

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL 575

By: Herbert of the Senate

and

Corn and Nations of the  
House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public health and safety; creating the Oklahoma Marine Sanitation Act; amending 63 O.S. 1991, Sections 4016, as last amended by Section 2, Chapter 332, O.S.L. 1999, 4019, 4020, 4021, as last amended by Section 14, Chapter 6, O.S.L. 2000, 4030, as last amended by Section 5, Chapter 332, O.S.L. 1999, (63 O.S. Supp. 2000, Sections 4016, 4021 and 4030), which relate to title and annual registration of vessels; providing short title; requiring certain persons to cooperate with the Department of Public Safety and the Oklahoma Tax Commission to ensure that all vessel owners are informed of the Oklahoma Marine Sanitation Act; adding requirement; providing for two styles of vessel registration decals; setting effective dates for registration fees; providing for delinquency of fees; providing penalty for late registration of certain vessels; providing for certain affidavit; setting additional fees; providing penalties for failure to display certain registration decal indicating the vessel is equipped with a marine sanitation device; amending 63 O.S. 1991, Sections 4201, as last amended by Section 29, Chapter 284, O.S.L. 1992 and 4213, as last amended by Section 4, Chapter 321, O.S.L. 1993 (63 O.S. Supp. 2000, Sections 4201 and 4213), which relate to definitions and disposing of marine sewage in state waters; modifying certain definitions; providing exemption to act; requiring use of a marine sanitation device which is a total retention system in certain vessels; providing for adoption of certain United States Coast Guard regulations; stating penalties; setting fines; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4213.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Marine Sanitation Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4213.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Marina operators, new and used boat dealers, and boat repair shops shall cooperate with the Department of Public Safety and the Oklahoma Tax Commission to ensure that all vessel owners are aware of the Oklahoma Marine Sanitation Act and that all vessels, marine toilets, marine sanitation devices and systems, and disposal systems are in compliance with the Oklahoma Marine Sanitation Act.

B. When accepting new vessel storage customers, marina operators shall inform vessel owners and operators of the requirements of the Oklahoma Marine Sanitation Act.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 4016, as last amended by Section 2, Chapter 332, O.S.L. 1999 (63 O.S. Supp. 2000, Section 4016), is amended to read as follows:

Section 4016. A. Every owner of a vessel, when making application for registration, shall furnish the following information:

1. A full description of the vessel including the manufacturer's serial, model, or other identification number, the manufacturer's factory delivered price, and the total delivered price of said vessel;

2. The correct name and address, the name of the city, county and state in which the person in whose name the vessel is to be registered resides;

3. The county of location of the vessel; ~~and~~

4. For registration years beginning after March 31, 2003, an affidavit, as prescribed by the Department of Public Safety and provided by the Oklahoma Tax Commission, stating whether the vessel

is equipped with a marine sanitation device, as defined in Section 4201 of this title; and

5. Such other information as may be prescribed by the Tax Commission.

B. Upon the filing of a registration application for a vessel and the payment of the fees provided for in the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title, the ~~Oklahoma~~ Tax Commission shall issue the owner of the vessel a certificate of registration and two registration decals and shall also assign a permanent number for the vessel described in the application. The registration decals and the permanent number shall be recorded on the annual registration certificate covering such vessel. The permanent number shall be displayed upon the vessel as required by Section 4030 of this title. For registration years beginning after March 31, 2003, the Tax Commission, in consultation with the Department of Public Safety, shall provide two styles of a vessel registration decal as follows:

1. One decal design shall indicate by its design that the vessel is not equipped with a marine sanitation device; and

2. One decal design shall indicate by its design that the vessel is equipped with a marine sanitation device.

C. The current certificate of registration shall be legible and available for inspection at all times.

D. On all new and used vessels, prior to receipt of the certificate of registration and the registration decals, the dealer's bill of sale shall be available for inspection at all times for the first thirty (30) calendar days from the date of purchase. Thereafter, prior to receipt of the certificate of registration and the registration decals, the official registration receipt from the Tax Commission or a motor license agent shall be available for inspection at all times.

SECTION 4. AMENDATORY 63 O.S. 1991, Section 4019, is amended to read as follows:

Section 4019. A. 1. ~~The~~ Until the registration year beginning April 1, 2003, the registration fees herein levied upon vessels and motors located within this state shall be due on ~~the first day of~~ July 1 each year and shall become delinquent on ~~the first day of~~ August 1 ~~thereafter~~ of each year.

