Committee Reports

102d Congress

House Rept. 102-951

102 H. Rpt. 951

ADVERTISING AND RELATED COMMERCIAL ACTIVITIES IN THE NATIONAL PARK SYSTEM

**DATE:** September 29, 1992. Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

**SPONSOR:** Mr. Miller of California, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

together with DISSENTING VIEWS

(To accompany H.R. 5906)

(Including cost estimate of the Congressional Budget Office)

**TEXT:**

The Committee on Interior and Insular Affairs, to whom was referred in bill (H.R. 5906) to direct the Secretary of the Interior to exchange certain lands with the District of Columbia and to regulate advertising and related commercial activities in the National Park System, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. ADVERTISING AND RELATED COMMERCIAL ACTIVITIES.

(a) Prohibition. Advertising, commercial notices, and similar commercial activities including (but not limited to) oral, written, or graphic statements or any physical structure, display, or model, presented or developed in any manner with the purpose of soliciting public attention to and promoting the benefits of a particular commercial product, service, or facility, or a group of products, services, or facilities, normally available for purchase in the commercial retail marketplace shall not be allowed in the National Park System (as defined by section 2 of the Act of August 8, 1953 (16 U.S.C. 1c)), except as provided for in subsection (b).

(b) Advertising and Commercial Notices. The Director of the National Park Service may give permission for advertising or commercial notice within an area of the National Park System if the Director finds the advertising or commercial notice to be desirable and necessary for the convenience and guidance of park visitors and

(1) the advertising or commercial notice is for a product, service, or facility available within such park area; or

(2) the advertising or commercial notice is contained in a publication the primary purpose of which is to familiarize visitors with a national park program, activity, or resource, and any such advertising or commercial notices is for locally available product, service, or facility.

Any such permission shall be in writing. Nothing contained in this subsection is intended to curtail the display, sale, or distribution of newspapers, magazines, theater programs, and similar printed material under the terms of a properly executed concessions permit or contract or a cooperating association agreement.

SEC. 2. RECOGNITION.

Appropriate and limited public acknowledgement of a donor or sponsors contribution to a specific program activity, or event in an area of the National Park System may be given on a case-by-case basis to a donor or sponsor only if the program, activity, or event furthers the purposes of the park area, and the recognition is determined to be appropriate.

SEC. 3. ENDORSEMENT.

An advertising, commercial notice, or recognition may not state or otherwise imply National Park Service endorsement of a product, service, or facility.

SEC. 4. ORGANIZED ACTIVITIES AND SPECIAL EVENTS.

Organized activities or special events within a area of the National Park System may only be allowed pursuant to a permit. Such permit may only be issued if there is an appropriate association between the park area and the activity or event and when it can be determined that the organized activity or special event does not

(1) damage, harm, or destroy the areas resources or values;

(2) pose a risk of damage to any property or endanger public health or safety;

(3) unduly interfere with normal park operations or visitor use; or

(4) result in significant conflict with other uses.

SEC. 5. PROMULGATION OF REGULATIONS.

Within one year after the date of enactment of this Act, the Director of the National Park Service shall promulgate regulations to implement the requirements of this Act.

Amend the title so as to read:

A bill to regulate advertising and related commercial activities in the National Park System, and for other purposes.

purpose

The purpose of H.R. 5906

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as reported is to protect units of the National Park System from inappropriate commercial activities and special events.8

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H.R. 5906 was introduced by Mr. Vento (for himself and Mr. Lagomarsino) on August 12, 1992.

background and need

Rock Creek Park, one of the oldest units of the National Park System, was established in 1890 as a "public park or pleasure ground for the benefit and enjoyment of the people of the United States." Today the park has natural, recreational and historical resources and facilities, including: picnic areas, tennis courts, a golf course, a nature center and planetarium, extensive hiking, horse and bicycling trails, horse stables, the Carter Barron Amphitheater, Pierce Mill, and the Art Barn.

