*United States v. Lopez*, 514 U.S. 549, 115 S. Ct. 1624, 131 L. Ed. 2d 626 (1995).

**Facts**

The Gun-Free School Zones Act of 1990 (GFSZA) made it unlawful for any individual knowingly to possess a firearm at a place that he knew or had reasonable cause to believe was a school zone. Alfonso Lopez, Jr. (D), a 12th-grade student, carried a concealed and loaded handgun into his high school and was arrested and charged under Texas law with firearm possession on school premises. The next day, the state charges were dismissed after federal agents charged Lopez with violating the Act.

The District Court denied Lopez’s motion to dismiss the indictment, concluding that the GFSZA was a constitutional exercise of Congress’ power pursuant to the [**Commerce Clause**](http://www.lawnix.com/cases/commerce-clause.html) of Article I. The Fifth Circuit reversed, holding that the Actexceeded Congress’ power under the Commerce Clause and was therefore unconstitutional. The Supreme Court granted cert.

**Issues**

1. Does the GFSZA exceed Congress’ authority under the Commerce Clause?
2. What categories of activity may Congress regulate under its commerce power?

**Holding and Rule (Rehnquist)**

1. Yes. The GFSZA exceeded Congress’ authority under the Commerce Clause.
2. The three broad categories of activity that Congress may regulate under its commerce power are: a) the use of the channels of interstate commerce; b) Congress is empowered to regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities; and c) Congress’ commerce authority includes the power to regulate those activities having a substantial relation to interstate commerce, i.e., those activities that substantially affect interstate commerce.

The Supreme Court held that the GFSZA exceeded Congress’ Commerce Clause authority. The possession of a gun in a local school zone is in no sense an economic activity that might, through repetition elsewhere, have a substantial effect on interstate commerce. The section in question is a criminal statute that by its terms has nothing to do with “commerce” or any sort of economic enterprise. Nor is it an essential part of a larger regulation of economic activity, in which the regulatory scheme could be undercut unless the intrastate activity were regulated. It cannot, therefore, be sustained under the Court’s cases upholding regulations of activities that arise out of or are connected with a commercial transaction, which viewed in the aggregate, substantially affects interstate commerce.

The statute contains no jurisdictional element which would ensure that the firearms possession in question has the requisite nexus with interstate commerce. Lopez was a student at a local school; there is no indication that he had recently moved in interstate commerce, and there is no requirement that his possession of the firearm have any concrete tie to interstate commerce.

Neither the Act itself nor its legislative history expresses congressional findings regarding the effects of gun possession in a school zone on interstate commerce. To uphold the Government’s contention that the Act is justified because firearms possession in a local school zone does indeed substantially affect interstate commerce would require this Court to pile inference upon inference in a manner that would convert congressional Commerce Clause authority to a general police power of the sort held only by the States.

**Disposition**

Judgment for Lopez affirmed.

**Concurrence (Kennedy)**

The two lessons to be learned from reviewing prior decisions about the commerce clause are that 1) there is imprecision of content-based boundaries involved such as the distinction between “commerce” and “manufacture”; and 2) there is an immense stake in the stability of Commerce Clause jurisprudence. The GFSZA upsets the Federal balance and is an unconstitutional assertion of the Commerce Power.

**Concurrence (Thomas)**

The substantial effects test has eviscerated any notion of federalism. Without boundaries limiting the Commerce Clause to truly commercial activity, we give the federal government a blank check to regulate anything under the guise of the Commerce Clause.

**Dissent (Stevens)**

Guns are articles of commerce and can be used to interfere with commerce. The national interest justifies prohibiting their use by children in school.

**Dissent (Souter)**

The only inquiry should be whether the legislative judgment is within the realm of reason. Congress should have plenary power to legislate under the Commerce Clause as long as the law passes the rational basis test.

**Dissent (Breyer)**

Violence in schools interferes with the quality of education and education is inextricably tied to the economy. Congress could have rationally concluded that the possession of guns in school zones is related to interstate commerce. The majority contradicts well settled precedent that has permitted Congress to regulate noncommercial activity affecting interstate commerce.

This case is frequently cited as US v. Lopez.

See [***McCulloch v. Maryland***](http://www.lawnix.com/cases/mcculloch-maryland.html) for a constitutional law case brief holding that Congress has the power under the Necessary and Proper Clause of Article I to incorporate a bank.