

FIRST REGULAR SESSION

SENATE BILL NO. 761

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR HUDSON.

3043S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 301.218, 407.300, 415.415, 570.030, and 578.100, RSMo, and to enact in lieu thereof seven new sections relating to commercial activity, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 301.218, 407.300, 415.415, 570.030,
2 and 578.100, RSMo, are repealed and seven new sections enacted
3 in lieu thereof, to be known as sections 301.218, 407.300,
4 407.313, 415.415, 570.030, 570.031, and 578.100, to read as
5 follows:

301.218. 1. No person shall, except as an incident to
2 the sale, repair, rebuilding or servicing of vehicles by a
3 licensed franchised motor vehicle dealer, carry on or
4 conduct the following business unless licensed to do so by
5 the department of revenue under sections 301.217 to 301.229:

6 (1) Selling used parts of or used accessories for
7 vehicles as a used parts dealer, as defined in section
8 301.010;

9 (2) Salvaging, wrecking, or dismantling vehicles for
10 resale of the parts thereof as a salvage dealer **[or] and**
11 dismantler, as defined in section 301.010, **or otherwise**
12 **engaging in the buying or selling of catalytic converters or**
13 **the component parts of catalytic converters;**

14 (3) Rebuilding and repairing four or more wrecked or
15 dismantled vehicles in a calendar year as a rebuilder or
16 body shop, as defined in section 301.010;

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 (4) Processing scrapped vehicles or vehicle parts as a
18 scrap processor, as defined in section 301.010.

19 2. Sales at a salvage pool or a salvage disposal sale
20 shall be open only to and made to persons actually engaged
21 in and holding a current license under sections 301.217 to
22 301.221 and 301.550 to 301.573 or any person from another
23 state or jurisdiction who is legally allowed in his or her
24 state of domicile to purchase for resale, rebuild,
25 dismantle, crush, or scrap either motor vehicles or salvage
26 vehicles, and to persons who reside in a foreign country
27 that are purchasing salvage vehicles for export outside of
28 the United States. Operators of salvage pools or salvage
29 disposal sales shall keep a record, for three years, of
30 sales of salvage vehicles with the purchasers' name and
31 address, and the year, make, and vehicle identification
32 number for each vehicle. These records shall be open for
33 inspection as provided in section 301.225. Such records
34 shall be submitted to the department on a quarterly basis.

35 3. The operator of a salvage pool or salvage disposal
36 sale, or subsequent purchaser, who sells a nonrepairable
37 motor vehicle or a salvage motor vehicle to a person who is
38 not a resident of the United States at a salvage pool or a
39 salvage disposal sale shall:

40 (1) Stamp on the face of the title so as not to
41 obscure any name, date, or mileage statement on the title
42 the words "FOR EXPORT ONLY" in capital letters that are
43 black; and

44 (2) Stamp in each unused reassignment space on the
45 back of the title the words "FOR EXPORT ONLY" and print the
46 number of the dealer's salvage vehicle license, name of the
47 salvage pool, or the name of the governmental entity, as
48 applicable.

49 The words "FOR EXPORT ONLY" required under subdivisions (1)
50 and (2) of this subsection shall be at least two inches wide
51 and clearly legible. Copies of the stamped titles shall be
52 forwarded to the department.

53 4. The director of revenue shall issue a separate
54 license for each kind of business described in subsection 1
55 of this section, to be entitled and designated as either
56 "used parts dealer"; "salvage dealer or dismantler";
57 "rebuilder or body shop"; or "scrap processor" license.

407.300. 1. Every purchaser or collector of, or
2 dealer in, junk, scrap metal, or any secondhand property who
3 obtains items for resale or profit shall keep a register
4 containing a written or electronic record for each purchase
5 or [trade in which] **trade-in of** each type of material
6 subject to the provisions of this section [is] obtained for
7 value. There shall be a separate record for each
8 transaction involving any:

- 9 (1) Copper, brass, or bronze;
- 10 (2) Aluminum wire, cable, pipe, tubing, bar, ingot,
11 rod, fitting, or fastener;
- 12 (3) Material containing copper or aluminum that is
13 knowingly used for farming purposes as farming is defined in
14 section 350.010; whatever may be the condition or length of
15 such metal;
- 16 (4) Detached catalytic converter; or
- 17 (5) Motor vehicle, heavy equipment, or tractor battery.

