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PROVIDING FOR ADDITIONAL WRITING OR
PRINTING ON THIRD- AND
FOURTH-CLASS MAIL

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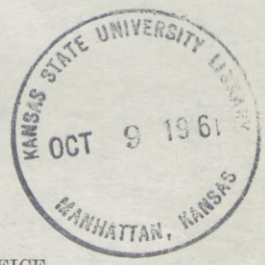
HEARING
BEFORE THE
COMMITTEE ON
OFFICE AND CIVIL SERVICE
USE OF REPRESENTATIVES
EIGHTY-SEVENTH CONGRESS
FIRST SESSION
ON

H.R. 3516 and H.R. 7559

BILLS TO AMEND TITLE 39 OF THE UNITED STATES CODE
TO PROVIDE FOR ADDITIONAL WRITING OR PRINTING
ON THIRD- AND FOURTH-CLASS MAIL

AUGUST 11, 1961

Printed for the use of the
Committee on Post Office and Civil Service



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CONTENTS

Statement of—	Page
Curtis, Hon. Thomas B., of Missouri.....	2
Riley, E. A., Director, Postal Services Division, Bureau of Operations, Post Office Department; accompanied by Adam G. Wenchel, Asso- ciate General Counsel.....	3

CONTENTS

Page

3

3

111

PROVIDING FOR ADDITIONAL WRITING OR PRINTING ON THIRD- AND FOURTH-CLASS MAIL

FRIDAY, AUGUST 11, 1961

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 215 House Office Building. Hon. Arnold Olsen (chairman of the subcommittee) presiding.

Mr. OLSEN. The subcommittee will come to order.

This subcommittee was appointed to consider H.R. 3516 and H.R. 7559. Both of these bills are sponsored by Mr. Curtis of Missouri.

The members of the subcommittee are Mr. Addabbo, Mr. Johansen, and I was appointed chairman.

Without objection, H.R. 3516 and H.R. 7559 will be inserted in the record at this point.

(H.R. 3516 and H.R. 7559 are as follows:)

[H.R. 3516, 87th Cong., 1st sess.]

A BILL To provide further for permissible writing and printing on third- and fourth-class mail matter, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there may be enclosed with or attached to third- and fourth-class mail containing medicines, either in writing or otherwise, the instructions and direction for the use of the medicine.

[H.R. 7559, 87th Cong., 1st sess.]

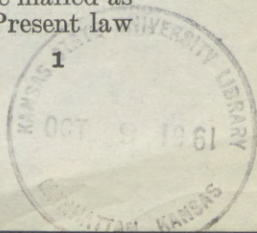
A BILL To amend title 39 of the United States Code to provide for additional writing or printing on third and fourth class mail

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the present section 4555 of title 39, United States Code, be designated subparagraph (a) and a new subparagraph (b) be added as follows:

“(b) There may be enclosed with, attached to, or endorsed upon third and fourth class mail, either in writing or otherwise, the instructions and directions for the use thereof.”

Mr. OLSEN. It is the purpose of this legislation to provide that there may be enclosed with, attached to, or endorsed upon, either in writing or otherwise, an item sent as third- or fourth-class mail, the instructions and directions for the use of the item.

Under present law (39 U.S.C. 4251) an item, such as a bottle of medicine, having written or typewritten instructions or directions for its use, such as is usually prescribed by a physician, must be mailed as first-class matter at the highest established postal rate. Present law



(39 U.S.C. 4453 and 4555) does authorize certain marks and enclosures to be placed on or in third- or fourth-class mail, but such authority does not extend to written or typewritten instructions and directions for the use of the item.

H.R. 3516 would apply only to items containing medicines and was objected to by the Post Office Department because it would not apply to comparable items, such as blood and other laboratory specimens, water supply samples, or geological specimens.

H.R. 7559 was introduced by Mr. Curtis to incorporate the changes suggested by the Post Office Department to overcome the discriminatory application. A similar proposal of the 86th Congress, S. 3420, passed the Senate last year.

