

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 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

(C) inform such person that the failure to complete the transaction may be considered in a proceeding under section 3007 of this title to determine probable cause, in accordance with paragraph (2) of this subsection.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 747; Pub. L. 93-583, § 4, Jan. 2, 1975, 88 Stat. 1916; Pub. L. 94-525, § 2, Oct. 17, 1976, 90 Stat. 2478; Pub. L. 95-360, Sept. 9, 1978, 92 Stat. 594; Pub. L. 98-186, § 2, Nov. 30, 1983, 97 Stat. 1315; Pub. L. 100-625, § 2(c), Nov. 7, 1988, 102 Stat. 3205; Pub. L. 101-524, § 2(b), Nov. 6, 1990, 104 Stat. 2302; Pub. L. 102-71, § 2(2), July 10, 1991, 105 Stat. 330; Pub. L. 106-168, title I, §§ 104, 105(b)(2)(A), Dec. 12, 1999, 113 Stat. 1810, 1811; Pub. L. 109-435, title X, § 1010(g)(3), Dec. 20, 2006, 120 Stat. 3262.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-435 substituted "under section 3001(d)," for "under 3001(d)," in introductory provisions and "under such section 3001(d)," for "under such 3001(d)," in concluding provisions.

1999—Subsec. (a). Pub. L. 106-168, § 104, in two places, struck out "or" after "(h)," and inserted ", (j), or (k)" after "(i)".

Subsec. (c). Pub. L. 106-168, § 105(b)(2)(A), substituted "section," for "section and section 3006 of this title,".

1991—Subsec. (a). Pub. L. 102-71 substituted "3001(d), (h), or (i)" for "section 3001(d), (f), or (g)" in two places.

1990—Subsec. (a). Pub. L. 101-524 substituted "section 3001(d), (f), or (g)" for "section 3001(d)" in two places.

1988—Subsec. (d)(1). Pub. L. 100-625 amended cl. (1) generally. Prior to amendment, cl. (1) read as follows: "a newspaper of general circulation containing advertisements, lists of prizes, or information concerning a lottery conducted by a State acting under authority of State law, published in that State, or in an adjacent State which conducts such a lottery,".

1983—Subsec. (a)(3). Pub. L. 98-186, § 2(a), added par. (3).

Subsec. (d). Pub. L. 98-186, § 2(b), struck out "or" before "(2)", inserted "or" before "(3)", and inserted cl. (3) and provision relating to applicability of cl. (3).

Subsec. (e). Pub. L. 98-186, § 2(c), added subsec. (e).

1978—Subsec. (a). Pub. L. 95-360 inserted provisions relating to nonmailable matter under section 3001(d) of this title.

1976—Subsec. (d). Pub. L. 94-525 substituted "a newspaper of general circulation containing advertisements, lists of prizes, or information concerning a lottery conducted by a State acting under authority of State law, published in that State, or in an adjacent State which conducts such a lottery," for "a newspaper of general circulation published in a State containing advertisements, lists of prizes, or information concerning a lottery conducted by that State acting under authority of State law,".

1975—Subsec. (d). Pub. L. 93-583 added subsec. (d).

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-168 effective 120 days after Dec. 12, 1999, see section 111 of Pub. L. 106-168, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-524 effective Nov. 6, 1990, and applicable to matter deposited for mailing and delivery on or after 180 days after Nov. 6, 1990, see section 6 of Pub. L. 101-524, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-625 effective 18 months after Nov. 7, 1988, see section 5 of Pub. L. 100-625, set out as a note under section 1304 of Title 18, Crimes and Criminal Procedure.

CONSUMER EDUCATION PROGRAM ON SCHEMES INVOLVING FALSE REPRESENTATIONS

Section 4 of Pub. L. 98-186, as amended by Pub. L. 104-66, title II, § 2211(a), Dec. 21, 1995, 109 Stat. 732, provided that:

"(a) As soon as practicable after the date of enactment of this Act [Nov. 30, 1983], the Postmaster General or his designee, following consultation with representatives of the mail order industry, shall develop and carry out a program designed to provide consumer education to the public on schemes involving false representations through use of the mails, including the dissemination of information on recognizing practices commonly associated with such schemes, as well as appropriate measures which an individual may take upon receiving mail matter which the individual believes may be part of such a scheme.

"(b) A summary of the activities carried out under subsection (a) shall be included in the first semiannual

report submitted each year as required under section 5 of the Inspector General Act of 1978 (5 U.S.C. App.).”

