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House Bill 3038

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State of Washington

60th Legislature

2008 Regular Session

By Representative Ahern

1 AN ACT Relating to restricting uninsured drivers; amending RCW  
2 46.30.010, 46.30.020, and 46.55.120; reenacting and amending RCW  
3 46.55.113; adding new sections to chapter 46.30 RCW; and prescribing  
4 penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 46.30.010 and 1989 c 353 s 1 are each amended to read  
7 as follows:

8 It is a privilege granted by the state to operate a motor vehicle  
9 upon the highways of this state. The legislature recognizes the threat  
10 that uninsured drivers are to the people of the state. In order to  
11 alleviate the threat posed by uninsured drivers it is the intent of the  
12 legislature to require that all persons driving vehicles registered in  
13 this state satisfy the financial responsibility requirements of this  
14 chapter and to provide a process for restricting uninsured drivers from  
15 operating vehicles. By enactment of this chapter it is not the intent  
16 of the legislature to modify, amend, or invalidate existing insurance  
17 contract terms, conditions, limitations, or exclusions or to preclude  
18 insurance companies from using similar terms, conditions, limitations,  
19 or exclusions in future contracts.

1       **Sec. 2.** RCW 46.30.020 and 2003 c 221 s 1 are each amended to read  
2 as follows:

3       (1)(a) No person may operate a motor vehicle subject to  
4 registration under chapter 46.16 RCW in this state unless the person is  
5 insured under a motor vehicle liability policy with liability limits of  
6 at least the amounts provided in RCW 46.29.090, is self-insured as  
7 provided in RCW 46.29.630, is covered by a certificate of deposit in  
8 conformance with RCW 46.29.550, or is covered by a liability bond of at  
9 least the amounts provided in RCW 46.29.090. Written proof of  
10 financial responsibility for motor vehicle operation must be provided  
11 on the request of a law enforcement officer in the format specified  
12 under RCW 46.30.030.

13       **(b)(i) If a person cancels or is terminated from his or her motor**  
14 **vehicle liability policy, he or she must notify the department at least**  
15 **ten days prior to the cancellation or within ten days after the**  
16 **termination unless the person renews or replaces the motor vehicle**  
17 **liability policy within ten days of canceling or being terminated.**

18       **(ii) If an insurance carrier has terminated a person's motor**  
19 **vehicle liability policy, the insurance carrier must notify the**  
20 **department within ten days of the termination unless the insurance**  
21 **carrier has reason to believe the person has replaced the motor vehicle**  
22 **liability policy within ten days of the termination.**

23       **(iii) If the person has notified the department of a cancellation**  
24 **or termination of the person's motor vehicle policy, the person must**  
25 **provide proof of motor vehicle insurance to the department once the**  
26 **person renews or replaces his or her motor vehicle liability policy.**

27       **(c)** A person who drives a motor vehicle that is required to be  
28 registered in another state that requires drivers and owners of  
29 vehicles in that state to maintain insurance or financial  
30 responsibility shall, when requested by a law enforcement officer,  
31 provide evidence of financial responsibility or insurance as is  
32 required by the laws of the state in which the vehicle is registered.

33       ~~((e))~~ **(d)** When asked to do so by a law enforcement officer,  
34 failure to display an insurance identification card as specified under  
35 RCW 46.30.030 creates a presumption that the person does not have motor  
36 vehicle insurance.

37       ~~((d))~~ **(e)** Failure to provide proof of motor vehicle insurance is

1 a traffic infraction and is subject to penalties as set by the supreme  
2 court under RCW 46.63.110 or community restitution.

3 (f) When a law enforcement officer has reasonable cause to believe  
4 that a driver does not have motor vehicle insurance, the officer may,  
5 under RCW 46.55.113, immobilize the vehicle. "Immobilize the vehicle"  
6 means the impounding of a vehicle or immobilizing of a vehicle by the  
7 use of any device, wheel clamp, object, car boot, or other mechanism,  
8 whether attached to the vehicle or not, that prevents a person from  
9 freely moving the vehicle.

