

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-435 substituted “section 2401(e)” for “section 2401(g)” in introductory provisions.

§ 2804. Program performance reports

(a) The Postal Service shall prepare a report on program performance for each fiscal year, which shall be included in the annual comprehensive statement presented under section 2401(e) of this title.

(b)(1) The program performance report shall set forth the performance indicators established in the Postal Service performance plan, along with the actual program performance achieved compared with the performance goals expressed in the plan for that fiscal year.

(2) If performance goals are specified by descriptive statements of a minimally effective program activity and a successful program activity, the results of such program shall be described in relationship to those categories, including whether the performance failed to meet the criteria of either category.

(c) The report for fiscal year 2000 shall include actual results for the preceding fiscal year, the report for fiscal year 2001 shall include actual results for the two preceding fiscal years, and the report for fiscal year 2002 and all subsequent reports shall include actual results for the three preceding fiscal years.

(d) Each report shall—

(1) review the success of achieving the performance goals of the fiscal year;

(2) evaluate the performance plan for the current fiscal year relative to the performance achieved towards the performance goals in the fiscal year covered by the report;

(3) explain and describe, where a performance goal has not been met (including when a program activity’s performance is determined not to have met the criteria of a successful program activity under section 2803(b)(2))—

- (A) why the goal was not met;
(B) those plans and schedules for achieving the established performance goal; and

(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended; and

(4) include the summary findings of those program evaluations completed during the fiscal year covered by the report.

(Added Pub. L. 103-62, §7, Aug. 3, 1993, 107 Stat. 294; amended Pub. L. 109-435, title X, §1010(d)(2), Dec. 20, 2006, 120 Stat. 3261.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-435 substituted “section 2401(e)” for “section 2401(g)”.

§ 2805. Inherently Governmental functions

The functions and activities of this chapter shall be considered to be inherently Governmental functions. The drafting of strategic plans, performance plans, and program performance reports under this section shall be performed only by employees of the Postal Service.

(Added Pub. L. 103-62, §7, Aug. 3, 1993, 107 Stat. 294.)

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CHAPTER 30—NONMAILABLE MATTER

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3016. Administrative subpoenas.
3017. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings.
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AMENDMENTS

2006—Pub. L. 109-435, title X, §1008(c)(2), Dec. 20, 2006, 120 Stat. 3260, added item 3018.

1999—Pub. L. 106-168, title I, §§105(b)(1), 107(d), 108(b), Dec. 12, 1999, 113 Stat. 1811, 1814, 1816, repealed item 3006 “Unlawful matter” and added items 3016 and 3017.

1992—Pub. L. 102-393, title VI, §631(d)(2), Oct. 6, 1992, 106 Stat. 1776, added item 3015.

1988—Pub. L. 100-690, title VII, §7090(b), Nov. 18, 1988, 102 Stat. 4410, added item 3002a.

Pub. L. 100-574, §1(a)(2), Oct. 31, 1988, 102 Stat. 2893, added item 3014.

1983—Pub. L. 98-186, §3(c), Nov. 30, 1983, 97 Stat. 1317, added items 3012 and 3013.

§ 3001. Nonmailable matter

(a) Matter the deposit of which in the mails is punishable under section 1302, 1341, 1342, 1461, 1463, 1715, 1716, 1717, or 1738¹ of title 18, or section 26 of the Animal Welfare Act is nonmailable.

(b) Except as provided in subsection (c) of this section, nonmailable matter which reaches the office of delivery, or which may be seized or detained for violation of law, shall be disposed of as the Postal Service shall direct.

(c)(1) Matter which—

(A) exceeds the size and weight limits prescribed for the particular class of mail; or

(B) is of a character perishable within the period required for transportation and delivery;

is nonmailable.

(2) Matter made nonmailable by this subsection which reaches the office of destination may be delivered in accordance with its address, if the party addressed furnishes the name and address of the sender.

¹ See References in Text note below.