The Post Office Department had no objection last year to enactment of this legislation and now has no objection to favorable consideration of H.R. 7559.

Mr. Curtis could not appear this morning, and has asked that his statement justifying the enactment of H.R. 7559 be placed in the record.

The only witnesses scheduled for this hearing this morning are Mr. E. A. Riley, Director, Postal Services Division, Bureau of Operations, Post Office Department, who is accompanied by Mr. Adam G. Wenchel, Associate General Counsel.

First of all, if there is no objection, I will insert Mr. Curtis' statement in the record at this point.

(The statement of Hon. Thomas B. Curtis of Missouri follows:)

STATEMENT OF HON. THOMAS B. CURTIS OF MISSOURI

Mr. Chairman, I am happy to have this opportunity to give my views to your subcommittee on the proposal to provide for additional writing or printing on third- and fourth-class mail. I also wish to take this chance to express my thanks to the subcommittee and to the House Post Office and Civil Service Committee for looking into this matter. I am the author of the two bills now under consideration; the second, H.R. 7559, merely broadens the scope of the earlier bill, H.R. 3516, and I welcome the suggestion in the report of the Post Office Department on H.R. 3516 that its scope be broadened.

In substance, the bills would permit instructions and directions to accompany matter sent in third- and fourth-class mail without requiring that first-class postage be paid. The printed labels of patent medicines have long enjoyed this status; my bills would apply similar treatment to special prescriptions and wonder drugs that are sent through the mail to the users of them. This idea came to me from the letters of elderly constituents who are among the many Americans, especially elderly Americans, who purchase their health supplies from mail-order suppliers. I know of no organized support for it nor opposition to it. Of my own personal knowledge, I can assure the subcommittee that this proposal is consistent with the policies and goals of the American Medical Association.

The significance of this idea is in its effect upon the individual. More and more we find people taking advantage of the benefits of our society's rapid increase in health technology by purchasing their medical supplies through the mails. Many of these people are elderly, seeking to hold down their health care costs by taking advantage of mail-order suppliers of their medical needs. To these people, the 30, 40, or 50 cents extra that they must pay to have necessary instructions accompany the medicines they use is a real, if not major, factor in their health care budget. It is for the benefit of these people that I introduced this proposal.

I should like to comment briefly on the changes that were made by the new bill, H.R. 7559, over the old one, H.R. 3516. The Department's comments pointed out that there are other things—the examples given included blood specimens and laboratory samples—which might be sent third- or fourth-class mail with

the instructions which must accompany them if the bill were extended to include them. I believe that this change is wise and commend to the subcommittee the revised bill, H.R. 7559.

Once again, thank you for this opportunity you have given me to present my views on these bills.

Mr. OLSEN. We will now proceed with the Post Office Department witnesses.

STATEMENT OF E. A. RILEY, DIRECTOR, POSTAL SERVICES DIVISION, BUREAU OF OPERATIONS, POST OFFICE DEPARTMENT; ACCOMPANIED BY ADAM G. WENCHEL, ASSOCIATE GENERAL COUNSEL

Mr. WENCHEL. Mr. Chairman, we have no prepared statement. We would, however, request that you put our letter of July 11, 1961, being our report on this bill, into the record.

Mr. OLSEN. Very well.

If there is no objection we will place the letter of July 11 from Postmaster Day in the record at this point.

(The letter referred to follows:)

OFFICE OF THE POSTMASTER GENERAL,
Washington, D.C., July 11, 1961.

HON. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
House of Representatives,
Washington, D.C.

DEAR Mr. CHAIRMAN: This is in reply to your request for a report on H.R. 7559.

The bill would amend section 4555 of title 39, United States Code, so as to authorize the inclusion of instructions and directions for the use thereof upon any item of third- or fourth-class mail.

The proposed bill is similar to S. 3420 of the 86th Congress which was passed by the Senate last year. It will provide uniform treatment to all commodities and the Department is in favor of enactment.

We have been advised by the Bureau of the Budget that from the standpoint of the administration's program there is no objection to the presentation of this report to the committee.