10 (2)(a) If a person cited for a violation of subsection (1) of this  
11 section appears in person before the court or a violations bureau and  
12 provides written evidence that at the time the person was cited, he or  
13 she was in compliance with the financial responsibility requirements of  
14 subsection (1) of this section, the citation shall be dismissed and the  
15 court or violations bureau may assess court administrative costs of  
16 twenty-five dollars at the time of dismissal. In lieu of personal  
17 appearance, a person cited for a violation of subsection (1) of this  
18 section may, before the date scheduled for the person's appearance  
19 before the court or violations bureau, submit by mail to the court or  
20 violations bureau written evidence that at the time the person was  
21 cited, he or she was in compliance with the financial responsibility  
22 requirements of subsection (1) of this section, in which case the  
23 citation shall be dismissed without cost, except that the court or  
24 violations bureau may assess court administrative costs of twenty-five  
25 dollars at the time of dismissal.

26 (b) If the vehicle the person was driving has been immobilized  
27 under subsection (1)(f) of this section, the court shall, subject to  
28 RCW 46.55.120, assess reasonable costs for the immobilization of the  
29 vehicle and the release of the vehicle, whether or not the person,  
30 subsequent to the impoundment, produces written evidence that at the  
31 time the person was cited or at the time of immobilization, he or she  
32 was in compliance with this section.

33 (3) The provisions of this chapter shall not govern:

34 (a) The operation of a motor vehicle registered under RCW  
35 46.16.305(1), governed by RCW 46.16.020, or registered with the  
36 Washington utilities and transportation commission as common or  
37 contract carriers; or

1 (b) The operation of a motorcycle as defined in RCW 46.04.330, a  
2 motor-driven cycle as defined in RCW 46.04.332, or a moped as defined  
3 in RCW 46.04.304.

4 (4) RCW 46.29.490 shall not be deemed to govern all motor vehicle  
5 liability policies required by this chapter but only those certified  
6 for the purposes stated in chapter 46.29 RCW.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.30 RCW  
8 to read as follows:

9 (1) When the department is notified that a person's motor vehicle  
10 liability policy has been canceled or terminated and the person is  
11 required to have a motor vehicle liability policy, the department shall  
12 suspend all driving privileges of the person. A suspension under this  
13 section takes effect pursuant to RCW 46.20.245 and remains in effect  
14 until the person provides the department with proof of motor vehicle  
15 insurance or proof of financial responsibility. A suspension under  
16 this section does not take effect if, prior to the effective date of  
17 the suspension, the department receives proof that the person has motor  
18 vehicle insurance or proof of financial responsibility.

19 (2) The department may adopt rules to implement this section.

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 46.30 RCW  
21 to read as follows:

22 In addition to any penalty assessed under RCW 46.63.110, a person  
23 who receives a traffic infraction for a violation of RCW 46.30.020(1)  
24 shall be assessed an additional one thousand dollars if the person has  
25 a previous traffic infraction for a violation of RCW 46.30.020(1).  
26 Revenue from this assessment shall be forwarded to the state treasurer  
27 for deposit into the general fund.

28 **Sec. 5.** RCW 46.55.113 and 2007 c 242 s 1 and 2007 c 86 s 1 are  
29 each reenacted and amended to read as follows:

30 (1) Whenever the driver of a vehicle is arrested for a violation of  
31 RCW 46.61.502, 46.61.504, 46.20.342, or 46.20.345, or whenever the  
32 driver of a vehicle is cited for a violation of RCW 46.30.020, the  
33 vehicle is subject to summary impoundment, pursuant to the terms and  
34 conditions of an applicable local ordinance or state agency rule at the  
35 direction of a law enforcement officer.

1 (2) In addition, a police officer may take custody of a vehicle, at  
2 his or her discretion, and provide for its prompt removal to a place of  
3 safety under any of the following circumstances:

4 (a) Whenever a police officer finds a vehicle standing upon the  
5 roadway in violation of any of the provisions of RCW 46.61.560, the  
6 officer may provide for the removal of the vehicle or require the  
7 driver or other person in charge of the vehicle to move the vehicle to  
8 a position off the roadway;

9 (b) Whenever a police officer finds a vehicle unattended upon a  
10 highway where the vehicle constitutes an obstruction to traffic or  
11 jeopardizes public safety;