(d) Matter otherwise legally acceptable in the mails which—

(1) is in the form of, and reasonably could be interpreted or construed as, a bill, invoice, or statement of account due; but

(2) constitutes, in fact, a solicitation for the order by the addressee of goods or services, or both;

is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe—

(A) the following notice: “This is a solicitation for the order of goods or services, or both, and not a bill, invoice, or statement of account due. You are under no obligation to make any payments on account of this offer unless you accept this offer.”; or

(B) in lieu thereof, a notice to the same effect in words which the Postal Service may prescribe.

(e)(1) Any matter which is unsolicited by the addressee and which is designed, adapted, or intended for preventing conception (except unsolicited samples thereof mailed to a manufacturer thereof, a dealer therein, a licensed physician or surgeon, or a nurse, pharmacist, druggist, hospital, or clinic) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

(2) Any unsolicited advertisement of matter which is designed, adapted, or intended for preventing conception is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs unless the advertisement—

(A) is mailed to a manufacturer of such matter, a dealer therein, a licensed physician or surgeon, or a nurse, pharmacist, druggist, hospital, or clinic; or

(B) accompanies in the same parcel any unsolicited sample excepted by paragraph (1) of this subsection.

An advertisement shall not be deemed to be unsolicited for the purposes of this paragraph if it is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive.

(f) Any matter which is unsolicited by the addressee, which contains a “household substance” (as defined by section 2 of the Poison Prevention Packaging Act of 1970), and which does not comply with the requirements for special child-resistant packaging established for that substance by the Consumer Product Safety Commission, is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

(g)(1) Matter otherwise legally acceptable in the mails which contains or includes a fragrance advertising sample is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless the sample is sealed, wrapped, treated, or other-

wise prepared in a manner reasonably designed to prevent individuals from being unknowingly or involuntarily exposed to the sample.

(2) The Postal Service shall by regulation establish the standards or requirements which a fragrance advertising sample must satisfy in order for the mail matter involved not to be considered nonmailable under this subsection.

(h)(1) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity for the purchase of or payment for a product or service; and which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government; or which bears the term “census” on the envelope or outside cover or wrapper; or on which the term “census” is visible through the envelope or outside cover or wrapper is nonmailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

(A) such nongovernmental entity has such expressed connection, approval or endorsement;

(B)(i) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: **“THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT.”**, or a notice to the same effect in words which the Postal Service may prescribe;

(ii) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: **“THIS IS NOT A GOVERNMENT DOCUMENT.”**, or a notice to the same effect in words which the Postal Service may prescribe; and

(iii) such matter does not contain a false representation stating or implying that Federal Government benefits or services will be affected by any purchase or nonpurchase; or

(C) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

(2) In the case of matter bearing the term “census” on the envelope or outside cover or wrapper or matter on which the term “census” is visible through the envelope or outside cover or wrapper, in addition to satisfying one of the

exceptions contained in paragraphs² (1)(A), (1)(B), or (1)(C), such envelope or outside cover or wrapper bears on its face an accurate return address including the name of the entity that sent such matter.

(i)(1) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity for information or the contribution of funds or membership fees and which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government; or which bears the term “census” on the envelope or outside cover or wrapper; or on which the term “census” is visible through the envelope or outside cover or wrapper is non-mailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

(A) such nongovernmental entity has such expressed connection, approval or endorsement;

(B)(i) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: **“THIS ORGANIZATION HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT.”**, or a notice to the same effect in words which the Postal Service may prescribe;

(ii) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: **“THIS IS NOT A GOVERNMENT DOCUMENT.”**, or a notice to the same effect in words which the Postal Service may prescribe; and

(iii) such matter does not contain a false representation stating or implying that Federal Government benefits or services will be affected by any contribution or noncontribution; or

(C) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

(2) In the case of matter bearing the term “census” on the envelope or outside cover or wrapper or matter on which the term “census” is visible through the envelope or outside cover

or wrapper, in addition to satisfying one of the exceptions contained in paragraphs² (1)(A), (1)(B), or (1)(C), such envelope or outside cover or wrapper bears on its face an accurate return address including the name of the entity that sent such matter.