18 2. The record required by this section shall contain
19 the following data:

- 20 (1) A copy of the driver's license, or **other** photo
21 identification issued by the state or by the United States
22 government or agency thereof, of the person from whom the
23 material is obtained;

(2) The current address, gender, birth date, and a color photograph of the person from whom the material is obtained if not included or are different from the identification required in subdivision (1) of this subsection;

(3) The date, time, and place of the transaction;

(4) The license plate number of the vehicle used by the seller during the transaction; **[and]**

(5) A full description of the material, including the weight and purchase price; **and**

(6) If the purchase or trade-in includes a detached catalytic converter:

(a) Either proof the seller is a bona fide automobile repair shop or an affidavit that attests the detached catalytic converter was acquired lawfully; and

(b) The make, model, year, and vehicle identification number of the vehicle from which the detached catalytic converter originated.

3. (1) The records required under this section shall be maintained **in order of transaction date** for a minimum of **[thirty-six months] four years** from when such material is obtained and shall be available for inspection by any law enforcement officer.

(2) The department of revenue shall create and make available on the department website a standardized form for recording the records required under this section.

(3) At least monthly, a purchaser or collector of, or dealer in, junk, scrap metal, or any secondhand property shall submit to the department of revenue the records required under this section on the department's form, with copies of the purchaser's, collector's, or dealer's other records, if any, attached. The submission may be in either

56 **a paper or electronic format. The department of revenue may**
57 **prescribe the format of forms submitted electronically.**

58 4. No transaction that includes a detached catalytic
59 converter shall occur at any location other than the fixed
60 place of business of the purchaser or collector of, or
61 dealer in, junk, scrap metal, or any secondhand property.
62 No detached catalytic converter shall be altered, modified,
63 disassembled, or destroyed until it has been in the
64 purchaser's, collector's, or dealer's possession for five
65 business days.

66 5. Anyone [licensed under section 301.218 who
67 knowingly purchases a stolen detached catalytic converter
68 shall be subject to the following penalties:

69 (1) For a first violation, a fine in the amount of
70 five thousand dollars;

71 (2) For a second violation, a fine in the amount of
72 ten thousand dollars; and

73 (3) For a third violation, revocation of the]
74 **convicted of violating this section shall be guilty of a**
75 **class E felony and shall be subject to having any** license
76 for a business described under section 301.218 **revoked.**

77 6. This section shall not apply to [either of] the
78 following transactions:

79 (1) Any transaction for which the seller has an
80 existing business relationship with the scrap metal dealer
81 and is known to the scrap metal dealer making the purchase
82 to be an established business or political subdivision that
83 operates a business with a fixed location that can be
84 reasonably expected to generate regulated scrap metal and
85 can be reasonably identified as such a business, and for
86 which the seller is paid by check or by electronic funds
87 transfer, or the seller produces an acceptable

88 identification, which shall be a copy of the driver's
89 license or photo identification issued by the state or by
90 the United States government or agency thereof, and a copy
91 is retained by the purchaser; or

92 (2) Any transaction for which the type of metal
93 subject to subsection 1 of this section is a minor part of a
94 larger item, except **[for] that minor parts of** heating and
95 cooling equipment or **of** equipment used in the generation and
96 transmission of electrical power or telecommunications,
97 **including any catalytic converter of such equipment, shall**
98 **remain subject to this section.**

99 7. As used in this section, "catalytic converter"
100 means any device designed to be used as an emissions control
101 device when connected to an internal combustion engine,
102 including the constituent parts of such a device, whether
103 assembled into a complete unit or disassembled into separate
104 constituent parts or components.

407.313. 1. It is unlawful for a person to solicit
2 payment of moneys by any writing that reasonably could be
3 considered a bill, invoice, or statement of account due but
4 is in fact a solicitation for an order, unless the
5 solicitation meets the requirements of subsections 2 to 6 of
6 this section.