12 (c) Whenever a police officer finds an unattended vehicle at the  
13 scene of an accident or when the driver of a vehicle involved in an  
14 accident is physically or mentally incapable of deciding upon steps to  
15 be taken to protect his or her property;

16 (d) Whenever the driver of a vehicle is arrested and taken into  
17 custody by a police officer;

18 (e) Whenever a police officer discovers a vehicle that the officer  
19 determines to be a stolen vehicle;

20 (f) Whenever a vehicle without a special license plate, placard, or  
21 decal indicating that the vehicle is being used to transport a person  
22 with disabilities under RCW 46.16.381 is parked in a stall or space  
23 clearly and conspicuously marked under RCW 46.61.581 which space is  
24 provided on private property without charge or on public property;

25 (g) Upon determining that a person is operating a motor vehicle  
26 without a valid and, if required, a specially endorsed driver's license  
27 (~~(or)~~) with a license that has been expired for ninety days or more,  
28 or without motor vehicle insurance as required under RCW 46.30.020;

29 (h) When a vehicle is illegally occupying a truck, commercial  
30 loading zone, restricted parking zone, bus, loading, hooded-meter,  
31 taxi, street construction or maintenance, or other similar zone where,  
32 by order of the director of transportation or chiefs of police or fire  
33 or their designees, parking is limited to designated classes of  
34 vehicles or is prohibited during certain hours, on designated days or  
35 at all times, if the zone has been established with signage for at  
36 least twenty-four hours and where the vehicle is interfering with the  
37 proper and intended use of the zone. Signage must give notice to the  
38 public that a vehicle will be removed if illegally parked in the zone;

1 (i) When a vehicle with an expired registration of more than  
2 forty-five days is parked on a public street.

3 (3) When an arrest is made for a violation of RCW 46.20.342, if the  
4 vehicle is a commercial vehicle and the driver of the vehicle is not  
5 the owner of the vehicle, before the summary impoundment directed under  
6 subsection (1) of this section, the police officer shall attempt in a  
7 reasonable and timely manner to contact the owner of the vehicle and  
8 may release the vehicle to the owner if the owner is reasonably  
9 available, as long as the owner was not in the vehicle at the time of  
10 the stop and arrest and the owner has not received a prior release  
11 under this subsection or RCW 46.55.120(1)(a)(ii).

12 (4) Nothing in this section may derogate from the powers of police  
13 officers under the common law. For the purposes of this section, a  
14 place of safety may include the business location of a registered tow  
15 truck operator.

16 **Sec. 6.** RCW 46.55.120 and 2004 c 250 s 1 are each amended to read  
17 as follows:

18 (1) Vehicles or other items of personal property registered or  
19 titled with the department that are impounded by registered tow truck  
20 operators pursuant to RCW 46.55.080, 46.55.085, 46.55.113, or 9A.88.140  
21 may be redeemed only under the following circumstances:

22 (a) Only the legal owner, the registered owner, a person authorized  
23 in writing by the registered owner or the vehicle's insurer, a person  
24 who is determined and verified by the operator to have the permission  
25 of the registered owner of the vehicle or other item of personal  
26 property registered or titled with the department, or one who has  
27 purchased a vehicle or item of personal property registered or titled  
28 with the department from the registered owner who produces proof of  
29 ownership or written authorization and signs a receipt therefor, may  
30 redeem an impounded vehicle or items of personal property registered or  
31 titled with the department. In addition, a vehicle impounded because  
32 the operator is in violation of RCW 46.20.342(1)(c) or 46.30.020 shall  
33 not be released until a person eligible to redeem it under this  
34 subsection (1)(a) satisfies the requirements of (e) of this subsection,  
35 including paying all towing, removal, and storage fees, notwithstanding  
36 the fact that the hold was ordered by a government agency. If the  
37 department's records show that the operator has been convicted of a

1 violation of RCW 46.20.342 or a similar local ordinance within the past  
2 five years, the vehicle may be held for up to thirty days at the  
3 written direction of the agency ordering the vehicle impounded. A  
4 vehicle impounded because the operator is arrested for a violation of  
5 RCW 46.20.342 may be released only pursuant to a written order from the  
6 agency that ordered the vehicle impounded or from the court having  
7 jurisdiction. An agency may issue a written order to release pursuant  
8 to a provision of an applicable state agency rule or local ordinance  
9 authorizing release on the basis of the following:

10 (i) Economic or personal hardship to the spouse of the operator,  
11 taking into consideration public safety factors, including the  
12 operator's criminal history and driving record; or

13 (ii) The owner of the vehicle was not the driver, the owner did not  
14 know that the driver's license was suspended or revoked, or that the  
15 owner had motor vehicle insurance, and the owner has not received a  
16 prior release under this subsection or RCW 46.55.113(3).