[§ 3006. Repealed. Pub. L. 106-168, title I, § 105(b)(1), Dec. 12, 1999, 113 Stat. 1811]

Section, Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 747, prohibited persons from obtaining or attempting to obtain remittances of money or property of any kind through the mail for an obscene, lewd, lascivious, indecent, filthy, or vile thing.

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days after Dec. 12, 1999, see section 111 of Pub. L. 106-168, set out as an Effective Date of 1999 Amendment note under section 3001 of this title.

§ 3007. Detention of mail for temporary periods

(a)(1) In preparation for or during the pendency of proceedings under section 3005, the Postal Service may, under the provisions of section 409(d), apply to the district court in any district in which mail is sent or received as part of the alleged scheme, device, lottery, gift enterprise, sweepstakes, skill contest, or facsimile check or in any district in which the defendant is found, for a temporary restraining order and preliminary injunction under the procedural requirements of rule 65 of the Federal Rules of Civil Procedure.

(2)(A) Upon a proper showing, the court shall enter an order which shall—

(i) remain in effect during the pendency of the statutory proceedings, any judicial review of such proceedings, or any action to enforce orders issued under the proceedings; and

(ii) direct the detention by the postmaster, in any and all districts, of the defendant's incoming mail and outgoing mail, which is the subject of the proceedings under section 3005.

(B) A proper showing under this paragraph shall require proof of a likelihood of success on the merits of the proceedings under section 3005.

(3) Mail detained under paragraph (2) shall—

(A) be made available at the post office of mailing or delivery for examination by the defendant in the presence of a postal employee; and

(B) be delivered as addressed if such mail is not clearly shown to be the subject of proceedings under section 3005.

(4) No finding of the defendant's intent to make a false representation or to conduct a lottery is required to support the issuance of an order under this section.

(b) If any order is issued under subsection (a) and the proceedings under section 3005 are concluded with the issuance of an order under that section, any judicial review of the matter shall be in the district in which the order under subsection (a) was issued.

(c) This section does not apply to mail addressed to publishers of newspapers and other periodical publications entitled to a periodical publication rate or to mail addressed to the agents of those publishers.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 747; Pub. L. 106-168, title I, §105(a), Dec. 12, 1999, 113 Stat. 1810.)

REFERENCES IN TEXT

Rule 65 of the Federal Rules of Civil Procedure, referred to in subsec. (a)(1), is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1999—Pub. L. 106-168 added subsecs. (a) and (b), struck out former subsec. (a) which provided for injunctive relief and other orders by the district court in which the defendant gets his mail, and redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-168 effective 120 days after Dec. 12, 1999, see section 111 of Pub. L. 106-168, set out as a note under section 3001 of this title.

§ 3008. Prohibition of pandering advertisements

(a) Whoever for himself, or by his agents or assigns, mails or causes to be mailed any pandering advertisement which offers for sale matter which the addressee in his sole discretion believes to be erotically arousing or sexually provocative shall be subject to an order of the Postal Service to refrain from further mailings of such materials to designated addressees thereof.

(b) Upon receipt of notice from an addressee that he has received such mail matter, determined by the addressee in his sole discretion to be of the character described in subsection (a) of this section, the Postal Service shall issue an order, if requested by the addressee, to the sender thereof, directing the sender and his agents or assigns to refrain from further mailings to the named addressees.

(c) The order of the Postal Service shall expressly prohibit the sender and his agents or assigns from making any further mailings to the designated addressees, effective on the thirtieth calendar day after receipt of the order. The order shall also direct the sender and his agents or assigns to delete immediately the names of the designated addressees from all mailing lists owned or controlled by the sender or his agents or assigns and, further, shall prohibit the sender and his agents or assigns from the sale, rental, exchange, or other transaction involving mailing lists bearing the names of the designated addressees.

(d) Whenever the Postal Service believes that the sender or anyone acting on his behalf has violated or is violating the order given under this section, it shall serve upon the sender, by registered or certified mail, a complaint stating the reasons for its belief and request that any response thereto be filed in writing with the Postal Service within 15 days after the date of such service. If the Postal Service, after appropriate hearing if requested by the sender, and without a hearing if such a hearing is not requested, thereafter determines that the order given has been or is being violated, it is authorized to request the Attorney General to make application, and the Attorney General is authorized to make application, to a district court of the United States for an order directing compliance with such notice.

(e) Any district court of the United States within the jurisdiction of which any mail matter shall have been sent or received in violation of the order provided for by this section shall have jurisdiction, upon application by the Attorney General, to issue an order commanding compliance with such notice. Failure to observe such order may be punishable by the court as contempt thereof.