

2 **ESSB 6204** - H AMD 417 WITHDRAWN 3-1-96

3 By Representatives Robertson and others

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 46.61.525 and 1979 ex.s. c 136 s 86 are each amended
8 to read as follows:

9 ~~((It shall be unlawful for any person to operate a motor vehicle in
10 a negligent manner. For the purpose of this section to "operate in a
11 negligent manner" shall be construed to mean the operation of a vehicle
12 in such a manner as to endanger or be likely to endanger any persons or
13 property: PROVIDED HOWEVER, That any person operating a motor vehicle
14 on private property with the consent of the owner in a manner
15 consistent with the owner's consent shall not be guilty of negligent
16 driving.~~

17 ~~The offense of operating a vehicle in a negligent manner shall be
18 considered to be a lesser offense than, but included in, the offense of
19 operating a vehicle in a reckless manner, and any person charged with
20 operating a vehicle in a reckless manner may be convicted of the lesser
21 offense of operating a vehicle in a negligent manner. Any person
22 violating the provisions of this section will be guilty of a
23 misdemeanor: PROVIDED, That the director may not revoke any license
24 under this section, and such offense is not punishable by imprisonment
25 or by a fine exceeding two hundred fifty dollars.)) (1)(a) A person is
26 guilty of negligent driving in the first degree if he or she operates
27 a motor vehicle in a manner that is both negligent and endangers or is
28 likely to endanger any person or property, and exhibits the effects of
29 having consumed liquor or an illegal drug.~~

30 (b) It is an affirmative defense to negligent driving in the first
31 degree by means of exhibiting the effects of having consumed an illegal
32 drug that must be proved by the defendant by a preponderance of the
33 evidence, that the driver has a valid prescription for the drug
34 consumed, and has been consuming it according to the prescription
35 directions and warnings.

36 (c) Negligent driving in the first degree is a misdemeanor.

1 (2)(a) A person is guilty of negligent driving in the second degree
2 if, under circumstances not constituting negligent driving in the first
3 degree, he or she operates a motor vehicle in a manner that is both
4 negligent and endangers or is likely to endanger any person or
5 property.

6 (b) It is an affirmative defense to negligent driving in the second
7 degree that must be proved by the defendant by a preponderance of the
8 evidence, that the driver was operating the motor vehicle on private
9 property with the consent of the owner in a manner consistent with the
10 owner's consent.

11 (c) Negligent driving in the second degree is a traffic infraction
12 and is subject to a penalty of two hundred fifty dollars.

13 (3) For the purposes of this section:

14 (a) "Negligent" means the failure to exercise ordinary care, and is
15 the doing of some act that a reasonably careful person would not do
16 under the same or similar circumstances or the failure to do something
17 that a reasonably careful person would do under the same or similar
18 circumstances.

19 (b) "Exhibiting the effects of having consumed liquor" means that
20 a person has the odor of liquor on his or her breath, or that by
21 speech, manner, appearance, behavior, lack of coordination, or
22 otherwise exhibits that he or she has consumed liquor, and either:

23 (i) Is in possession of or in close proximity to a container that
24 has or recently had liquor in it; or

25 (ii) Is shown by other evidence to have recently consumed liquor.

26 (c) "Exhibiting the effects of having consumed an illegal drug"
27 means that a person by speech, manner, appearance, behavior, lack of
28 coordination, or otherwise exhibits that he or she has consumed an
29 illegal drug and either:

30 (i) Is in possession of an illegal drug; or

31 (ii) Is shown by other evidence to have recently consumed an
32 illegal drug.

33 (d) "Illegal drug" means a controlled substance under chapter 69.50
34 RCW for which the driver does not have a valid prescription or that is
35 not being consumed in accordance with the prescription directions and
36 warnings, or a legend drug under chapter 69.41 RCW for which the driver
37 does not have a valid prescription or that is not being consumed in
38 accordance with the prescription directions and warnings.

1 (4) Any act prohibited by this section that also constitutes a
2 crime under any other law of this state may be the basis of prosecution
3 under such other law notwithstanding that it may also be the basis for
4 prosecution under this section.