17 In order to avoid discriminatory application, other than for the  
18 reasons for release set forth in (a)(i) and (ii) of this subsection, an  
19 agency shall, under a provision of an applicable state agency rule or  
20 local ordinance, deny release in all other circumstances without  
21 discretion.

22 If a vehicle is impounded because the operator is in violation of  
23 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty  
24 days at the written direction of the agency ordering the vehicle  
25 impounded. However, if the department's records show that the operator  
26 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a  
27 similar local ordinance within the past five years, the vehicle may be  
28 held at the written direction of the agency ordering the vehicle  
29 impounded for up to sixty days, and for up to ninety days if the  
30 operator has two or more such prior offenses. If a vehicle is  
31 impounded because the operator is arrested for a violation of RCW  
32 46.20.342, the vehicle may not be released until a person eligible to  
33 redeem it under this subsection (1)(a) satisfies the requirements of  
34 (e) of this subsection, including paying all towing, removal, and  
35 storage fees, notwithstanding the fact that the hold was ordered by a  
36 government agency.

37 (b) If the vehicle is directed to be held for a suspended license  
38 impound, a person who desires to redeem the vehicle at the end of the

1 period of impound shall within five days of the impound at the request  
2 of the tow truck operator pay a security deposit to the tow truck  
3 operator of not more than one-half of the applicable impound storage  
4 rate for each day of the proposed suspended license impound. The tow  
5 truck operator shall credit this amount against the final bill for  
6 removal, towing, and storage upon redemption. The tow truck operator  
7 may accept other sufficient security in lieu of the security deposit.  
8 If the person desiring to redeem the vehicle does not pay the security  
9 deposit or provide other security acceptable to the tow truck operator,  
10 the tow truck operator may process and sell at auction the vehicle as  
11 an abandoned vehicle within the normal time limits set out in RCW  
12 46.55.130(1). The security deposit required by this section may be  
13 paid and must be accepted at any time up to twenty-four hours before  
14 the beginning of the auction to sell the vehicle as abandoned. The  
15 registered owner is not eligible to purchase the vehicle at the  
16 auction, and the tow truck operator shall sell the vehicle to the  
17 highest bidder who is not the registered owner.

18 (c) Notwithstanding (b) of this subsection, a rental car business  
19 may immediately redeem a rental vehicle it owns by payment of the costs  
20 of removal, towing, and storage, whereupon the vehicle will not be held  
21 for a suspended license impound.

22 (d) Notwithstanding (b) of this subsection, a motor vehicle dealer  
23 or lender with a perfected security interest in the vehicle may redeem  
24 or lawfully repossess a vehicle immediately by payment of the costs of  
25 removal, towing, and storage, whereupon the vehicle will not be held  
26 for a suspended license impound. A motor vehicle dealer or lender with  
27 a perfected security interest in the vehicle may not knowingly and  
28 intentionally engage in collusion with a registered owner to repossess  
29 and then return or resell a vehicle to the registered owner in an  
30 attempt to avoid a suspended license impound. However, this provision  
31 does not preclude a vehicle dealer or a lender with a perfected  
32 security interest in the vehicle from repossessing the vehicle and then  
33 selling, leasing, or otherwise disposing of it in accordance with  
34 chapter 62A.9A RCW, including providing redemption rights to the debtor  
35 under RCW 62A.9A-623. If the debtor is the registered owner of the  
36 vehicle, the debtor's right to redeem the vehicle under chapter 62A.9A  
37 RCW is conditioned upon the debtor obtaining and providing proof from  
38 the impounding authority or court having jurisdiction that any fines,



1 penalties, and forfeitures owed by the registered owner, as a result of  
2 the suspended license impound, have been paid, and proof of the payment  
3 must be tendered to the vehicle dealer or lender at the time the debtor  
4 tenders all other obligations required to redeem the vehicle. Vehicle  
5 dealers or lenders are not liable for damages if they rely in good  
6 faith on an order from the impounding agency or a court in releasing a  
7 vehicle held under a suspended license impound.

