



Legislative Bulletin.....March 7, 2006

Contents:

- H.R. 3934** — Gerald A. Fiorenza Post Office Designation Act
- H.R. 4054** — Dewey F. Bartlett Post Office Designation Act
- H.R. 4509** — Hiram L. Fong Post Office Designation Act
- S. 2271** — USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006
- H.R. 32** — Stop Counterfeiting in Manufactured Goods Act
- H.Res. 681** — Supporting the goals and ideals of National Engineers Week

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: \$0

Effect on Revenue: \$0

Total Change in Mandatory Spending: \$0

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 4

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 0

**H.R. 3934 — Gerald A. Fiorenza Post Office Designation Act — *as introduced*
(King, R-NY)**

Order of Business: The bill is scheduled to be considered on Tuesday, March 7th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3934 designates the facility of the United States Postal Service located at 80 Killian Road in Massapequa, New York, as the "Gerald A. Fiorenza Post Office Building."

Additional Information: Fiorenza was born in Brooklyn, NY in 1955, where we went on to graduate from the Brooklyn Academy and then attended Queens Community College. In 1972, Fiorenza worked for the Postal Service in Jamaica, where he was awarded a letter of commendation for stopping a burglary while delivering mail. In 1988, Fiorenza moved with his wife and children to Massapequa, NY, where he served as the postmaster, and was active in the Chamber of Commerce, the Combined Federal Campaign, the United Way, and Toys for Tots. Fiorenza lost his battle with cancer and passed away on December 7, 2001. (Source: <http://massapequapost.com/News/2001/1219/Obituaries/006.html>)

Committee Action: On September 28, 2005, the bill was introduced and referred to the House Government Reform Committee, which considered it and reported it to the full House by unanimous consent on November 16, 2005.

Cost to Taxpayers: The only costs associated with a postal facility renaming are those for sign and map changes, none of which significantly affect the federal budget.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: Although no committee report citing constitutional authority is available, Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to “establish Post Offices and post Roads.”

RSC Staff Contact: Joelle Cannon; joelle.cannon@mail.house.gov, (202) 226-9717

H.R. 4054 — Dewey F. Bartlett Post Office Designation Act — *as introduced* (Sullivan, R-OK)

Order of Business: The bill is scheduled to be considered on Tuesday, March 7th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4054 designates the facility of the United States Postal Service located at 6110 East 51st Place in Tulsa, Oklahoma, as the “Dewey F. Bartlett Post Office.”

Additional Information: Dewey Bartlett was born in Marietta, Ohio on March 28, 1919. Bartlett was educated in Ohio and New Jersey and went on study at Princeton University before serving in World War II as a dive bomber pilot in the South Pacific Theater. After the war, Bartlett moved to Oklahoma, where he was elected to the State Senate in 1963. In 1967 Bartlett became the governor of Oklahoma, but was not reelected in 1970. Bartlett went on to serve as a Republican in the U.S. Senate, where he served until he became too ill to run for reelection. On March 1, 1979, Bartlett died in Tulsa, Oklahoma. (Source: <http://bioguide.congress.gov>)

Committee Action: On October 7, 2005, the bill was introduced and referred to the House Government Reform Committee, which considered it and reported it to the full House by unanimous consent on February 1, 2006.

Cost to Taxpayers: The only costs associated with a postal facility renaming are those for sign and map changes, none of which significantly affect the federal budget.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: Although no committee report citing constitutional authority is available, Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to “establish Post Offices and post Roads.”

RSC Staff Contact: Joelle Cannon; joelle.cannon@mail.house.gov, (202) 226-9717

H.R. 4509 — Hiram L. Fong Post Office Designation Act— as received (Abercrombie, D-HI)

Order of Business: The bill is scheduled to be considered on Tuesday, March 7th, under a motion to suspend the rules and pass the bill.

Summary: The bill designates the facility of the United States Postal Service located at 1271 North King Street in Honolulu, Oahu, Hawaii, as the "Hiram L. Fong Post Office Building.”

Additional Information: Former Republican Senator Hiram Fong was born in Honolulu, Hawaii in 1906, graduated from the University of Hawaii in 1930, and graduated from Harvard Law School in 1935. He served as a deputy attorney for the city and county of Honolulu from 1935-1938, and then served as a judge advocate of the Seventh Fighter Command of the Seventh Air Force with rank of major during the Second World War. After serving in the territorial legislature for sixteen years, six of which were as the speaker, Fong was elected as the first Chinese-American to the U.S. Senate in 1959, when Hawaii was admitted as a state. After serving in the Senate for 18 years, Fong returned to Kahaluu, Hawaii, where he lived until his death August 19, 2004.

Committee Action: On December 13, 2005, the bill was received in the House of Representatives and referred to the House Government Reform Committee, which considered it and reported it to the full House by unanimous consent on February 1, 2006.