(j)(1) Any matter otherwise legally acceptable in the mails which is described in paragraph (2) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

(2) Matter described in this paragraph is any matter that—

(A) constitutes a solicitation for the purchase of or payment for any product or service that—

(i) is provided by the Federal Government; and

(ii) may be obtained without cost from the Federal Government; and

(B) does not contain a clear and conspicuous statement giving notice of the information set forth in clauses (i) and (ii) of subparagraph (A).

(k)(1) In this subsection—

(A) the term “clearly and conspicuously displayed” means presented in a manner that is readily noticeable, readable, and understandable to the group to whom the applicable matter is disseminated;

(B) the term “facsimile check” means any matter that—

(i) is designed to resemble a check or other negotiable instrument; but

(ii) is not negotiable;

(C) the term “skill contest” means a puzzle, game, competition, or other contest in which—

(i) a prize is awarded or offered;

(ii) the outcome depends predominately on the skill of the contestant; and

(iii) a purchase, payment, or donation is required or implied to be required to enter the contest; and

(D) the term “sweepstakes” means a game of chance for which no consideration is required to enter.

(2) Except as provided in paragraph (4), any matter otherwise legally acceptable in the mails which is described in paragraph (3) is non-mailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

(3) Matter described in this paragraph is any matter that—

(A)(i) includes entry materials for a sweepstakes or a promotion that purports to be a sweepstakes; and

(ii)(I) does not contain a statement that discloses in the mailing, in the rules, and on the order or entry form, that no purchase is necessary to enter such sweepstakes;

(II) does not contain a statement that discloses in the mailing, in the rules, and on the order or entry form, that a purchase will not improve an individual’s chances of winning with such entry;

(III) does not state all terms and conditions of the sweepstakes promotion, including the

²So in original. Probably should be “paragraph”.

rules and entry procedures for the sweepstakes;

(IV) does not disclose the sponsor or mailer of such matter and the principal place of business or an address at which the sponsor or mailer may be contacted;

(V) does not contain sweepstakes rules that state—

(aa) the estimated odds of winning each prize;

(bb) the quantity, estimated retail value, and nature of each prize; and

(cc) the schedule of any payments made over time;

(VI) represents that individuals not purchasing products or services may be disqualified from receiving future sweepstakes mailings;

(VII) requires that a sweepstakes entry be accompanied by an order or payment for a product or service previously ordered;

(VIII) represents that an individual is a winner of a prize unless that individual has won such prize; or

(IX) contains a representation that contradicts, or is inconsistent with sweepstakes rules or any other disclosure required to be made under this subsection, including any statement qualifying, limiting, or explaining the rules or disclosures in a manner inconsistent with such rules or disclosures;

(B)(i) includes entry materials for a skill contest or a promotion that purports to be a skill contest; and

(ii)(I) does not state all terms and conditions of the skill contest, including the rules and entry procedures for the skill contest;

(II) does not disclose the sponsor or mailer of the skill contest and the principal place of business or an address at which the sponsor or mailer may be contacted; or

(III) does not contain skill contest rules that state, as applicable—

(aa) the number of rounds or levels of the contest and the cost to enter each round or level;

(bb) that subsequent rounds or levels will be more difficult to solve;

(cc) the maximum cost to enter all rounds or levels;

(dd) the estimated number or percentage of entrants who may correctly solve the skill contest or the approximate number or percentage of entrants correctly solving the past 3 skill contests conducted by the sponsor;

(ee) the identity or description of the qualifications of the judges if the contest is judged by other than the sponsor;

(ff) the method used in judging;

(gg) the date by which the winner or winners will be determined and the date or process by which prizes will be awarded;

(hh) the quantity, estimated retail value, and nature of each prize; and

(ii) the schedule of any payments made over time; or

(C) includes any facsimile check that does not contain a statement on the check itself that such check is not a negotiable instrument and has no cash value.