7 2. A solicitation described in subsection 1 of this
8 section shall bear on its face either the disclaimer
9 prescribed by subparagraph (A) of paragraph (2) of
10 subsection (d) of Section 3001 of Title 39 of the United
11 States Code or the following notice:

12 THIS IS NOT A BILL. THIS IS A SOLICITATION. YOU
13 ARE UNDER NO OBLIGATION TO PAY THE AMOUNT STATED
14 ABOVE UNLESS YOU ACCEPT THIS OFFER.

15 The statutory disclaimer or the alternative notice required
16 under this subsection shall be displayed in conspicuous,
17 boldface capital letters of a color prominently contrasting
18 with the background against which they appear, including all
19 other print on the face of the solicitation, and shall be at
20 least as large, bold, and conspicuous as any other print on
21 the face of the solicitation but no smaller than thirty-
22 point font.

23 3. The disclaimer or notice required under subsection
24 2 of this section shall be displayed conspicuously apart
25 from other print on the page and immediately below each
26 portion of the solicitation that reasonably could be
27 construed to specify a monetary amount due and payable by
28 the recipient. The disclaimer or notice shall not be
29 preceded, followed, or surrounded by words, symbols, or
30 other matter that reduces its conspicuousness or that
31 introduces, modifies, qualifies, or explains the required
32 text, such as legal notice required by law.

33 4. The disclaimer or notice shall not, by folding or
34 any other device, be rendered unintelligible or less
35 prominent than any other information on the face of the
36 solicitation.

37 5. If a solicitation consists of more than one page or
38 if any page is designed to be separated into portions, such
39 as by tearing along a perforated line, the disclaimer or
40 notice shall be displayed in its entirety on the face of
41 each page or portion of a page that reasonably might be
42 considered a bill, invoice, or statement of account due.

43 6. For the purposes of this section, the term "color"
44 includes black and the term "color prominently contrasting"
45 excludes any color, or any intensity of an otherwise
46 included color, that does not permit legible reproduction by

47 ordinary office photocopying equipment used under normal
48 operating conditions and that is not at least as vivid as
49 any other color on the face of the solicitation.

50 7. Any person damaged by noncompliance with this
51 section is entitled to damages in an amount equal to three
52 times the sum solicited.

415.415. 1. The operator of a self-service storage
2 facility has a lien on all personal property stored within
3 each leased space for rent, labor, or other charges, and for
4 expenses reasonably incurred in sale of such personal
5 property, as provided in sections 415.400 to 415.425. The
6 lien established by this subsection shall have priority over
7 all other liens except those liens that have been perfected
8 and recorded on personal property. The rental agreement
9 shall contain a statement, in bold type, advising the
10 occupant of the existence of such lien and that property
11 stored in the leased space may be sold to satisfy such lien
12 if the occupant is in default, and that any proceeds from
13 the sale of the property which remain after satisfaction of
14 the lien will be paid to the state treasurer if unclaimed by
15 the occupant within one year after the sale of the property.

16 2. If the occupant is in default for a period of more
17 than forty-five days, the operator may enforce the lien
18 granted in subsection 1 of this section and sell the
19 property stored in the leased space for cash. Sale of the
20 property stored on the premises may be done at a public or
21 private sale, may be done as a unit or in parcels, or may be
22 by way of one or more contracts, and may be at any time or
23 place and on any terms as long as the sale is done in a
24 commercially reasonable manner in accordance with the
25 provisions of section 400.9-627. The operator may otherwise
26 dispose of any property which has no commercial value.

27 3. The proceeds of any sale made under this subsection
28 shall be applied to satisfy the lien, with any surplus being
29 held for delivery on demand to the occupant or any other
30 lienholders which the operator knows of or which are
31 contained in the statement filed by the occupant pursuant to
32 subsection 3 of section 415.410 for a period of one year
33 after receipt of proceeds of the sale and satisfaction of
34 the lien. No proceeds shall be paid to an occupant until
35 such occupant files a sworn affidavit with the operator
36 stating that there are no other valid liens outstanding
37 against the property sold and that he or she, the occupant,
38 shall indemnify the operator for any damages incurred or
39 moneys paid by the operator due to claims arising from other
40 lienholders of the property sold. After the one-year period
41 set in this subsection, any proceeds remaining after
42 satisfaction of the lien shall be considered abandoned
43 property to be reported and paid to the state treasurer in
44 accordance with laws pertaining to the disposition of
45 unclaimed property.