Cost to Taxpayers: The only costs associated with a postal facility renaming are those for sign and map changes, none of which significantly affect the federal budget.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: Although no committee report citing constitutional authority is available, Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to “establish Post Offices and post Roads.”

S. 2271 — USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006 (Sen. Sununu, R-NH)

Order of Business: The bill is scheduled for consideration on Tuesday, March 7, 2006, under a motion to suspend the rules and pass the bill.

Summary: S. 2271 would clarify that individuals who receive FISA (Foreign Intelligence Surveillance Act) orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, and that libraries are not wire or electronic communication service providers unless they provide specific services.

Note: The provisions contained in S. 2271 are not contained in the House and Senate passed Conference Report on USA PATRIOT and Terrorism (H.R. 3199). The expiring provisions of the USA Patriot Act (Sec. 224a) were extended to March 10, 2006, by H.R. 4659 (P.L. 109-170). H.R. 3199 permanently extend 14 of the 16 expiring provisions, and implemented a new 4-year sunset for the remaining two provisions (Section 206 and 215). For additional information on PATRIOT Act provisions and the Conference Report (H.R. 3199), please see this RSC Leg. Bulletin: http://www.house.gov/pence/rsc/doc/LB_121505_HR_4437_Border_Security.pdf.

The specific provisions of the bill are as follows:

- Allows a person receiving a FISA production order to produce any tangible thing (such as a book, document, or record) to challenge its legality by filing a petition with a pool of three district court judges established by the Chief Justice of the U.S. for such purpose; permits the filing of a petition, no sooner than one year after issuance of the order, challenging any accompanying nondisclosure order (an order prohibiting the person receiving the order from disclosing that the FBI sought information);
- Requires the presiding judge of the pool to immediately assign a judge to conduct an initial review of a petition, and requires such judge, within 72 hours of the assignment, to make a determination of the petition; requires the judge to immediately deny such petition if it is frivolous and affirm the production or nondisclosure order;
- Permits any order setting aside a nondisclosure order to be stayed pending review upon request of the government; permits setting aside a nondisclosure order if there is no reason to believe that national security would be endangered; establishes as conclusive a certification by the Director or the Attorney General that the setting aside of a nondisclosure order may endanger national security, unless the certification was found to be made in bad faith;
- Requires upholding an order unless it is found to be unlawful, and requires immediate compliance with the order if the judge does not set the order aside;
- Grants the Supreme Court, upon writ of certiorari (a decision by the Supreme Court to hear an appeal from a lower court), jurisdiction to review a decision; requires any judicial review to be as “expeditious as possible” and all petitions to be filed under seal; requires any court proceedings, upon request from the government, to be ex parte (on behalf of only one party, without notice to any other party) and in camera (privately);
- Amends federal criminal law, the Fair Credit Reporting Act, the Right to Financial Privacy Act, and the National Security Act of 1947 to require a person making a disclosure to identify (to

- the Director or requesting official) the person to whom the disclosure will be made or was made prior to the request; also permits withholding the identity of an attorney to whom a disclosure was or will be made to obtain legal advice or assistance with respect to the request;
- Considers a library not to be a wire or electronic service communication provider for purposes of granting national security letters, unless the library provides “electronic communication service.”

Administration Policy: A Statement of Administration Policy (SAP) was not available at press time. The Administration strongly supported House passage of H.R. 3199, and is “committed to the full reauthorization of the provisions of the USA PATRIOT Act that are set to expire,” although the provisions contained in S. 2271 either further refine or restrict the underlying PATRIOT Act provisions.

Conservative Concerns: Conservative concerns with the original PATRIOT Act and the PATRIOT Act Reauthorization largely centered on the expansive power of FISA orders and national security letters, as well as concern over the government’s ability to gain access to library records. Since the provisions contained in this bill further refine or restrict that authority, this bill attempts to address prior conservative concerns over Fourth Amendment infringement.

Committee Action: S. 2271 was introduced in the Senate on February 10, 2006, and passed the Senate by a vote of 96-3 on February 16, 2006. The bill was reported to the House but not referred to any committee.

Cost to Taxpayers: A CBO score of S. 2271 is unavailable, but the bill does not authorize new expenditures.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: Although a committee report citing constitutional authority is unavailable, the Judiciary Committee Report for Patriot Act Conference Report (H. Rpt. 109-174 – Part 1), cites constitutional authority in Article 1, Section 8, Clause 1 (to provide for the common defense).

House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.”

RSC Staff Contact: Derek V. Baker; derek.baker@mail.house.gov; 202-226-8585

H.R. 32 — Stop Counterfeiting in Manufactured Goods Act — *as reported* (Knollenberg, R-MI)

Order of Business: The bill is scheduled for consideration on Tuesday, March 7, under a motion to suspend the rules and pass the bill.