(4) Matter that appears in a magazine, newspaper, or other periodical shall be exempt from paragraph (2) if such matter—

(A) is not directed to a named individual; or

(B) does not include an opportunity to make a payment or order a product or service.

(5) Any statement, notice, or disclaimer required under paragraph (3) shall be clearly and conspicuously displayed. Any statement, notice, or disclaimer required under subclause (I) or (II) of paragraph (3)(A)(ii) shall be displayed more conspicuously than would otherwise be required under the preceding sentence.

(6) In the enforcement of paragraph (3), the Postal Service shall consider all of the materials included in the mailing and the material and language on and visible through the envelope or outside cover or wrapper in which those materials are mailed.

(D)(1) Any person who uses the mails for any matter to which subsection (h), (i), (j), or (k) applies shall adopt reasonable practices and procedures to prevent the mailing of such matter to any person who, personally or through a conservator, guardian, or individual with power of attorney—

(A) submits to the mailer of such matter a written request that such matter should not be mailed to such person; or

(B)(i) submits such a written request to the attorney general of the appropriate State (or any State government officer who transmits the request to that attorney general); and

(ii) that attorney general transmits such request to the mailer.

(2) Any person who mails matter to which subsection (h), (i), (j), or (k) applies shall maintain or cause to be maintained a record of all requests made under paragraph (1). The records shall be maintained in a form to permit the suppression of an applicable name at the applicable address for a 5-year period beginning on the date the written request under paragraph (1) is submitted to the mailer.

(m) Except as otherwise provided by law, proceedings concerning the mailability of matter under this chapter and chapters 71 and 83 of title 18 shall be conducted in accordance with chapters 5 and 7 of title 5.

(n)(1) Except as otherwise authorized by law or regulations of the Postal Service, hazardous material is nonmailable.

(2) In this subsection, the term “hazardous material” means a substance or material designated by the Secretary of Transportation under section 5103(a) of title 49.

(o) The district courts, together with the District Court of the Virgin Islands and the District Court of Guam, shall have jurisdiction, upon cause shown, to enjoin violations of section 1716 of title 18.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 745; Pub. L. 91-662, §6(1), Jan. 8, 1971, 84 Stat. 1974; Pub. L. 92-191, §2, Dec. 15, 1971, 85 Stat. 647; Pub. L. 89-544, §26(i)(2), formerly §26(h)(2), as added Pub. L. 94-279, §17, Apr. 22, 1976, 90 Stat. 423, and renumbered §26(i)(2), Pub. L. 110-234, title XIV, §14207(a)(8), May 22, 2008, 122 Stat. 1462, and Pub. L. 110-246, §4(a), title XIV, §14207(a)(8), June 18, 2008, 122 Stat. 1664, 2224; Pub. L. 97-398, §5, Dec.

31, 1982, 96 Stat. 2011; Pub. L. 101-493, §2, Oct. 31, 1990, 104 Stat. 1184; Pub. L. 101-524, §2(a), Nov. 6, 1990, 104 Stat. 2301; Pub. L. 102-71, §2(1), July 10, 1991, 105 Stat. 330; Pub. L. 106-168, title I, §§102, 103, 110(a), Dec. 12, 1999, 113 Stat. 1806, 1808, 1817; Pub. L. 109-435, title X, §1008(a), Dec. 20, 2006, 120 Stat. 3259; Pub. L. 111-155, §2, Apr. 7, 2010, 124 Stat. 1112; Pub. L. 111-170, §1, May 24, 2010, 124 Stat. 1193.)

REFERENCES IN TEXT

Section 1738 of title 18, referred to in subsec. (a), was repealed by Pub. L. 106-578, §4, Dec. 28, 2000, 114 Stat. 3076.

Section 26 of the Animal Welfare Act, referred to in subsec. (a), is section 26 of Pub. L. 89-544, which is classified to section 2156 of Title 7, Agriculture.