5 **NEW SECTION. Sec. 2.** (1) The office of the administrator for the
6 courts shall collect data on the following after the effective date of
7 this act:

8 (a) The number of arrests, charges, and convictions for negligent
9 driving in the first degree;

10 (b) The number of notices of infraction issued for negligent
11 driving in the second degree; and

12 (c) The number of charges for negligent driving that were the
13 result of an amended charge from some other offense, and the numbers
14 for each such other offense.

15 (2) The office of the administrator for the courts shall compile
16 the collected data and make a report to the legislature no later than
17 October 1, 1998.

18 **Sec. 3.** RCW 46.61.5055 and 1995 1st sp.s. c 17 s 2 are each
19 amended to read as follows:

20 (1) A person who is convicted of a violation of RCW 46.61.502 or
21 46.61.504 and who has no prior offense within five years shall be
22 punished as follows:

23 (a) In the case of a person whose alcohol concentration was less
24 than 0.15, or for whom for reasons other than the person's refusal to
25 take a test offered pursuant to RCW 46.20.308 there is no test result
26 indicating the person's alcohol concentration:

27 (i) By imprisonment for not less than one day nor more than one
28 year. Twenty-four consecutive hours of the imprisonment may not be
29 suspended or deferred unless the court finds that the imposition of
30 this mandatory minimum sentence would impose a substantial risk to the
31 offender's physical or mental well-being. Whenever the mandatory
32 minimum sentence is suspended or deferred, the court shall state in
33 writing the reason for granting the suspension or deferral and the
34 facts upon which the suspension or deferral is based; and

35 (ii) By a fine of not less than three hundred fifty dollars nor
36 more than five thousand dollars. Three hundred fifty dollars of the

1 fine may not be suspended or deferred unless the court finds the
2 offender to be indigent; and

3 (iii) By suspension of the offender's license or permit to drive,
4 or suspension of any nonresident privilege to drive, for a period of
5 ninety days. The period of license, permit, or privilege suspension
6 may not be suspended. The court shall notify the department of
7 licensing of the conviction, and upon receiving notification of the
8 conviction the department shall suspend the offender's license, permit,
9 or privilege; or

10 (b) In the case of a person whose alcohol concentration was at
11 least 0.15, or for whom by reason of the person's refusal to take a
12 test offered pursuant to RCW 46.20.308 there is no test result
13 indicating the person's alcohol concentration:

14 (i) By imprisonment for not less than two days nor more than one
15 year. Two consecutive days of the imprisonment may not be suspended or
16 deferred unless the court finds that the imposition of this mandatory
17 minimum sentence would impose a substantial risk to the offender's
18 physical or mental well-being. Whenever the mandatory minimum sentence
19 is suspended or deferred, the court shall state in writing the reason
20 for granting the suspension or deferral and the facts upon which the
21 suspension or deferral is based; and

22 (ii) By a fine of not less than five hundred dollars nor more than
23 five thousand dollars. Five hundred dollars of the fine may not be
24 suspended or deferred unless the court finds the offender to be
25 indigent; and

26 (iii) By suspension of the offender's license or permit to drive,
27 or suspension of any nonresident privilege to drive, for a period of
28 one hundred twenty days. The period of license, permit, or privilege
29 suspension may not be suspended. The court shall notify the department
30 of licensing of the conviction, and upon receiving notification of the
31 conviction the department shall suspend the offender's license, permit,
32 or privilege.

33 (2) A person who is convicted of a violation of RCW 46.61.502 or
34 46.61.504 and who has one prior offense within five years shall be
35 punished as follows:

36 (a) In the case of a person whose alcohol concentration was less
37 than 0.15, or for whom for reasons other than the person's refusal to
38 take a test offered pursuant to RCW 46.20.308 there is no test result
39 indicating the person's alcohol concentration:

1 (i) By imprisonment for not less than thirty days nor more than one
2 year. Thirty days of the imprisonment may not be suspended or deferred
3 unless the court finds that the imposition of this mandatory minimum
4 sentence would impose a substantial risk to the offender's physical or
5 mental well-being. Whenever the mandatory minimum sentence is
6 suspended or deferred, the court shall state in writing the reason for
7 granting the suspension or deferral and the facts upon which the
8 suspension or deferral is based; and

9 (ii) By a fine of not less than five hundred dollars nor more than
10 five thousand dollars. Five hundred dollars of the fine may not be
11 suspended or deferred unless the court finds the offender to be
12 indigent; and