8 (e) The vehicle or other item of personal property registered or  
9 titled with the department shall be released upon the presentation to  
10 any person having custody of the vehicle of commercially reasonable  
11 tender sufficient to cover the costs of towing, storage, or other  
12 services rendered during the course of towing, removing, impounding, or  
13 storing any such vehicle, with credit being given for the amount of any  
14 security deposit paid under (b) of this subsection. In addition, if a  
15 vehicle is impounded because the operator was arrested for a violation  
16 of RCW 46.20.342 or 46.20.345, or cited for a violation of RCW  
17 46.30.020, and was being operated by the registered owner when it was  
18 impounded under local ordinance or agency rule, it must not be released  
19 to any person until the registered owner establishes with the agency  
20 that ordered the vehicle impounded or the court having jurisdiction  
21 that any penalties, fines, or forfeitures owed by him or her have been  
22 satisfied. Registered tow truck operators are not liable for damages  
23 if they rely in good faith on an order from the impounding agency or a  
24 court in releasing a vehicle held under a suspended license impound.  
25 Commercially reasonable tender shall include, without limitation, cash,  
26 major bank credit cards issued by financial institutions, or personal  
27 checks drawn on Washington state branches of financial institutions if  
28 accompanied by two pieces of valid identification, one of which may be  
29 required by the operator to have a photograph. If the towing firm  
30 cannot determine through the customer's bank or a check verification  
31 service that the presented check would be paid by the bank or  
32 guaranteed by the service, the towing firm may refuse to accept the  
33 check. Any person who stops payment on a personal check or credit  
34 card, or does not make restitution within ten days from the date a  
35 check becomes insufficient due to lack of funds, to a towing firm that  
36 has provided a service pursuant to this section or in any other manner  
37 defrauds the towing firm in connection with services rendered pursuant

1 to this section shall be liable for damages in the amount of twice the  
2 towing and storage fees, plus costs and reasonable attorney's fees.

3 (2)(a) The registered tow truck operator shall give to each person  
4 who seeks to redeem an impounded vehicle, or item of personal property  
5 registered or titled with the department, written notice of the right  
6 of redemption and opportunity for a hearing, which notice shall be  
7 accompanied by a form to be used for requesting a hearing, the name of  
8 the person or agency authorizing the impound, and a copy of the towing  
9 and storage invoice. The registered tow truck operator shall maintain  
10 a record evidenced by the redeeming person's signature that such  
11 notification was provided.

12 (b) Any person seeking to redeem an impounded vehicle under this  
13 section has a right to a hearing in the district or municipal court for  
14 the jurisdiction in which the vehicle was impounded to contest the  
15 validity of the impoundment or the amount of towing and storage  
16 charges. The district court has jurisdiction to determine the issues  
17 involving all impoundments including those authorized by the state or  
18 its agents. The municipal court has jurisdiction to determine the  
19 issues involving impoundments authorized by agents of the municipality.  
20 Any request for a hearing shall be made in writing on the form provided  
21 for that purpose and must be received by the appropriate court within  
22 ten days of the date the opportunity was provided for in subsection  
23 (2)(a) of this section and more than five days before the date of the  
24 auction. At the time of the filing of the hearing request, the  
25 petitioner shall pay to the court clerk a filing fee in the same amount  
26 required for the filing of a suit in district court. If the hearing  
27 request is not received by the court within the ten-day period, the  
28 right to a hearing is waived and the registered owner is liable for any  
29 towing, storage, or other impoundment charges permitted under this  
30 chapter. Upon receipt of a timely hearing request, the court shall  
31 proceed to hear and determine the validity of the impoundment.