Section 2 of the Poison Prevention Packaging Act of 1970, referred to in subsec. (f), is classified to section 1471 of Title 15, Commerce and Trade.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to Pub. L. 89-544 included in the credit of this section. The amendment by Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

CONSTITUTIONALITY

For information regarding constitutionality of certain provisions of this section, as taken from section 2 of act Mar. 3, 1873, ch. 258, 17 Stat. 599, codified by Pub. L. 91-375, and amended by section 6(1) of Pub. L. 91-662, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix 1, Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

AMENDMENTS

2010—Subsec. (h). Pub. L. 111-155, §2(a)(2)-(5), designated existing provisions as par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (1), redesignated subpars. (A) to (C) of former par. (2) as cls. (i) to (iii), respectively, of par. (1)(B), and added par. (2).

Pub. L. 111-155, §2(a)(1), inserted “; or which bears the term ‘census’ on the envelope or outside cover or wrapper” after “such matter by the Federal Government” in introductory provisions.

Subsec. (h)(1). Pub. L. 111-170, §1(a)(1), inserted “; or on which the term ‘census’ is visible through the envelope or outside cover or wrapper” after “or which bears the term ‘census’ on the envelope or outside cover or wrapper” in introductory provisions.

Subsec. (h)(2). Pub. L. 111-170, §1(a)(2), inserted “or matter on which the term ‘census’ is visible through the envelope or outside cover or wrapper” after “In the case of matter bearing the term ‘census’ on the envelope or outside cover or wrapper”.

Subsec. (i). Pub. L. 111-155, §2(b)(2)-(5), designated existing provisions as par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (1), redesignated subpars. (A) to (C) of former par. (2) as cls. (i) to (iii), respectively, of par. (1)(B), and added par. (2).

Pub. L. 111-155, §2(b)(1), inserted “; or which bears the term ‘census’ on the envelope or outside cover or wrapper” after “such matter by the Federal Government” in introductory provisions.

Subsec. (i)(1). Pub. L. 111-170, §1(b)(1), inserted “; or on which the term ‘census’ is visible through the envelope or outside cover or wrapper” after “or which bears the term ‘census’ on the envelope or outside cover or wrapper”.

Subsec. (i)(2). Pub. L. 111-170, §1(b)(2), inserted “or matter on which the term ‘census’ is visible through the envelope or outside cover or wrapper” after “In the case of matter bearing the term ‘census’ on the envelope or outside cover or wrapper”.

2008—Pub. L. 110-246, §14207(a)(8), renumbered Pub. L. 89-544, §26(h)(2), as §26(i)(2). See 1976 Amendment note below.

2006—Subsecs. (n), (o). Pub. L. 109-435 added subsec. (n) and redesignated former subsec. (n) as (o).

1999—Subsec. (a). Pub. L. 106-168, §110(a), struck out “1714,” after “1463,” and “1718,” after “1717,”.

Subsec. (h). Pub. L. 106-168, §102(1)(A), in introductory provisions, substituted “which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government” for “contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement”.

Subsec. (h)(2)(C). Pub. L. 106-168, §102(1)(B), added subpar. (C).

Subsec. (i). Pub. L. 106-168, §102(2)(A), in introductory provisions, substituted “which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government” for “contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement”.

Subsec. (i)(2)(C). Pub. L. 106-168, §102(2)(B), added subpar. (C).

Subsec. (j). Pub. L. 106-168, §102(3), (4), added subsec. (j). Former subsec. (j) redesignated (m).

Subsec. (k). Pub. L. 106-168, §§102(3), 103, added subsec. (k). Former subsec. (k) redesignated (n).

Subsec. (l). Pub. L. 106-168, §103, added subsec. (l). Subsecs. (m), (n). Pub. L. 106-168, §102(3), redesignated subsecs. (j) and (k) as (m) and (n), respectively.

1991—Subsecs. (i) to (k). Pub. L. 102-71 redesignated subsec. (i), relating to conduct of proceedings concerning mailability of certain matter, as (j), and former subsec. (j), relating to jurisdiction of district courts, as (k).

1990—Subsec. (f). Pub. L. 101-524 added subsec. (f). Former subsec. (f) redesignated (i).