13 (iii) By revocation of the offender's license or permit to drive,
14 or suspension of any nonresident privilege to drive, for a period of
15 one year. The period of license, permit, or privilege revocation may
16 not be suspended. The court shall notify the department of licensing
17 of the conviction, and upon receiving notification of the conviction
18 the department shall revoke the offender's license, permit, or
19 privilege; or

20 (b) In the case of a person whose alcohol concentration was at
21 least 0.15, or for whom by reason of the person's refusal to take a
22 test offered pursuant to RCW 46.20.308 there is no test result
23 indicating the person's alcohol concentration:

24 (i) By imprisonment for not less than forty-five days nor more than
25 one year. Forty-five days of the imprisonment may not be suspended or
26 deferred unless the court finds that the imposition of this mandatory
27 minimum sentence would impose a substantial risk to the offender's
28 physical or mental well-being. Whenever the mandatory minimum sentence
29 is suspended or deferred, the court shall state in writing the reason
30 for granting the suspension or deferral and the facts upon which the
31 suspension or deferral is based; and

32 (ii) By a fine of not less than seven hundred fifty dollars nor
33 more than five thousand dollars. Seven hundred fifty dollars of the
34 fine may not be suspended or deferred unless the court finds the
35 offender to be indigent; and

36 (iii) By revocation of the offender's license or permit to drive,
37 or suspension of any nonresident privilege to drive, for a period of
38 four hundred fifty days. The period of license, permit, or privilege
39 revocation may not be suspended. The court shall notify the department

1 of licensing of the conviction, and upon receiving notification of the
2 conviction the department shall revoke the offender's license, permit,
3 or privilege.

4 (3) A person who is convicted of a violation of RCW 46.61.502 or
5 46.61.504 and who has two or more prior offenses within five years
6 shall be punished as follows:

7 (a) In the case of a person whose alcohol concentration was less
8 than 0.15, or for whom for reasons other than the person's refusal to
9 take a test offered pursuant to RCW 46.20.308 there is no test result
10 indicating the person's alcohol concentration:

11 (i) By imprisonment for not less than ninety days nor more than one
12 year. Ninety days of the imprisonment may not be suspended or deferred
13 unless the court finds that the imposition of this mandatory minimum
14 sentence would impose a substantial risk to the offender's physical or
15 mental well-being. Whenever the mandatory minimum sentence is
16 suspended or deferred, the court shall state in writing the reason for
17 granting the suspension or deferral and the facts upon which the
18 suspension or deferral is based; and

19 (ii) By a fine of not less than one thousand dollars nor more than
20 five thousand dollars. One thousand dollars of the fine may not be
21 suspended or deferred unless the court finds the offender to be
22 indigent; and

23 (iii) By revocation of the offender's license or permit to drive,
24 or suspension of any nonresident privilege to drive, for a period of
25 two years. The period of license, permit, or privilege revocation may
26 not be suspended. The court shall notify the department of licensing
27 of the conviction, and upon receiving notification of the conviction
28 the department shall revoke the offender's license, permit, or
29 privilege; or

30 (b) In the case of a person whose alcohol concentration was at
31 least 0.15, or for whom by reason of the person's refusal to take a
32 test offered pursuant to RCW 46.20.308 there is no test result
33 indicating the person's alcohol concentration:

34 (i) By imprisonment for not less than one hundred twenty days nor
35 more than one year. One hundred twenty days of the imprisonment may
36 not be suspended or deferred unless the court finds that the imposition
37 of this mandatory minimum sentence would impose a substantial risk to
38 the offender's physical or mental well-being. Whenever the mandatory
39 minimum sentence is suspended or deferred, the court shall state in

1 writing the reason for granting the suspension or deferral and the
2 facts upon which the suspension or deferral is based; and

3 (ii) By a fine of not less than one thousand five hundred dollars
4 nor more than five thousand dollars. One thousand five hundred dollars
5 of the fine may not be suspended or deferred unless the court finds the
6 offender to be indigent; and

7 (iii) By revocation of the offender's license or permit to drive,
8 or suspension of any nonresident privilege to drive, for a period of
9 three years. The period of license, permit, or privilege revocation
10 may not be suspended. The court shall notify the department of
11 licensing of the conviction, and upon receiving notification of the
12 conviction the department shall revoke the offender's license, permit,
13 or privilege.