Tennis courts have been available for public use in the park since 1922. In 1961, a 2,000 seat tennis stadium was constructed near the Carter Barron Amphitheater. This was enlarged to 4,500 seats in 1971 under a cooperative agreement with the Washington Tennis Patrons (now the Washington Tennis Foundation). In 1987 the Washington Tennis Foundation entered into an agreement with the National Park Service to build a new stadium (removing the existing one) as a way of retaining sanctioned professional tennis at Rock Creek Park and of generating more funds for the Washington Tennis Foundations community programs. The Washington Tennis Foundation subsequently constructed the $12 million William Fitzgerald Tennis Center on National Park Service land. Today, the Washington Tennis Foundation operates the Center and has a $6 million mortgage on the stadium.

As part of holding professional tennis tournaments, various examples of commercial advertising and displays have been placed for the past several years at the stadium, including automobiles, exhibits for time-share condominiums, and corporate hospitality suites. On July 7, 1992, a regulation was promulgated by the National Park Service that deviates from the existing National Park Service prohibition on commercial advertising and specifically allows such activities at the tennis stadium located in Rock Creek Park. The 1922 mens tennis tournament was held immediately following issuance of that regulation allowing advertising. The tournament included displays of automobiles for sale, raffles (for a "Fantasy" vacation in the Bahamas), product samples for food bars, sunscreen, and skin lotion, private corporate hospitality tents and ice cream sundae making all on National Park land. Rock Creek Park is the first park in the National Park System where non-park related advertising is allowed.

A July 15, 1991, internal Department of the Interior memorandum concerning Rock Creek Park only heightened the Committees concern about the direction the Department of the Interior is taking national parks on this important matter. The memorandum stated, "The maximum reasonable use of urban parks seems to indicate an approach which mixes traditional park uses with the realities of areas co-located with large urban centers. Such areas may need to be managed differently." In addition to this proposal, park superintendents are under increasing pressure to allow various community uses of National Park Service land. Each year, National Park Service superintendents face numerous requests for charity runs, commercial expositions, camp outs, and reenactments.

section-by-section analysis

Section 1(a) as amended prohibits advertising and other commercial activities in units of the National Park System except as provided in Subsection 1(b). The Committee notes that the definition of "National Park System" used here does not change the applicability of existing or future regulations on any lands located within park boundaries. The bill, as amended, in large part codifies existing National Park Service (NPS) regulations ban on advertising so as to prevent NPS regulations from being undermined by exemptions such as that recently granted at the Rock Creek Tennis Stadium.

Section 1(b) allows the Director of the National Park Service to give permission for advertising or commercial notice and provides criteria for doing so. While the National Park Service may assist visitors in locating accommodations such as lodging or dining in park vicinities, it may not endorse particular accommodations or serve to assist commercial enterprises. Nor should it establish display racks of commercial brochures which has the effect of implying an endorsement of commercial enterprises.

Section 2 allows the National Park Service to give appropriate and limited public acknowledgement of donors and sponsors and provides criteria for doing so.

Section 3 prohibits the National Park Service from allowing endorsements of any product, service or facility. It is the Committees intent to prevent advertisers from taking advantage of the reputation of the National Park Service by affiliating their products, service or facility with the National Park Service, its personnel or resources.

Section 4 allows organized activities and special events in areas of the National Park System pursuant to permits which may only be granted if there is an appropriate association between the park area and the activity or event and when the organized activity or special event will not have adverse effects. The Committee deliberately established the "appropriate association" test for activities to park areas rather than to park purposes, as many park purposes are quite narrowly constructed. The Committee recognizes that there are appropriate uses of park lands, such as political demonstrations at the Lincoln Memorial or Fourth of July celebrations on the National Mall that have become traditional uses of particular park areas. Nor does H.R. 5906 affect unorganized activities such as individuals cross-country skiing through park fields or families picnicking at a historic site. The Committee is concerned however at the pressures many National Park Service managers face to allow numerous and diverse activities on park lands, the cumulative effect of which is to diminish National Park Service resources and personnel available for primary park purposes of preservation and interpretation.