46 4. Before conducting a sale under subsection 2 of this
47 section, the operator shall:

48 (1) At least forty-five days before any disposition of
49 property under this section, which shall run concurrently
50 with subsection 2 of this section, notify the occupant and
51 each lienholder which is contained in any statement filed by
52 the occupant pursuant to subsection 3 of section 415.410 of
53 the default by first-class mail or electronic mail at the
54 occupant's or lienholder's last known address, and shall
55 notify any third-party owner identified by the occupant
56 pursuant to subsection 3 of section 415.410;

57 (2) No sooner than ten days after mailing the notice
58 required in subdivision (1) of this subsection, mail a

59 second notice of default, by verified mail or electronic
60 mail, to the occupant at the occupant's or lienholder's last
61 known address, which notice shall include:

62 (a) A statement that the contents of the occupant's
63 leased space are subject to the operator's lien;

64 (b) A statement of the operator's claim, indicating
65 the charges due on the date of the notice, the amount of any
66 additional charges which shall become due before the date of
67 release for sale and the date those additional charges shall
68 become due;

69 (c) A demand for payment of the charges due within a
70 specified time, not less than ten days after the date on
71 which the second notice was mailed;

72 (d) A statement that unless the claim is paid within
73 the time stated, the contents of the occupant's space will
74 be sold after a specified time; and

75 (e) The name, street address and telephone number of
76 the operator, or a designated agent whom the occupant may
77 contact, to respond to the notice;

78 (3) At least seven days before the sale, advertise the
79 time, place, and terms of the sale in **the classified section**
80 **of** a newspaper of general circulation in the jurisdiction
81 where the sale is to be held **or in any other commercially**
82 **reasonable manner.** [Such] **The manner of** advertisement shall
83 be [in the classified section of the newspaper and shall
84 state that the items will be released for sale] **deemed**
85 **commercially reasonable if at least three independent**
86 **bidders attend or view the sale at the time and place**
87 **advertised.**

88 5. If the property is a vehicle, watercraft, or
89 trailer and rent and other charges remain unpaid for sixty
90 days, the owner may treat the vehicle, watercraft, or

trailer as an abandoned vehicle and have the vehicle, watercraft, or trailer towed from the self-service storage facility. When the vehicle, watercraft, or trailer is towed from the self-service storage facility, the owner shall not be liable for the vehicle, watercraft, or trailer for any damages to the motor vehicle, watercraft, or trailer once the tower takes possession of the property.

6. At any time before a sale under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

570.030. 1. A person commits the offense of stealing if he or she:

(1) Appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion;

(2) Attempts to appropriate anhydrous ammonia or liquid nitrogen of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion; [or]

(3) For the purpose of depriving the owner of a lawful interest therein, receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen; or

(4) For the purpose of depriving the owner of a lawful interest therein, receives, retains, or disposes of a catalytic converter, as defined in subsection 7 of section 407.300, and knows that it has been stolen, believes that it has been stolen, or reasonably should suspect that it has been stolen.

2. The offense of stealing is a class A felony if the property appropriated consists of any of the following containing any amount of anhydrous ammonia: a tank truck,

23 tank trailer, rail tank car, bulk storage tank, field nurse,
24 field tank or field applicator.

25 3. The offense of stealing is a class B felony if:

26 (1) The property appropriated or attempted to be
27 appropriated consists of any amount of anhydrous ammonia or
28 liquid nitrogen;

29 (2) The property consists of any animal considered
30 livestock as the term livestock is defined in section
31 144.010, or any captive wildlife held under permit issued by
32 the conservation commission, and the value of the animal or
33 animals appropriated exceeds three thousand dollars and that
34 person has previously been found guilty of appropriating any
35 animal considered livestock or captive wildlife held under
36 permit issued by the conservation commission.

