

and 3017 of this title, amending this section and sections 3005, 3007, 3011, 3012, and 3013 of this title, repealing section 3006 of this title, and enacting provisions set out as notes under this section and sections 3013, 3016, and 3017 of this title] may be cited as the 'Deceptive Mail Prevention and Enforcement Act'."

SHORT TITLE OF 1990 AMENDMENTS

Section 1 of Pub. L. 101-524 provided that: "This Act [enacting section 413 of this title, amending this section and section 3005 of this title, and enacting provisions set out as notes under this section] may be cited as the 'Deceptive Mailings Prevention Act of 1990'."

Section 1 of Pub. L. 101-493 provided that: "This Act [amending this section and enacting provisions set out above] may be cited as the 'Drug and Household Substance Mailing Act of 1990'."

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98-186, § 1, Nov. 30, 1983, 97 Stat. 1315, provided: "That this Act [enacting sections 3012 and 3013 of this title, amending section 3005 of this title, and enacting provisions set out as notes under sections 3005 and 3012 of this title] may be cited as the 'Mail Order Consumer Protection Amendments of 1983'."

STATE LAW NOT PREEMPTED

Pub. L. 106-168, title I, § 109, Dec. 12, 1999, 113 Stat. 1816, provided that:

"(a) IN GENERAL.—Nothing in the provisions of this title [see Short Title of 1999 Amendment note above] (including the amendments made by this title) or in the regulations promulgated under such provisions shall be construed to preempt any provision of State or local law that imposes more restrictive requirements, regulations, damages, costs, or penalties. No determination by the Postal Service that any particular piece of mail or class of mail is in compliance with such provisions of this title shall be construed to preempt any provision of State or local law.

"(b) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State or any specific civil or criminal statute of such State."

COORDINATION OF FUNCTIONS WITH DEPARTMENT OF HEALTH AND HUMAN SERVICES

Section 4 of Pub. L. 101-524 provided that: "The United States Postal Service shall consult and coordinate the functions and administration of the provisions of this Act and the amendments made by this Act [see Short Title of 1990 Amendments note above] with the Secretary of the Department of Health and Human Services and the functions of the Secretary in the administration of section 428 of the Medicare Catastrophic Coverage Act of 1988 (42 U.S.C. 1320b-10) [Pub. L. 100-360, which enacted section 1320b-10 of Title 42, The Public Health and Welfare, amended section 1395ss of Title 42, and enacted provisions set out as a note under section 1320b-10 of Title 42]."

NOTICE WITH RESPECT TO OBSCENE MATTER DISTRIBUTED BY MAIL AND DETENTION THEREOF

Pub. L. 87-793, § 307, Oct. 11, 1962, 76 Stat. 841, provided that: "In order to alert the recipients of mail and the general public to the fact that large quantities of obscene, lewd, lascivious, and indecent matter are being introduced into this country from abroad and disseminated in the United States by means of the United States mails, the Postmaster General shall publicize such fact (1) by appropriate notices posted in post offices, and (2) by notifying recipients of mail, whenever he deems it appropriate in order to carry out the purposes of this section, that the United States mails may contain such obscene, lewd, lascivious, or indecent matter. Any person may file a written request with his local post office to detain obscene, lewd, lascivious, or

indecent matter addressed to him, and the Postmaster General shall detain and dispose of such matter for such period as the request is in effect. The Postmaster General shall permit the return of mail containing obscene, lewd, lascivious, or indecent matter, to local post offices, without cost to the recipient thereof. Nothing in this section shall be deemed to authorize the Postmaster General to open, inspect, or censor any mail except on specific request by the addressee thereof. The Postmaster General is authorized to prescribe such regulations as he may deem appropriate to carry out the purposes of this section."

§ 3002. Nonmailable motor vehicle master keys

(a) Except as provided in subsection (b) of this section, any motor vehicle master key, any pattern, impression, or mold from which a motor vehicle master key may be made, or any advertisement for the sale of any such key, pattern, impression, or mold, is nonmailable matter and shall not be carried or delivered by mail.

(b) The Postal Service is authorized to make such exemptions from the provisions of subsection (a) of this section as it deems necessary.

(c) For the purposes of this section, "motor vehicle master key" means any key (other than the key furnished by the manufacturer with the motor vehicle, or the key furnished with a replacement lock, or any exact duplicate of such keys) designed to operate 2 or more motor vehicle ignition, door, or trunk locks of different combinations.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 746.)

§ 3002a. Nonmailability of locksmithing devices

(a) Any locksmithing device is nonmailable mail, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such device is mailed to—

- (1) a lock manufacturer or distributor;
- (2) a bona fide locksmith;
- (3) a bona fide repossessor; or
- (4) a motor vehicle manufacturer or dealer.