Sincerely yours,

J. EDWARD DAY,
Postmaster General.

Mr. OLSEN. Will this legislation result in any additional cost to the Government?

Mr. RILEY. We have no specific figures to show any specific amount additional. There is a possibility that some first-class revenue will be foregone.

Mr. JOHANSEN. There will be a loss of revenue?

Mr. RILEY. There will be a loss assuming that the mailer would pay first-class postage instead of third class.

Mr. OLSEN. We will talk about revenue foregone, and I think that is a subject we ought to get to.

Can you show us examples of what would happen?

Mr. RILEY. I brought these specimens which I think will show exactly what would happen.

Mr. OLSEN. What is it you have in your hand?

Mr. RILEY. This is a prescription.

Mr. OLSEN. And it is a bottle containing some pills?

Mr. RILEY. Yes. It is a glass bottle containing pills that were prescribed by the doctor. The druggist then typed a label which has instructions for the use of the pills and pasted it on the bottle. The typewriting under the law is first class.

Mr. JOHANSEN. It makes this a first-class item?

Mr. RILEY. Yes, sir. Therefore, the mailer should pay first-class postage on the bottle. This particular bottle, with about half of the pills in it weighs about 1.2 ounces. At the first-class rate of 4 cents an ounce, it would cost 8 cents to mail it first class. At the third-class rate it would be 3 cents.

Mr. OLSEN. The revenue foregone would be how much?

Mr. RILEY. That would be 5 cents on a bottle of this kind.

Mr. OLSEN. What kind of service does that bottle get?

Mr. RILEY. My understanding is, where the mail is used in sending prescriptions of this nature, it would ordinarily be at a small post office. My personal opinion is that it would have just about the same treatment whether it goes first class or third class. I would say further if it got slower treatment at the third-class rate the pharmacist would be doing a great injustice to the patient to mail it third class. Apparently where these have been mailed at the third-class rate the service has been very satisfactory. It has been just as good as the first class or they would not mail them third class.

Mr. OLSEN. Is there any time requirement placed on mail of this kind by the sender?

Mr. RILEY. No, sir. If they pay the third-class rate they should get third-class treatment, which normally would allow for some delay as compared to first class. My personal opinion is that they are not getting delays on it. They are mailing it from small post offices to go out on rural routes and it gets good service at the third-class rate and as good as at the first-class rate.

Now here is a specimen. This is the type of bottle that I think is being generally used now. It is a plastic bottle and it is very light and they have a practice of typing directions on a slip and putting it inside the bottle. This one weighs a half ounce. It is not full. It probably would weigh nearly an ounce with the bottle completely full. As it is here, a half ounce, it would take 4 cents at the first-class rate and 3 cents at the third-class rate. Just a penny difference.

Here is a larger bottle of the same type, a plastic bottle, completely filled with pills. This would be filled as it is and would weigh $1\frac{3}{4}$ ounces and it would be 4 cents for each ounce or fraction of an ounce at the first-class rate. That would be 8 cents, and 3 cents at the third-class rate. It would be a nickel difference there.

Mr. JOHANSEN. But you get into a type of item which gets into the fourth-class category as well?

Mr. RILEY. It would be fourth class if it weighs 16 ounces or more. Prescription medicine as far as we know would very seldom go over 16 ounces. If it went over 16 ounces it would be subject to regular parcel post rates.

Mr. JOHANSEN. But this would permit the printed matter to be contained and sent.

Is it not possible to send this as parcel post and include printed instructions?

Mr. RILEY. Yes, sir.

Mr. JOHANSEN. What I am trying to get at is the significance of permitting writing and printing on third- and fourth-class matter. In other words, in what particular, if this is enacted, would there be a privilege with respect to fourth-class mail that does not exist now?

Mr. RILEY. It would be the same privilege that would be extended to third class. The restrictions at the present time are identical.

Mr. JOHANSEN. With respect to parcel post, as with third class?

Mr. RILEY. Yes, sir.

