreement, 4-33 to 4-34, 4-36
- North Carolina, 1-68
- North Dakota, 3-59 to 3-60

## O

- Oklahoma, 2-67, 3-6, 3-54
- Omnibus Transportation Employee Testing Act, 2-18, 4-11, 4-39 to 4-40
- Oregon, 2-25

## P

- Panhandling, 2-72
- Passive restraints, 2-51 to 2-52, 4-25, 4-36 to 4-37
- Patent Remedy Act, 1-61
- Pennsylvania, 2-22 to 2-23, 4-22
- Philadelphia Plan, 1-3
- Planning, project, 3-69 to 3-71
- Police powers of states, 2-79 to 2-80
  - Commerce Clause and, 2-32, 2-33 to 2-37
  - Contracts Clause and, 2-39
  - definition, 2-31 to 2-32
  - motor vehicle regulation, 4-20 to 4-21
  - signage and advertising restrictions, 2-67 to 2-68
- Post Office Act, 2-4, 4-5 to 4-6
- Private right of action under Civil Rights Act, 1-40 to 1-42
- Product liability, 4-25
- Property rights
  - acquisition of Indian land for public transportation, 3-57 to 3-63
  - due process rights, 2-45 to 2-46
  - Indian, 3-7 to 3-9, 3-17 to 3-19
- Public lands highway program, 3-67 to 3-68
- Public Works Employment Act, 1-3 to 1-4

## Q

- Quotas, 1-7, 1-16

## R

- Race-conscious remedies, 1-25
  - college admissions policies, 1-35 to 1-37
  - constitutionality of federal regulations, 1-78
  - equal protection issues in disadvantaged business set-aside programs, 2-76 to 2-78
  - federal requirements vs. state constitutional requirements, 1-33 to 1-34
  - narrow tailoring requirement, 1-27 to 1-31
- Race-neutral remedies, 1-15 to 1-16, 1-27 to 1-28
- Racial profiling, 1-13
- Railroad transportation, 2-13 to 2-14
- Rational basis test, 2-52, 2-61
- Recall of defective vehicles, 4-12, 4-37
- Rehabilitation Act, 1-38, 1-63 to 1-64
- Religious freedom
  - Establishment Clause, 2-62 to 2-63
  - Free Exercise Clause, 2-61 to 2-62
  - Indian tribal autonomy, 3-74 to 3-80
- Religious Freedom Restoration Act, 1-60
- Resource Conservation and Recovery Act, 3-35, 3-80, 3-81
- Retaliation claims under Civil Rights Act, 1-75 to 1-76
- Rhode Island, 4-24

## S

- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), 1-13 to 1-14, 3-65, 3-66 to 3-67, 3-69, 4-12, 4-19, 4-20, 4-36, 4-38 to 4-39
- Safe Drinking Water Act, 3-35, 3-81
- SAFETEA-LU. *See* Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
- Safety responsibility and authority, 2-12 to 2-14, 2-36 to 2-37
  - data collection, 4-18 to 4-19
  - evolution of motor vehicle laws, 4-7, 4-8 to 4-9, 4-10 to 4-11
  - federal funding, 4-15 to 4-18
  - federal governance structure, 4-13 to 4-14
  - federal preemption of state motor vehicle regulations, 4-20 to 4-25
  - Highway Safety Incentive Grant programs, 4-15
  - Indian tribal lands, 3-93 to 3-95
  - Mexican vehicles and drivers, 4-33 to 4-36
  - product liability, 4-25
  - recall of defective vehicles, 4-12, 4-37
  - vehicle specifications, 4-27 to 4-33, 4-36 to 4-37
- Search and seizure protections, 2-72 to 2-75
- Seat belt regulation, 2-51 to 2-52, 4-9, 4-36 to 4-37
- Section 1983, U. S. Code 42
  - claims based on official custom or policy, 1-55 to 1-56
  - coverage and scope, 1-44 to 1-45
  - evidentiary requirements, 2-58
  - injunctive relief under, 1-81
  - judicial review, 2-58 to 2-60
  - liability and immunity under, 1-44, 1-45 to 1-56, 1-79 to 1-81, 2-58 to 2-59
  - recovery of attorney's fees, 1-57 to 1-59, 1-81
  - remedies, 1-56 to 1-57, 1-81
  - requirements for claims, 1-41 to 1-42, 2-58
  - takings law and, 2-23 to 2-24