32 (3)(a) The court, within five days after the request for a hearing,  
33 shall notify the registered tow truck operator, the person requesting  
34 the hearing if not the owner, the registered and legal owners of the  
35 vehicle or other item of personal property registered or titled with  
36 the department, and the person or agency authorizing the impound in  
37 writing of the hearing date and time.

1 (b) At the hearing, the person or persons requesting the hearing  
2 may produce any relevant evidence to show that the impoundment, towing,  
3 or storage fees charged were not proper. The court may consider a  
4 written report made under oath by the officer who authorized the  
5 impoundment in lieu of the officer's personal appearance at the  
6 hearing.

7 (c) At the conclusion of the hearing, the court shall determine  
8 whether the impoundment was proper, whether the towing or storage fees  
9 charged were in compliance with the posted rates, and who is  
10 responsible for payment of the fees. The court may not adjust fees or  
11 charges that are in compliance with the posted or contracted rates.

12 (d) If the impoundment is found proper, the impoundment, towing,  
13 and storage fees as permitted under this chapter together with court  
14 costs shall be assessed against the person or persons requesting the  
15 hearing, unless the operator did not have a signed and valid  
16 impoundment authorization from a private property owner or an  
17 authorized agent.

18 (e) If the impoundment is determined to be in violation of this  
19 chapter, then the registered and legal owners of the vehicle or other  
20 item of personal property registered or titled with the department  
21 shall bear no impoundment, towing, or storage fees, and any security  
22 shall be returned or discharged as appropriate, and the person or  
23 agency who authorized the impoundment shall be liable for any towing,  
24 storage, or other impoundment fees permitted under this chapter. The  
25 court shall enter judgment in favor of the registered tow truck  
26 operator against the person or agency authorizing the impound for the  
27 impoundment, towing, and storage fees paid. In addition, the court  
28 shall enter judgment in favor of the registered and legal owners of the  
29 vehicle, or other item of personal property registered or titled with  
30 the department, for the amount of the filing fee required by law for  
31 the impound hearing petition as well as reasonable damages for loss of  
32 the use of the vehicle during the time the same was impounded against  
33 the person or agency authorizing the impound. However, if an  
34 impoundment arising from an alleged violation of RCW 46.20.342 or  
35 46.20.345 is determined to be in violation of this chapter, then the  
36 law enforcement officer directing the impoundment and the government  
37 employing the officer are not liable for damages if the officer relied  
38 in good faith and without gross negligence on the records of the

1 department in ascertaining that the operator of the vehicle had a  
2 suspended or revoked driver's license. If an impoundment arising from  
3 an alleged violation of RCW 46.30.020 is determined to be in violation  
4 of this chapter, the law enforcement officer directing the impoundment  
5 and the government employing the officer are not liable for damages if  
6 the officer acted in good faith and without gross negligence in  
7 ascertaining that the operator of the vehicle did not have motor  
8 vehicle insurance. If any judgment entered is not paid within fifteen  
9 days of notice in writing of its entry, the court shall award  
10 reasonable attorneys' fees and costs against the defendant in any  
11 action to enforce the judgment. Notice of entry of judgment may be  
12 made by registered or certified mail, and proof of mailing may be made  
13 by affidavit of the party mailing the notice. Notice of the entry of  
14 the judgment shall read essentially as follows:

15 TO: . . . . .  
16 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the  
17 . . . . . Court located at . . . . . in the sum of  
18 \$. . . . ., in an action entitled . . . . ., Case No.  
19 . . . . YOU ARE FURTHER NOTIFIED that attorneys fees and costs  
20 will be awarded against you under RCW . . . if the judgment is  
21 not paid within 15 days of the date of this notice.  
22 DATED this . . . . day of . . . . ., (year) . . .  
23 Signature . . . . .  
24 Typed name and address  
25 of party mailing notice

26 (4) Any impounded abandoned vehicle or item of personal property  
27 registered or titled with the department that is not redeemed within  
28 fifteen days of mailing of the notice of custody and sale as required  
29 by RCW 46.55.110(3) shall be sold at public auction in accordance with  
30 all the provisions and subject to all the conditions of RCW 46.55.130.  
31 A vehicle or item of personal property registered or titled with the  
32 department may be redeemed at any time before the start of the auction  
33 upon payment of the applicable towing and storage fees.

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