I have another specimen here, just a commercial medicine. This happens to be aspirin. The instructions are printed and the label is pasted on the bottle. Since these labels are printed they can be mailed at the third-class rate or if over 16 ounces, at the fourth-class rate.

This whole proposition hinges on whether the instructions are written or printed. First-class matter is handwriting and type-writing.

Mr. JOHANSEN. In other words, with the strictly printed matter it is now permissible for third and fourth class, but when it is handwritten—

Mr. RILEY. There has been some complaint that patent medicines with printed instructions on them are accepted at the third- and fourth-class rates, whereas if you type a label in typewriting or use handwriting, it takes the first-class rate. This is actually an interpretation of what is first-class mail and the only thing we have to go by is the statute which says, "Matter wholly or partially in writing or typewriting" is first class. There is no exception. There is no leeway. If you write one word on an article by hand or by typing it becomes first class.

Mr. JOHANSEN. Now, Mr. Chairman, may I ask this question. Aren't we actually considering two bills so that the comparable items referred to in the chairman's statement, such as "blood and other laboratory specimens, water supply samples or geological specimens" will benefit from this legislation?

Mr. RILEY. The original bill provided only for medicine. That is H.R. 3516. The Department took the position that that was a narrow definition which actually discriminated against other types of material. The other bill was introduced without the limitation of medicine and as written it would apply to absolutely anything.

Mr. JOHANSEN. Whereas the one is criticized for being too restrictive, are we giving too broad an application under this second bill?

Mr. RILEY. The second bill has possibilities of being used to a great extent. We are not exactly sure to what extent. There is no way of foreseeing. However, the narrow bill limiting it to medicine I think in addition to discriminating against similar materials would be somewhat difficult to administer, in that there is considerable doubt as to what is medicine when you get right down to it. For example, you mentioned the fourth-class matter. Would a drug of some kind plus some mechanical device such as elastic braces and so on be called medicine if mailed in a package? That would raise a question whether you are applying this law to merchandise or medicine.

Mr. JOHANSEN. Actually with most merchandise, any accompanying instructions or information would in most instances be printed matter anyway, wouldn't it, as a practical matter?



Mr. RILEY. Yes, sir, that is a point we considered. I believe that it would be somewhat unusual for a commercial product to contain handwritten or typewritten instructions. It would not be practical.

Mr. OLSEN. Let me ask about mechanical devices, leg braces and one thing and another that are very individualistic or personal in their nature, and that is the leg braces or arm braces that are made for some particular individual.

If they come through the mails and have written instructions—if they weigh enough they will come parcel post, but what if there are handwritten instructions with such an item as that?

Mr. RILEY. At the present time the handwriting would subject the entire parcel to the first-class rate.

Mr. OLSEN. The only way they avoid that then is to have a package and it holds parcel post and then a separate letter of instruction probably going first class?

Mr. RILEY. Yes, sir, and we would permit the letter to be placed in the package. We do have that service. The letter could be placed in the package and the 4 cents for the letter could be placed on the outside of the package, along with the postage at the parcel post rate for the package.

Mr. OLSEN. If they are sending this medicine, let us pick up the heaviest of the examples that you have there and tell me if it just went as a bottle with a printed label, what would it cost?

Mr. RILEY. That would cost 3 cents.

Mr. OLSEN. Now that same sample, 3 cents plus instruction going in an accompanying letter, that we assume weighs less than an ounce, would be an additional 4 cents. So that would be a total of 7 cents.

Mr. RILEY. That is right.

Mr. OLSEN. If, however, they sent that bottle with the typewritten instructions attached to the bottle, what would it cost?

Mr. RILEY. Eight cents. Four cents an ounce. The bottle weighs $1\frac{3}{4}$ ounces, so it would be 8 cents.

Mr. OLSEN. We have to get into considerable weights here before it makes very much difference, do we not?

Mr. RILEY. That is our position. We received letters last year claiming there was a difference of 70 and 80 cents in postage on packages of medicine. We could only figure they were sending the medicine c.o.d. and charging the customer the c.o.d. charges which include also a fee for the money order that is returned to the mailer.