14 (4) In exercising its discretion in setting penalties within the
15 limits allowed by this section, the court shall particularly consider
16 whether the person's driving at the time of the offense was responsible
17 for injury or damage to another or another's property.

18 (5) An offender punishable under this section is subject to the
19 alcohol assessment and treatment provisions of RCW 46.61.5056.

20 (6) After expiration of any period of suspension or revocation of
21 the offender's license, permit, or privilege to drive required by this
22 section, the department shall place the offender's driving privilege in
23 probationary status pursuant to RCW 46.20.355.

24 (7)(a) In addition to any nonsuspendable and nondeferrable jail
25 sentence required by this section, whenever the court imposes less than
26 one year in jail, the court shall also suspend but shall not defer a
27 period of confinement for a period not exceeding two years. The court
28 shall impose conditions of probation that include: (i) Not driving a
29 motor vehicle within this state without a valid license to drive and
30 proof of financial responsibility for the future; (ii) not driving a
31 motor vehicle within this state while having an alcohol concentration
32 of 0.08 or more within two hours after driving; and (iii) not refusing
33 to submit to a test of his or her breath or blood to determine alcohol
34 concentration upon request of a law enforcement officer who has
35 reasonable grounds to believe the person was driving or was in actual
36 physical control of a motor vehicle within this state while under the
37 influence of intoxicating liquor. The court may impose conditions of
38 probation that include nonrepetition, alcohol or drug treatment,
39 supervised probation, or other conditions that may be appropriate. The

1 sentence may be imposed in whole or in part upon violation of a
2 condition of probation during the suspension period.

3 (b) For each violation of mandatory conditions of probation under
4 (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall
5 order the convicted person to be confined for thirty days, which shall
6 not be suspended or deferred.

7 (c) For each incident involving a violation of a mandatory
8 condition of probation imposed under this subsection, the license,
9 permit, or privilege to drive of the person shall be suspended by the
10 court for thirty days or, if such license, permit, or privilege to
11 drive already is suspended, revoked, or denied at the time the finding
12 of probation violation is made, the suspension, revocation, or denial
13 then in effect shall be extended by thirty days. The court shall
14 notify the department of any suspension, revocation, or denial or any
15 extension of a suspension, revocation, or denial imposed under this
16 subsection.

17 (8)(a) A "prior offense" means any of the following:

18 (i) A conviction for a violation of RCW 46.61.502 or an equivalent
19 local ordinance;

20 (ii) A conviction for a violation of RCW 46.61.504 or an equivalent
21 local ordinance;

22 (iii) A conviction for a violation of RCW 46.61.520 committed while
23 under the influence of intoxicating liquor or any drug;

24 (iv) A conviction for a violation of RCW 46.61.522 committed while
25 under the influence of intoxicating liquor or any drug;

26 (v) A conviction for a violation of RCW 46.61.525(1) or an
27 equivalent local ordinance;

28 (vi) An out-of-state conviction for a violation that would have
29 been a violation of (a)(i), (ii), (iii), ~~((ϵ))~~ (iv), or (v) of this
30 subsection if committed in this state; or

31 ~~((ν))~~ (vii) A deferred prosecution under chapter 10.05 RCW
32 granted in a prosecution for a violation of RCW 46.61.502, 46.61.504,
33 46.61.525(1), or an equivalent local ordinance.

34 (b) "Within five years" means that the arrest for a prior offense
35 occurred within five years of the arrest for the current offense.

36 **Sec. 4.** RCW 46.20.021 and 1991 c 293 s 3 and 1991 c 73 s 1 are
37 each reenacted and amended to read as follows:

1 (1) No person, except as expressly exempted by this chapter, may
2 drive any motor vehicle upon a highway in this state unless the person
3 has a valid driver's license issued to Washington residents under the
4 provisions of this chapter. A violation of this subsection is a
5 misdemeanor and is a lesser included offense within the offenses
6 described in RCW 46.20.342(1) or 46.20.420. However, if a person in
7 violation of this section provides the citing officer with an expired
8 driver's license or other valid identifying documentation under RCW
9 46.20.035 at the time of the stop and is not in violation of RCW
10 46.20.342(1) or 46.20.420, the violation of this section is an
11 infraction and is subject to a penalty of two hundred fifty dollars.
12 If the person appears in person before the court or submits by mail
13 written proof that he or she obtained a valid license after being
14 cited, the court shall reduce the penalty to fifty dollars.