37 Notwithstanding any provision of law to the contrary, such
38 person shall serve a minimum prison term of not less than
39 eighty percent of his or her sentence before he or she is
40 eligible for probation, parole, conditional release, or
41 other early release by the department of corrections;

42 (3) A person appropriates property consisting of a
43 motor vehicle, watercraft, or aircraft, and that person has
44 previously been found guilty of two stealing-related
45 offenses committed on two separate occasions where such
46 offenses occurred within ten years of the date of occurrence
47 of the present offense;

48 (4) The property appropriated or attempted to be
49 appropriated consists of any animal considered livestock as
50 the term is defined in section 144.010 if the value of the
51 livestock exceeds ten thousand dollars; or

52 (5) The property appropriated or attempted to be
53 appropriated is owned by or in the custody of a financial
54 institution and the property is taken or attempted to be

55 taken physically from an individual person to deprive the
56 owner or custodian of the property.

57 4. The offense of stealing is a class C felony if the
58 value of the property or services appropriated is twenty-
59 five thousand dollars or more or the property is a teller
60 machine or the contents of a teller machine, including cash,
61 regardless of the value or amount.

62 5. The offense of stealing is a class D felony if:

63 (1) The value of the property or services appropriated
64 is seven hundred fifty dollars or more;

65 (2) The offender physically takes the property
66 appropriated from the person of the victim; or

67 (3) The property appropriated consists of:

68 (a) Any motor vehicle, watercraft or aircraft;

69 (b) Any will or unrecorded deed affecting real
70 property;

71 (c) Any credit device, debit device or letter of
72 credit;

73 (d) Any firearms;

74 (e) Any explosive weapon as defined in section 571.010;

75 (f) Any United States national flag designed, intended
76 and used for display on buildings or stationary flagstaffs
77 in the open;

78 (g) Any original copy of an act, bill or resolution,
79 introduced or acted upon by the legislature of the state of
80 Missouri;

81 (h) Any pleading, notice, judgment or any other record
82 or entry of any court of this state, any other state or of
83 the United States;

84 (i) Any book of registration or list of voters
85 required by chapter 115;

(j) Any animal considered livestock as that term is defined in section 144.010;

(k) Any live fish raised for commercial sale with a value of seventy-five dollars or more;

(l) Any captive wildlife held under permit issued by the conservation commission;

(m) Any controlled substance as defined by section 195.010;

(n) Ammonium nitrate;

(o) Any wire, electrical transformer, or metallic wire associated with transmitting telecommunications, video, internet, or voice over internet protocol service, or any other device or pipe that is associated with conducting electricity or transporting natural gas or other combustible fuels; or

(p) Any material appropriated with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues.

6. The offense of stealing is a class E felony if:

(1) The property appropriated is an animal;

(2) The property is a catalytic converter, **as defined in subsection 7 of section 407.300;**

(3) A person has previously been found guilty of three stealing-related offenses committed on three separate occasions where such offenses occurred within ten years of the date of occurrence of the present offense; or

(4) The property appropriated is a letter, postal card, package, bag, or other sealed article that was delivered by a common carrier or delivery service and not yet received by the addressee or that had been left to be

117 collected for shipment by a common carrier or delivery
118 service.

119 7. The offense of stealing is a class D misdemeanor if
120 the property is not of a type listed in subsection 2, 3, 5,
121 or 6 of this section, the property appropriated has a value
122 of less than one hundred fifty dollars, and the person has
123 no previous findings of guilt for a stealing-related offense.

124 8. The offense of stealing is a class A misdemeanor if
125 no other penalty is specified in this section.

126 9. If a violation of this section is subject to
127 enhanced punishment based on prior findings of guilt, such
128 findings of guilt shall be pleaded and proven in the same
129 manner as required by section 558.021.

130 10. The appropriation of any property or services of a
131 type listed in subsection 2, 3, 5, or 6 of this section or
132 of a value of seven hundred fifty dollars or more may be
133 considered a separate felony and may be charged in separate
134 counts.

135 11. The value of property or services appropriated
136 pursuant to one scheme or course of conduct, whether from
137 the same or several owners and whether at the same or
138 different times, constitutes a single criminal episode and
139 may be aggregated in determining the grade of the offense,
140 except as set forth in subsection 10 of this section.