Pub. L. 101-493 added subsec. (f). Former subsec. (f), as added by Pub. L. 101-524, redesignated (h).

Subsec. (g). Pub. L. 101-524 added subsec. (g). Former subsec. (g) redesignated (j).

Pub. L. 101-493 added subsec. (g). Former subsec. (g), as added by Pub. L. 101-524, redesignated (i).

Subsec. (h). Pub. L. 101-493 redesignated subsec. (f), as added by Pub. L. 101-524, as (h).

Subsec. (i). Pub. L. 101-524 redesignated subsec. (f) as (i).

Pub. L. 101-493 redesignated subsec. (g), as added by Pub. L. 101-524, as (i).

Subsec. (j). Pub. L. 101-524 redesignated subsec. (g) as (j).

1982—Subsec. (a). Pub. L. 97-398 substituted “, 1718, or 1738” for “or 1718”.

1976—Subsec. (a). Pub. L. 89-544, §26(i)(2), formerly §26(h)(2), as added Pub. L. 94-279, §17, and renumbered §26(i)(2) by Pub. L. 110-246, §14207(a)(8), inserted “, or section 26 of the Animal Welfare Act” after “title 18”.

1971—Subsecs. (e), (f). Pub. L. 91-662, §6(1)(A), (B), added subsec. (e) and redesignated former subsec. (e) as

(f). Section 5(a) of Pub. L. 91-662 inserted a similar provision to section 4001 of former Title 39, The Postal Service, pending the effective date of this section. Said amendment to section 4001 has not been executed in view of the passage of Title 39, Postal Service, as enacted by the Postal Reorganization Act.

Subsec. (g). Pub. L. 92-191 added subsec. (g).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-168, title I, §111, Dec. 12, 1999, 113 Stat. 1817, provided that: "Except as provided in section 108 or 110(b) [enacting section 3017 of this title, amending section 3013 of this title, and enacting provisions set out as notes under sections 3013 and 3017 of this title], this title [see Short Title of 1999 Amendment note below] shall take effect 120 days after the date of the enactment of this Act [Dec. 12, 1999]."

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-524, §6, Nov. 6, 1990, 104 Stat. 2304, provided that: "The provisions of this Act [enacting section 413 of this title, amending this section and section 3005 of this title, and enacting provisions set out as notes below] shall take effect on the date of the enactment of this Act [Nov. 6, 1990], except the amendments made by section 2 [amending this section and section 3005 of this title] shall apply to matter deposited for mailing and delivery on or after 180 days after the date of the enactment of this Act."

Pub. L. 101-493, §3, Oct. 31, 1990, 104 Stat. 1184, provided that: "The amendments made by this Act [amending this section] shall take effect 180 days after the date of enactment of this Act [Oct. 31, 1990], and shall apply with respect to any matter mailed on or after that effective date."

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-191 effective at beginning of third calendar month following Dec. 15, 1971, or on the date that this section becomes effective pursuant to section 15(a) of Pub. L. 91-375, which is set out as and Effective Date note preceding section 101 of this title, whichever is later, see section 3 of Pub. L. 92-191, set out as a note under section 1716 of Title 18, Crimes and Criminal Procedure.

Pub. L. 91-662, §6, Jan. 8, 1971, 84 Stat. 1974, provided that the amendment made by that section is effective on the date that the Board of Governors of the United States Postal Service establishes as the effective date for section 3001 of title 39 of the United States Code, as enacted by the Postal Reorganization Act.

EFFECTIVE DATE

Chapter effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106-168, title I, §101, Dec. 12, 1999, 113 Stat. 1806, provided that: "This title [enacting sections 3016 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

Pub. L. 101-524, §1, Nov. 6, 1990, 104 Stat. 2301, 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'."

Pub. L. 101-493, §1, Oct. 31, 1990, 104 Stat. 1184, 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

Pub. L. 101-524, §4, Nov. 6, 1990, 104 Stat. 2303, 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 receipt 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