Summary: H.R. 32 would expand the federal crime against intentionally trafficking in counterfeit goods or services by including penalties for those who traffic in counterfeit labels, symbols, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature, knowing that a counterfeit mark has been applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive. The bill modifies the definition of a counterfeit mark to reflect the above list of items. H.R. 32 requires the forfeiture of all property obtained, directly or indirectly, from the violation as well as any property used, or intended to be used in relation to the offense, and requires that restitution be paid to the owner of the counterfeited mark. CBO estimates that H.R. 32 would apply to a relatively small number of additional offenders.

Additional Information: According to Committee Report 109-68, the provision allowing for a criminal cause of action based upon the trafficking of certain counterfeit items “is intended to overrule the holding in the case *United States v. Giles*, 213 F.3d 1247 (10th Cir. 2000), where the court of appeals overturned a conviction under 18 U.S.C. Sec. 2320, holding that, based on the current language of the statute, no criminal liability could attach to trafficking in labels, patches, medallions, boxes, containers, cases, documentation, packaging and the like bearing registered marks, where the item bearing the registered marks were not attached to the goods.”

Additionally, the report states, “the Federal Bureau of Investigation (FBI), Customs, and Immigration Customs Enforcement Agents (ICE) estimate that sales of counterfeit goods are enriching criminal organizations by up to \$500 billion in sales per year. By midyear for fiscal 2003, the Department of Homeland Security (DHS) had reported 3,117 seizures of counterfeit branded goods including cigarettes, books, apparel, handbags, toys and electronic games with an estimated street value of about \$38 million – up 42 percent from 2002. The fiscal 2003 midyear report the top five offending countries of origin are the People's Republic of China (\$26.7 million), Hong Kong (\$1.9 million), Mexico (\$1.6 million), South Korea, (\$1.4 million) and Malaysia (\$1 million). The International AntiCounterfeiting Coalition, (IACC) estimates that counterfeiting results in more than \$200 billion a year in lost jobs, taxes and sales. Fortune 500 companies spend an average of between \$2 million and \$4 million a year each to fight counterfeiters.”

Committee Action: H.R. 32 was introduced on January 4, 2006, and referred to the Committee on the Judiciary’s Subcommittee on Crime, Terrorism, and Homeland Security. The bill was marked up and reported out by the full Committee on May 3, 2005, by voice vote (H. Rept. 109-68). The bill passed the House under suspension by a voice vote May 23, 2005, and passed the Senate by unanimous consent with an amendment (S.AMDT.2889) by Sen. Specter on February 15, 2006. The Senate amendment would amend title 18, U.S.C., to provide criminal penalties for trafficking in counterfeit marks, clarifying the prohibition on the trafficking in goods or services.

Cost to Taxpayers: CBO estimates that “implementing H.R. 32 would have no significant cost to the federal government. Enacting the bill could affect direct spending and revenues, but CBO estimates that any such effects would not be significant.”

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: The Committee Report, H. Rept. 109-68, cites constitutional authority for this legislation in Article I, Section 8, Clause 8 of the Constitution (granting of patents and trademarks).

House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

RSC Staff Contact: Derek V. Baker; derek.baker@mail.house.gov; 202-226-8585

H.Res. 681 — Supporting the goals and ideals of National Engineers Week, and for other purposes — *as introduced (Lipinski, D-IL)*

Order of Business: The resolution is scheduled for consideration on Tuesday, March 7, 2006, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 681 states the following findings, among other things:

- “Engineers are a crucial link in research, development, and demonstration and in transforming scientific discoveries into useful products, and we will look more than ever to engineers and their knowledge and skills to meet the challenges of the future;
- “The recent National Academy of Sciences report entitled ‘Rising Above the Gathering Storm’ highlighted the worrisome trend that fewer students are now focusing on engineering in college at a time when increasing numbers of today's 2,000,000 United States engineers are nearing retirement;
- “National Engineers Week has grown into a formal coalition of more than 70 engineering, education, and cultural societies, and more than 50 major corporations and government agencies;
- “National Engineers Week is celebrated during the week of George Washington's birthday to honor the contributions that our first President, a military engineer and land surveyor, made to engineering; and
- “February 19 to 25, 2006, has been designated by the President as National Engineers Week.”

H.Res. 681 resolves that the House of Representatives:

- 1) “will work with the engineering community to make sure that the creativity and contribution of that community can be expressed through research, development, standardization, and innovation; and
- 2) “supports the goals and ideals of National Engineers Week and its aims to increase understanding of and interest in engineering and technology careers and to promote literacy in math and science.”

Committee Action: H.Res. 681 was introduced on February 15, 2006, and referred to the Committee on Science, which took no official action.

Cost to Taxpayers: The resolution authorizes no expenditure.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

RSC Staff Contact: Derek V. Baker; derek.baker@mail.house.gov; 202-226-8585

###