

104TH CONGRESS  
2D SESSION

# H. R. 3884

To amend title 39, United States Code, to require that traditional equitable principles be applied by the United States Postal Service in determining whether or not to exercise its temporary detention authority with respect to mail alleged to be deceptive or misleading.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 24, 1996

Mr. FOX of Pennsylvania (for himself, Mr. CLINGER, and Mr. MICA) introduced the following bill; which was referred to the Committee on Government Reform and Oversight

---

## A BILL

To amend title 39, United States Code, to require that traditional equitable principles be applied by the United States Postal Service in determining whether or not to exercise its temporary detention authority with respect to mail alleged to be deceptive or misleading.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Postal Service Due  
5 Process Act”.

1 **SEC. 2. REQUIREMENT.**

2 (a) IN GENERAL.—Section 3007 of title 39, United  
3 States Code, is amended—

4 (1) by redesignating subsections (a) and (b) as  
5 subsections (b) and (c), respectively;

6 (2) in subsection (b) (as so redesignated by  
7 paragraph (1)) by striking “sections 3005 and  
8 3006” and inserting “section 3006”; and

9 (3) by inserting before subsection (b) (as so re-  
10 designated by paragraph (1)) the following:

11 “(a) In preparation for or during the pendency of  
12 proceedings under section 3005, the United States district  
13 court in the district in which the defendant receives his  
14 mail shall, upon application therefor by the Postal Service  
15 and upon a showing that—

16 “(1) the Postal Service is likely to prevail in  
17 such proceedings,

18 “(2) the public would suffer irreparable harm if  
19 the application were not granted,

20 “(3) no adequate remedy at law exists, and

21 “(4) the harm that would be caused to the pub-  
22 lic by not granting the application exceeds the harm  
23 that would be caused to the defendant by granting  
24 such application,

25 enter a temporary restraining order and preliminary in-  
26 junction pursuant to rule 65 of the Federal Rules of Civil

1 Procedure directing the detention of the defendant’s in-  
2 coming mail by the postmaster pending the conclusion of  
3 the statutory proceedings and any appeal therefrom. The  
4 district court shall provide in the order that the detained  
5 mail be open to examination by the defendant and such  
6 mail be delivered as is clearly not connected with the al-  
7 leged unlawful activity. An action taken by a court here-  
8 under shall not affect or determine any fact at issue in  
9 the statutory proceedings.”.

10 (b) CONFORMING AMENDMENTS.—(1) Section  
11 3012(a)(3) of title 39, United States Code, is amended  
12 by striking “section 3007(b)” and inserting “section  
13 3007(c)”.

14 (2) Section 3005(e) of title 39, United States Code,  
15 is amended—

16 (A) in paragraph (2) by striking “to determine  
17 if there is probable cause to believe that a violation  
18 of this section has occurred.” and inserting “to de-  
19 termine if a temporary restraining order or prelimi-  
20 nary injunction directing the detention of the de-  
21 fendant’s incoming mail should be entered.”; and

22 (B) in paragraph (3)(C) by striking “to deter-  
23 mine probable cause, in accordance with paragraph  
24 (2) of this subsection.” and inserting “to determine  
25 if a temporary restraining order or preliminary in-

1       junction directing the detention of the defendant's  
2       incoming mail should be entered.”.

○