570.031. 1. A person commits the offense of unlawful
2 **possession of a detached catalytic converter if the person**
3 **possesses a catalytic converter that is detached from a**
4 **motor vehicle with the intent to sell the catalytic**
5 **converter unless:**

6 **(1) The detached catalytic converter is possessed in**
7 **the course of a legitimate business purpose;**

8 (2) The detached catalytic converter is a component or
9 constituent part of an item or equipment owned by the
10 person; or

11 (3) The possession of the detached catalytic converter
12 is for some other lawful purpose.

13 2. The offense of unlawful possession of a detached
14 catalytic converter is a class E felony.

578.100. 1. Whoever engages on Sunday in the business
2 of selling or sells or offers for sale on such day, at
3 retail, motor vehicles; clothing and wearing apparel;
4 clothing accessories; furniture; housewares; **or** home,
5 business, or office furnishings[; household, business or
6 office appliances; hardware; tools; paints; building and
7 lumber supply materials; jewelry; silverware; watches;
8 clocks; luggage; musical instruments and recordings or toys;
9 excluding novelties and souvenirs;] is guilty of a
10 misdemeanor and shall upon conviction for the first offense
11 be sentenced to pay a fine of not exceeding one hundred
12 dollars, and for the second or any subsequent offense be
13 sentenced to pay a fine of not exceeding two hundred dollars
14 or undergo confinement not exceeding thirty days in the
15 county jail in default thereof.

16 2. Each separate sale or offer to sell shall
17 constitute a separate offense.

18 3. Information charging violations of this section
19 shall be brought within five days after the commission of
20 the alleged offense and not thereafter.

21 4. The operation of any place of business where any
22 [goods, wares or merchandise] **motor vehicles** are sold or
23 exposed for sale in violation of this section is hereby
24 declared to be a public and common nuisance.

25 5. Any county of this state containing all or part of
26 a city with a population of over four hundred thousand may
27 exempt itself from the application of this section by
28 submission of the proposition to the voters of the county at
29 a general election or a special election called for that
30 purpose, and the proposition receiving a majority of the
31 votes cast therein. The proposal to exempt the county from
32 the provisions of this section shall be submitted to the
33 voters of the county upon a majority vote of the governing
34 body of the county or when a petition requesting the
35 submission of the proposal to the voters and signed by a
36 number of qualified voters residing in the county equal to
37 eight percent of the votes cast in the county in the next
38 preceding gubernatorial election is filed with the governing
39 body of the county. The ballot of submission shall contain,
40 but not be limited to, the following language:

41 ☐ FOR the exemption of _____ County from the
42 Sunday sales law

43 ☐ AGAINST the exemption of _____ County from the
44 Sunday sales law

45 If a majority of the votes cast on the proposal by the
46 qualified voters voting thereon in the county are in favor
47 of the proposal, then the provisions of this section shall
48 no longer apply within that county. If a majority of the
49 votes cast on the proposal by the qualified voters voting
50 thereon in the county are opposed to the proposal, then the
51 provisions of this section shall continue to apply and be
52 enforced within that county. The exemption of any county
53 from the provisions of this section shall not become
54 effective in that county until the results of the vote

55 exempting the county have been filed with the secretary of
56 state and with the revisor of statutes and have been
57 certified as received by those officers. The revisor of
58 statutes shall note which counties are exempt from the
59 provisions of this section in the Missouri revised statutes.

60 6. In addition to any other method of exemption
61 provided by law, the governing body of any county of this
62 state may exempt itself from the application of this section
63 by order or ordinance of the governing body of the county
64 after public hearing upon the matter. Such public hearing
65 shall be preceded by public notice which shall, at a
66 minimum, be published at least three different times in the
67 newspaper with the greatest circulation in the county. Upon
68 such order or ordinance becoming effective, such county
69 shall be exempt from the provisions of this section and no
70 election or other method of exemption shall be required.
71 The exemption of any county from the provisions of this
72 section by order or ordinance shall not become effective in
73 that county until the order or ordinance has been filed with
74 the secretary of state and the revisor of statutes and has
75 been certified as received by those officers. The revisor
76 of statutes shall note which counties are exempt from the
77 provisions of this section in the Missouri revised statutes.

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