Section 5 directs the Director of the National Park Service to promulgate regulations to implement the requirements of the Act.

legislative history and committee recommendations

A hearing on H.R. 5906 was held by the Subcommittee on National Parks and Public Lands on September 15, 1992. H.R. 5906 was favorably recommended to the Committee on Interior and Insular Affairs with an amendment in the nature of a substitute on September 22, 1992. The Committee on Interior and Insular Affairs favorably reported H.R. 5906, as amended, to the House by voice vote on September 23, 1992 and recommends its enactment.

changes in existing law

If enacted, H.R. 5906, would make no changes in existing law.

oversight statement

The Committee intends to carefully monitor the implementation of this legislation to ensure compliance with the intent of the Act, but no specific oversight hearings have been conducted on this matter. No recommendations were submitted to the Committee pursuant to rule X, clause 2(b)(2).

inflationary impact; cost; and budget act compliance

The Committee finds that enactment of this measure would have no inflationary impact on the national economy.

The committee has determined that no increase in Federal expenditures will result from enactment of this bill. The report of the Congressional Budget Office follows:

U.S. Congress,

Congressional Budget Office,

Washington, DC, September 25, 1992.

Hon. George Miller,

Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 5906, a bill to regulate advertising and related commercial activities in the National Park System, and for other purposes, as ordered reported by the House Committee on Interior and Insular Affairs on September 23, 1992. CBO estimates that enactment of H.R. 5906 would result in no significant costs to the federal government and no cost to state or local governments.

H.R. 5906 would prohibit most advertising, commercial notices, and similar commercial activities in the National Park System. The Director of the National Park Service would be authorized to make exceptions to this rule in certain circumstances. The bill also would require permits for organized activities or special events within an area of the park system and would establish criteria for such events.

Enactment of H.R. 5906 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Marjorie Miller.

Sincerely,

James L. Blum

(For Robert D. Reischauer, Director).

DISSENTING VIEWS ON H.R. 5906

While we share the concerns of the Majority with respect to ensuring that commercialism does not overtake our national parks, we join with the Administration in opposing this legislation.

It is apparent to us that this legislation was written in response to a number of commercial activities associated with tournaments held at the William Fitzgerald Tennis Center located in Rock Creek Park administered by the National Park Service in the District of Columbia. We concur with the concerns of the Majority with respect to many of the ongoing activities at the Center which are documented in this report. However, we are concerned that this hastily concerned generic legislation, which is substantially based on observations at one park, would unnecessarily outlay many appropriate activities at parks throughout the country.

While the Majority accurately states that this bill is based largely on existing National Park Service regulations and policies, they delete the fact that the National Park Service is currently considering revisions to many aspects of this policy which have proven unworkable.

It is not clear to us exactly what this legislation would or would not permit with respect to advertising in parks. That confusion is underscored in the report of the Majority which goes to great lengths to explain away many of the potential unintended consequences of this bill. For example, it is not clear to us why there should be a Federal statute precluding the National Park Service from handing out any literature which presents the recreation opportunities of the park in an overall regional context. Such information would seem highly desirable from a visitors perspective. Similarly, it seems to us that information on lodging, camping and other visitor amenities outside the park should be readily available to visitors, if for no other reason than to guide them to services which would have the effect of reducing crowding in parks.

Unfortunately, there are many "environmentalists" who constantly seek to reduce public use opportunities in our parks. This legislation would give them license to preclude many ongoing and future charitable, recreational and celebratory events. While the Majority attempts to exclude in the text of their report certain categories of organized activities which would be precluded upon a reading of the bare statute, we not that this exclusion is limited to use which have become "traditional". In other words, no new organized events would be permitted.

Even without a finding that commercialism is a widespread problem in park areas, we could support a general legislative prohibition on commercial use of national parks, but concur with the Administration that language similar to that contained in this bill would be more appropriate in regulation than in statute.

Don Young.

Ron Marlenee.

James V. Hansen.

Bob Smith.

John T. Doolittle.

Craig Thomas.

John J. Duncan, Jr.

Barbara F. Vucanovich.

Dick Schulze.