In the case of third class, the limit of weight would be 15-plus ounces. Third class is limited to less than 16 ounces. Figuring 15-plus ounces at the third-class rate, the maximum that could be paid would be 24 cents. The first-class rate, 15-plus ounces, would cost 64 cents. In the case of third-class mailings, the absolute maximum difference would be 40 cents. If they insure the packages or send them c.o.d. the costs, of course, are greater.

Mr. OLSEN. How about the practice of sending blood? Is that sent first class?

Mr. RILEY. It would not be first class unless there was writing of some kind.

Mr. OLSEN. Does this blood plasma get any special treatment?

Mr. RILEY. No, sir.

Mr. OLSEN. It just goes as third class?

Mr. RILEY. Yes, sir. They can, of course, pay for special service. If it is fourth-class matter there is a special handling service.

Mr. OLSEN. Is that a practice?

Mr. RILEY. I do not believe it is; no, sir.

Mr. OLSEN. The fact of the matter is that third class is such good service that that is the way they send?

Mr. RILEY. That is my understanding; yes, sir. I believe that in the case of these small prescriptions, in the small post offices, they are getting just as good treatment at third-class rates as they do at first class. Otherwise they would not want to mail it at the third-class rate.

Mr. OLSEN. I have no more questions.

Mr. JOHANSEN. I have no further questions.

Mr. OLSEN. Off the record.

(Discussion off the record.)

Mr. JOHANSEN. The question has been raised here as to whether there is going to be additional or fewer problems for the Department if this legislation is enacted.

In your judgment, will the Department have more problems if they attempt to police present violations of present regulations and law, and will they in effect benefit by the enactment of this legislation by not having that policing problem?

Mr. RILEY. We feel there will definitely be some benefits, particularly if the bill is made general. Under present law mailers are entitled to put a description of the content in with either third- or fourth-class mail. There is such a fine line between the description of the content and any other information that might be enclosed, it is very difficult to distinguish.

Mr. OLSEN. Anything more than just instructions for use would put it back in first class again?

Mr. RILEY. Yes, sir. There would be some difficulty in determining what instructions for use are.

Mr. OLSEN. Surely, but if the druggist was writing a letter with the instructions for use, that would be a violation of the new act.

Mr. RILEY. If the letter were to contain instructions for use, I think it would be permissible under this act.

Mr. OLSEN. Yes, but if it was anything more than instructions for use it would be a violation?

Mr. RILEY. Yes, sir. If he inquired as to the health of the patient and miscellaneous information of that nature, it would be definitely beyond.

Mr. JOHANSEN. But realistically, there is no reason to believe that sort of thing would happen, is there?

Mr. RILEY. No, sir; I do not believe so. I was thinking of other materials. We foresee that there might be some difficulty with instruction for use in the case of other items. I think in the case of medicine it would actually clear this up and would be equitable.

There is a point involved here. When a person mails a package and does just want to say what the contents are for, it is pretty hard to charge 4 cents an ounce for a large item. The first-class definition is very narrow. It simply provides that typewriting and handwriting is first class. There is no leeway even if they write only one word on the contents. There are a great many materials being mailed now

that need some little instruction, and 4 cents an ounce is an awfully high rate to pay for a heavy package. However, you always run the risk of diverting first-class revenue to third class or fourth class.

Mr. JOHANSEN. On the other hand, with the change in rates which brought about these complaints, we come right back to the policing problem.

Mr. RILEY. Yes, sir.

Mr. OLSEN. I feel sorry for the poor citizen who is paying 4 cents for any fraction over 1 ounce for a letter when so many other things go through the mails and get first-class treatment and not an item less than first-class treatment, for a lot cheaper rate.

If there is nothing more to be added, that concludes the hearing. We thank you gentlemen for a very intelligent discussion of this legislation.

(Thereupon, Friday, August 11, 1961, the subcommittee was adjourned.)