(b) For the purpose of this section, "locksmithing device" means—

- (1) a device or tool (other than a key) designed to manipulate the tumblers in a lock into the unlocked position through the keyway of such lock;
- (2) a device or tool (other than a key or a device or tool under paragraph (1)) designed for the unauthorized opening or bypassing of a lock or similar security device; and
- (3) a device or tool designed for making an impression of a key or similar security device to duplicate such key or device.

(Added Pub. L. 100-690, title VII, § 7090(a), Nov. 18, 1988, 102 Stat. 4409.)

§ 3003. Mail bearing a fictitious name or address

(a) Upon evidence satisfactory to the Postal Service that any person is using a fictitious, false, or assumed name, title, or address in conducting, promoting, or carrying on or assisting therein, by means of the postal services of the United States, an activity in violation of sections 1302, 1341, and 1342 of title 18, it may—

- (1) withhold mail so addressed from delivery; and
- (2) require the party claiming the mail to furnish proof to it of the claimant's identity and right to receive the mail.

(b) The Postal Service may issue an order directing that mail, covered by subsection (a) of this section, be forwarded to a dead letter office as fictitious matter, or be returned to the sender when—

(1) the party claiming the mail fails to furnish proof of his identity and right to receive the mail; or

(2) the Postal Service determines that the mail is addressed to a fictitious, false, or assumed name, title, or address.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 746.)

§ 3004. Delivery of mail to persons not residents of the place of address

Whenever the Postal Service determines that letters or parcels sent in the mail are addressed to places not the residence or regular business address of the person for whom they are intended, to enable the person to escape identification, the Postal Service may deliver the mail only upon identification of the person so addressed.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 747.)

§ 3005. False representations; lotteries

(a) Upon evidence satisfactory to the Postal Service that any person is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations, including the mailing of matter which is nonmailable under section 3001(d), (h), (i), (j), or (k) of this title, or is engaged in conducting a lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind, the Postal Service may issue an order which—

(1) directs the postmaster of the post office at which mail arrives, addressed to such a person or to his representative, to return such mail to the sender appropriately marked as in violation of this section, if the person, or his representative, is first notified and given reasonable opportunity to be present at the receiving post office to survey the mail before the postmaster returns the mail to the sender;

(2) forbids the payment by a postmaster to the person or his representative of any money order or postal note drawn to the order of either and provides for the return to the remitter of the sum named in the money order or postal note; and

(3) requires the person or his representative to cease and desist from engaging in any such scheme, device, lottery, or gift enterprise.

For purposes of the preceding sentence, the mailing of matter which is nonmailable under such section 3001(d), (h), (i), (j), or (k) by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations.

(b) The public advertisement by a person engaged in activities covered by subsection (a) of this section, that remittances may be made by mail to a person named in the advertisement, is prima facie evidence that the latter is the agent or representative of the advertiser for the re-

ceipt of remittances on behalf of the advertiser. The Postal Service may ascertain the existence of the agency in any other legal way satisfactory to it.

(c) As used in this section, the term “representative” includes an agent or representative acting as an individual or as a firm, bank, corporation, or association of any kind.

(d) Nothing in this section shall prohibit the mailing of (1) publications containing advertisements, lists of prizes, or information concerning a lottery, which are exempt, pursuant to section 1307 of title 18 of the United States Code, from the provisions of sections 1301, 1302, 1303, and 1304 of title 18 of the United States Code, (2) tickets or other materials concerning such a lottery within that State to addresses within that State, or (3) an advertisement promoting the sale of a book or other publication, or a solicitation to purchase, or a purchase order for any such publication, if (A) such advertisement, solicitation, or purchase order is not materially false or misleading in its description of the publication; (B) such advertisement, solicitation, or purchase order contains no material misrepresentation of fact: *Provided, however,* That no statement quoted or derived from the publication shall constitute a misrepresentation of fact as long as such statement complies with the requirements of subparagraphs (A) and (C); and (C) the advertisement, solicitation, or purchase order accurately discloses the source of any statements quoted or derived from the publication. Paragraph (3) shall not be applicable to any publication, advertisement, solicitation, or purchase order which is used to sell some other product in which the publisher or author has a financial interest as part of a commercial scheme. For the purposes of this subsection, “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(e)(1) In conducting an investigation to determine if a person is engaged in any of the activities covered by subsection (a) of this section, the Postmaster General (or any duly authorized agent of the Postmaster General) may tender, at any reasonable time and by any reasonable means, the price advertised or otherwise requested for any article or service that such person has offered to provide through the mails.

(2) A failure to provide the article or service offered after the Postmaster General or his agent has tendered the price advertised or otherwise requested in the manner described in paragraph (1) of this subsection, and any reasons for such failure, may be considered in a proceeding held under section 3007 of this title to determine if there is probable cause to believe that a violation of this section has occurred.

(3) The Postmaster General shall prescribe regulations under which any individual seeking to make a purchase on behalf of the Postal Service under this subsection from any person shall—

(A) identify himself as an employee or authorized agent of the Postal Service, as the case may be;

(B) state the nature of the conduct under investigation; and