- tort liability under, 1-53, 1-80
- Set-asides. *See* Affirmative action programs
- Sexual harassment, 1-75, 2-55
- Sexual orientation as basis for discrimination, 2-78
- Signs, roadside, 2-67 to 2-70
  - on Indian lands, 3-90 to 3-93
  - See also* Billboard regulation
- Small Business Act, 1-3, 1-6, 1-29 to 1-30
- Sobriety checkpoints, 2-73
- South Dakota, 2-17 to 2-18
- Sovereign immunity
  - Commerce Clause and, 2-10 to 2-11
  - from discrimination claims, 1-59 to 1-65, 1-68 to 1-72, 1-81 to 1-83
  - federal actions as coercion of states, 2-19 to 2-20
  - Indian tribes and tribal officials, 3-33 to 3-38
  - Interstate Compact Clause and, 2-44 to 2-45
  - Supremacy Clause and, 2-15
  - U. S. Code 42, Section 1983 and, 1-45 to 1-48, 1-50 to 1-52, 1-54, 1-79 to 1-81
  - See also* Eleventh Amendment, sovereign immunity under
- Speed limit regulation, 2-18
- Standards of review, 1-6. *See also* Strict scrutiny
- Standing
  - challenges to affirmative action programs, 1-22 to 1-23, 1-78
  - judicial review, 2-54 to 2-56
  - requirements for, 1-22
- State and local law
  - acquisition of Indian land for public transportation, 3-57 to 3-63
  - affirmative action programs, 1-4, 1-5, 1-20 to 1-22
  - compelling government interest to redress discrimination, 1-25
  - Department of Transportation disadvantaged business regulations, 1-13, 1-14, 1-16
  - drivers' license regulation, 2-9
  - eminent domain and takings, 2-21, 3-62 to 3-63
  - enforcement of vehicle restrictions, 4-30 to 4-33
  - federal commerce power and, 2-7 to 2-11
  - federal disadvantaged business requirements vs., 1-33 to 1-34
  - federal funding and, 2-16 to 2-19
  - federal government and, 2-7
  - federal motor vehicle regulation and, 4-7, 4-14 to 4-20
  - federal preemption of motor vehicle regulation, 4-20 to 4-27
  - federal transportation regulation and, 2-3, 2-5
  - highway safety regulation, 4-13
  - Indian reservation jurisdiction, 3-13, 3-15 to 3-16, 3-21 to 3-23, 3-38 to 3-43, 3-46 to 3-47, 3-72 to 3-73
  - Indian tribe cooperative agreements, 3-53 to 3-57
  - Indian tribe relations, 3-48 to 3-53
  - intrastate transit, 4-26 to 4-27
  - labor regulation, 2-15
  - limits of federal authority, 2-19 to 2-20
  - Native American hiring preferences, 3-86
  - police powers, 2-31 to 2-39
  - Privileges and Immunities Clause, 2-60 to 2-61
  - protections for persons with disabilities, 1-67 to 1-68
  - racial profiling prohibitions, 1-13

- relationship with Indian tribes, 3-3, 3-69 to 3-70, 3-97
- strict scrutiny requirements for affirmative action law, 1-31 to 1-33, 1-78 to 1-79
- Supremacy Clause and, 2-11 to 2-15
- toll authority, 2-10
- transportation safety regulation, 2-12 to 2-14, 2-36 to 2-37
- State liability
  - Age Discrimination in Employment Act claims, 1-61 to 1-63
  - to Civil Rights Act claims, 1-68 to 1-72
  - discrimination against persons with disabilities, 1-63 to 1-68
  - discrimination in Adopt-a-Highway programs, 1-76 to 1-77, 1-83
  - discrimination in license plate restrictions, 1-77, 1-83
  - freedom of speech issues, 2-63 to 2-72
  - for gross negligence, 1-80 to 1-81
  - immunity to discrimination claims, 1-59 to 1-65, 1-81 to 1-83
  - Section 1983 claims, 2-58 to 2-59
  - sources of immunity, 2-40 to 2-45
  - for state-created danger, 1-53 to 1-54
  - tort action in Indian tribal court, 3-37 to 3-38
  - under U. S. Code 42, Section 1983, 1-44, 1-45 to 1-52, 1-79 to 1-81
- Strict scrutiny
  - affirmative action plans, 1-4, 1-5 to 1-7, 1-8, 1-13, 1-77, 2-77
  - meaning, 1-6
  - narrow tailoring requirement for affirmative action regulation, 1-31, 1-78, 1-79
  - requirements for states, 1-31 to 1-33
- Subcontractor Compensation Clause, 1-6, 1-7, 1-8, 1-28
- Substantial evidence rule, 2-50, 2-52
- Surface Transportation and Uniform Relocation Assistance Act, 1-7, 1-29 to 1-30, 2-58, 3-84, 3-85, 4-10
- Surface Transportation Assistance Act, 1-13, 3-64, 3-65, 4-9 to 4-10, 4-22 to 4-24
- T
- Takings
  - compensation issues, 2-26 to 2-27, 2-29 to 2-30
  - conceptual evolution, 2-20 to 2-24
  - eminent domain authority and, 2-23 to 2-24
  - essential nexus rule, 2-23
  - mechanisms of eminent domain power, 2-27 to 2-31
  - property damage considerations, 2-24
  - public use/public purpose concepts in, 2-24 to 2-26
  - requirements for claims, 2-21, 2-22 to 2-23
  - temporary taking, 2-23
- Tandem Truck Safety Act, 4-10, 4-23 to 4-24, 4-27
- Taxation, Indian tribes, 3-20, 3-27 to 3-28
- TEA-21. *See* Transportation Equity Act for the 21st Century
- Tenth Amendment, 2-17, 2-19, 2-20, 2-39 to 2-40
- Testing Act, 2-12
- Texas, 1-34 to 1-35, 1-77
- Toll facilities and services, 2-10
  - rights of toll authority appointees, 2-65 to 2-66
  - right to travel and, 2-61
- Tort liability
  - under Section 1983, U. S. Code 42, 1-53, 1-80
  - Supremacy Clause preemption, 2-13 to 2-14