15 (2) For the purposes of obtaining a valid driver's license, a
16 resident is a person who manifests an intent to live or be located in
17 this state on more than a temporary or transient basis. Evidence of
18 residency includes but is not limited to:

19 (a) Becoming a registered voter in this state; or

20 (b) Receiving benefits under one of the Washington public
21 assistance programs; or

22 (c) Declaring that he or she is a resident for the purpose of
23 obtaining a state license or tuition fees at resident rates.

24 (3) The term "Washington public assistance programs" referred to in
25 subsection (2)(b) of this section includes only public assistance
26 programs for which more than fifty percent of the combined costs of
27 benefits and administration are paid from state funds. Programs which
28 are not included within the term "Washington public assistance
29 programs" pursuant to the above criteria include, but are not limited
30 to the food stamp program under the federal food stamp act of 1964;
31 programs under the child nutrition act of 1966, 42 U.S.C. Secs. 1771
32 through 1788; and aid to families with dependent children, 42 U.S.C.
33 Secs. 601 through 606.

34 (4) No person shall receive a driver's license unless and until he
35 or she surrenders to the department all valid driver's licenses in his
36 or her possession issued to him or her by any other jurisdiction. The
37 department shall establish a procedure to invalidate the surrendered
38 photograph license and return it to the person. The invalidated
39 license, along with the valid temporary Washington driver's license

1 provided for in RCW 46.20.055(3), shall be accepted as proper
2 identification. The department shall notify the issuing department
3 that the licensee is now licensed in a new jurisdiction. No person
4 shall be permitted to have more than one valid driver's license at any
5 time.

6 (5) New Washington residents are allowed thirty days from the date
7 they become residents as defined in this section to procure a valid
8 Washington driver's license.

9 (6) Any person licensed as a driver under this chapter may exercise
10 the privilege thereby granted upon all streets and highways in this
11 state and shall not be required to obtain any other license to exercise
12 such privilege by any county, municipal or local board, or body having
13 authority to adopt local police regulations.

14 **Sec. 5.** RCW 46.63.020 and 1995 1st sp.s. c 16 s 1, 1995 c 332 s
15 16, and 1995 c 256 s 25 are each reenacted and amended to read as
16 follows:

17 Failure to perform any act required or the performance of any act
18 prohibited by this title or an equivalent administrative regulation or
19 local law, ordinance, regulation, or resolution relating to traffic
20 including parking, standing, stopping, and pedestrian offenses, is
21 designated as a traffic infraction and may not be classified as a
22 criminal offense, except for an offense contained in the following
23 provisions of this title or a violation of an equivalent administrative
24 regulation or local law, ordinance, regulation, or resolution:

25 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
26 vehicle while under the influence of intoxicating liquor or a
27 controlled substance;

28 (2) RCW 46.09.130 relating to operation of nonhighway vehicles;

29 (3) RCW 46.10.090(2) relating to the operation of a snowmobile
30 while under the influence of intoxicating liquor or narcotics or
31 habit-forming drugs or in a manner endangering the person of another;

32 (4) RCW 46.10.130 relating to the operation of snowmobiles;

33 (5) Chapter 46.12 RCW relating to certificates of ownership and
34 registration and markings indicating that a vehicle has been destroyed
35 or declared a total loss;

36 (6) RCW 46.16.010 relating to initial registration of motor
37 vehicles;

1 (7) RCW 46.16.011 relating to permitting unauthorized persons to
2 drive;

3 (8) RCW 46.16.160 relating to vehicle trip permits;

4 (9) RCW 46.16.381 (6) or (9) relating to unauthorized use or
5 acquisition of a special placard or license plate for disabled persons'
6 parking;

7 (10) RCW 46.20.021 relating to driving without a valid driver's
8 license, unless the person cited for the violation provided the citing
9 officer with an expired driver's license or other valid identifying
10 documentation under RCW 46.20.035 at the time of the stop and was not
11 in violation of RCW 46.20.342(1) or 46.20.420, in which case the
12 violation is an infraction;