Traffic stops, 2-72 to 2-74

Transit companies

- advertising restrictions, 2-69 to 2-70, 2-72
- board member elections, 2-79
- economic regulation, 2-35 to 2-36
- employee urine testing, 2-74 to 2-75
- free speech restrictions, 2-71 to 2-72
- intrastate regulatory authority, 4-26 to 4-27

Transportation Act, 4-7

Transportation Equity Act for the 21st Century (TEA-21)

- affirmative action program, 1-7, 1-13, 1-14 to 1-15, 1-29 to 1-31, 1-77 to 1-78
- compelling government interest to redress discrimination, 1-24
- Indian reservation roads and, 3-65 to 3-66, 3-67, 3-68
- legal challenges to, 1-18 to 1-20
- motor vehicle and vehicular behavior regulation, 4-4
- safety programs, 4-15 to 4-17
- significant features, 4-11

Transportation Recall Enhancement, Accountability and Documentation Act, 4-12, 4-37

Transportation Security Administration, 4-12, 4-40

Transportation system

- evolution of national system, 2-3 to 2-6, 4-5 to 4-8
- federal commerce power and, 2-7 to 2-11
- federal–state relationship, 2-5, 2-7
- government structure and authority, 2-6 to 2-7
- highway safety responsibility and authority, 2-9, 2-12 to 2-14, 2-36 to 2-37
- safety regulation of National Network of highways, 4-27 to 4-33
- state and local authority, 2-33 to 2-39
- toll authority, 2-10

*See also* Funding of transportation projects

Travel, right to, 2-61

Tribal Employment Rights Ordinances (TERO), 3-3

Truck and Bus Regulatory Reform Act, 4-10

## U

U. S. Code 5

- Section 554, 2-49
- Section 556, 2-50
- Section 557, 2-50
- Section 706, 2-49

U. S. Code 23

- Section 101, 3-84
- Section 107, 3-61, 3-62
- Section 109, 4-13
- Section 112, 3-84
- Section 117, 3-85
- Section 131, 3-90 to 3-91
- Section 134, 3-71
- Section 140, 3-84 to 3-85, 3-85
- Section 204, 3-67 to 3-68
- Section 317, 3-61, 3-62
- Section 504, 3-82
- Section 635, 3-82, 3-83, 3-84, 3-85
- Section 710, 3-61 to 3-62



U. S. Code 25, 3-13 to 3-14  
Part 169, 3-59, 3-61 to 3-62  
Section 81, 3-45 to 3-46  
Section 311, 3-59, 3-60 to 3-61  
Section 323, 3-58, 3-60, 3-61  
Section 325, 3-60  
Section 357, 3-61, 3-62 to 3-63  
Section 465, 3-18  
Section 1452, 3-82  
*See also* Indian Reorganization Act

U. S. Code 28  
Section 1362, 3-36

U. S. Code 29, 2-6  
Section 633, 1-63

U. S. Code 42  
Section 1981, 1-36, 1-45  
Section 1983. *See* Section 1983, U. S. Code 42  
Section 1988, 1-57, 1-58  
Section 2000, 3-85

U. S. Code 49, 2-6, 4-40  
hazardous materials transport regulation, 4-41  
Section 5105, 4-41  
Section 5109, 4-41  
Section 5119, 4-41  
Section 47101(e), 1-14

Uniform Relocation Assistance and Real Property Acquisition Policies Act, 2-24, 2-26

Urine testing, 2-74 to 2-75, 4-39 to 4-40

USA PATRIOT Act, 4-40

## V

Vehicle Safety Act, 4-9  
Vehicle search and seizure, 2-72 to 2-74  
Virginia, 1-77  
Vision requirements for drivers, 4-38, 4-39

## W

Washington state, 3-51, 3-55, 3-86  
Weight limitations, 4-30 to 4-33  
West Virginia, 2-29  
Width limitations, 4-30 to 4-33  
Wisconsin, 2-27, 3-53  
Women-owned businesses. *See* Disadvantaged businesses