13 (11) RCW 46.20.336 relating to the unlawful possession and use of
14 a driver's license;

15 (12) RCW 46.20.342 relating to driving with a suspended or revoked
16 license or status;

17 (13) RCW 46.20.410 relating to the violation of restrictions of an
18 occupational driver's license;

19 (14) RCW 46.20.420 relating to the operation of a motor vehicle
20 with a suspended or revoked license;

21 (15) RCW 46.20.750 relating to assisting another person to start a
22 vehicle equipped with an ignition interlock device;

23 (16) RCW 46.25.170 relating to commercial driver's licenses;

24 (17) Chapter 46.29 RCW relating to financial responsibility;

25 (18) RCW 46.30.040 relating to providing false evidence of
26 financial responsibility;

27 (19) RCW 46.37.435 relating to wrongful installation of
28 sunscreening material;

29 (20) RCW 46.44.180 relating to operation of mobile home pilot
30 vehicles;

31 (21) RCW 46.48.175 relating to the transportation of dangerous
32 articles;

33 (22) RCW 46.52.010 relating to duty on striking an unattended car
34 or other property;

35 (23) RCW 46.52.020 relating to duty in case of injury to or death
36 of a person or damage to an attended vehicle;

37 (24) RCW 46.52.090 relating to reports by repairmen, storagemen,
38 and appraisers;

1 (25) RCW 46.52.100 relating to driving under the influence of
2 liquor or drugs;

3 (26) RCW 46.52.130 relating to confidentiality of the driving
4 record to be furnished to an insurance company, an employer, and an
5 alcohol/drug assessment or treatment agency;

6 (27) RCW 46.55.020 relating to engaging in the activities of a
7 registered tow truck operator without a registration certificate;

8 (28) RCW 46.55.035 relating to prohibited practices by tow truck
9 operators;

10 (29) RCW 46.61.015 relating to obedience to police officers,
11 flagmen, or fire fighters;

12 (30) RCW 46.61.020 relating to refusal to give information to or
13 cooperate with an officer;

14 (31) RCW 46.61.022 relating to failure to stop and give
15 identification to an officer;

16 (32) RCW 46.61.024 relating to attempting to elude pursuing police
17 vehicles;

18 (33) RCW 46.61.500 relating to reckless driving;

19 (34) RCW 46.61.502 and 46.61.504 relating to persons under the
20 influence of intoxicating liquor or drugs;

21 (35) RCW (~~46.61.5055 (section 5, chapter 332 (Substitute Senate~~
22 ~~Bill No. 5141), Laws of 1995~~)) 46.61.503 relating to a person under
23 age twenty-one driving a motor vehicle after consuming alcohol;

24 (36) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

25 (37) RCW 46.61.522 relating to vehicular assault;

26 (38) RCW 46.61.525(1) relating to first degree negligent driving;

27 (39) RCW 46.61.527(4) relating to reckless endangerment of roadway
28 workers;

29 (40) RCW 46.61.530 relating to racing of vehicles on highways;

30 (41) RCW 46.61.685 relating to leaving children in an unattended
31 vehicle with the motor running;

32 (42) RCW 46.64.010 relating to unlawful cancellation of or attempt
33 to cancel a traffic citation;

34 (43) RCW 46.64.048 relating to attempting, aiding, abetting,
35 coercing, and committing crimes;

36 (44) Chapter 46.65 RCW relating to habitual traffic offenders;

37 (45) Chapter 46.70 RCW relating to unfair motor vehicle business
38 practices, except where that chapter provides for the assessment of
39 monetary penalties of a civil nature;

1 (46) Chapter 46.72 RCW relating to the transportation of passengers
2 in for hire vehicles;

3 (47) Chapter 46.80 RCW relating to motor vehicle wreckers;

4 (48) Chapter 46.82 RCW relating to driver's training schools;

5 (49) RCW 46.87.260 relating to alteration or forgery of a cab card,
6 letter of authority, or other temporary authority issued under chapter
7 46.87 RCW;

8 (50) RCW 46.87.290 relating to operation of an unregistered or
9 unlicensed vehicle under chapter 46.87 RCW."

10 Correct the title as necessary.

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