2. Any person owning a vessel or motor subject to the provisions of this subsection and failing or refusing to file application for the registration of such vessel or motor and to pay the annual registration fee as provided by the Oklahoma Vessel and Motor Registration Act, on or before ~~the 31st day of~~ July 31 of each year, shall be deemed delinquent.

B. ~~On~~ Until the registration year beginning July 1, 2002, on the registration of new vessels or new motors purchased in this state and on new or used vessels or motors used in this state or brought into this state between July 1 and September 30, inclusive, of any year the payment of the full annual registration and license fee shall be collected; and between October 1 and December 31, inclusive, of any year the payment of three-fourths (3/4) the annual registration and license fee shall be collected; and between January 1 and March 31, inclusive, of any year the payment of one-half (1/2) the annual registration and license fee shall be collected; and between April 1 and June 30, inclusive, of any year the payment of one-fourth (1/4) of the annual registration and license fee shall be collected.

C. 1. For the registration year beginning July 1, 2002, three-fourths (3/4) of the registration fees herein levied upon vessels and motors located within this state shall be due on July 1, 2002, and shall become delinquent on August 1, 2002.

2. Any person owning a vessel or motor subject to the provisions of this subsection and failing or refusing to file

application for the registration of such vessel or motor and to pay the annual registration fees as provided by the Oklahoma Vessel and Motor Registration Act, on or before July 31, 2002, shall be deemed delinquent.

D. For the registration year beginning July 1, 2002, on the registration of a new vessel or new motor purchased in this state and on a new or used vessel or motor used in this state or brought into this state between:

1. July 1, 2002, and September 30, 2002, inclusive, the payment of three-fourths (3/4) of the annual registration and license fee shall be collected;

2. October 1, 2002, and December 31, 2002, inclusive, the payment of one-half (1/2) of the annual registration and license fee shall be collected; or

3. January 1, 2003, and March 31, 2003, inclusive, the payment of one-fourth (1/4) of the annual registration and license fee shall be collected.

E. 1. For registration years beginning after March 31, 2003, the registration fees herein levied upon vessels and motors located within this state shall be due on April 1 of each year and shall become delinquent on May 1 thereafter.

2. Any person owning a vessel or motor subject to the provisions of this subsection and failing or refusing to file application for the registration of such vessel or motor and to pay the annual registration fees as provided by the Oklahoma Vessel and Motor Registration Act, on or before April 30 of each year, shall be deemed delinquent.

F. For registration years beginning after March 31, 2003, on the registration of a new vessel or new motor purchased in this state and on a new or used vessel or motor used in this state or brought into this state between:

1. April 1 and June 30, inclusive, of any year the payment of the full annual registration and license fee shall be collected;

2. July 1 and September 30, inclusive, of any year the payment of three-fourths (3/4) the annual registration and license fee shall be collected;

3. October 1 and December 31, inclusive, of any year the payment of one-half (1/2) the annual registration and license fee shall be collected; or

4. January 1 and March 30, inclusive, of any year the payment of one-fourth (1/4) of the annual registration and license fee shall be collected.

SECTION 5. AMENDATORY 63 O.S. 1991, Section 4020, is amended to read as follows:

Section 4020. ~~Beginning January 1, 1990, the~~ A. The Oklahoma Tax Commission shall annually notify through the mail all persons within the state who have previous vessel or motor registrations on record of the period for registration. Such notice shall contain all necessary information for such registration including a but not limited to:

1. A breakdown of all charges to be paid by the owner and shall contain instructions;

2. Instructions as to the procedure for renewal upon presentation to a motor license agent or by return mail to the Commission's state office; and

3. For registration years beginning after March 31, 2003, an affidavit as required by paragraph 4 of subsection A of Section 4016 of this title.

B. On the back of such registration notice form there shall be an explanation of the apportionment of all fees and penalties collected and their disposition. Such explanation shall include information as to all charges and fees included in the total fee or incident to the registration of a vessel or motor. If the owner

chooses the option of receiving these services through the mail, either from the Tax Commission or a motor license agent, ~~he~~ the owner shall be instructed to pay the final total listed. The cost of mailing shall be One Dollar (\$1.00) for titles or other forms or devices required by the Oklahoma Vessel and Motor Registration Act. Provided, that the Tax Commission may adjust any mailing costs as deemed appropriate to allow for increased or additional fees charged by the United States Postal Service.

C. Failure by any applicant to receive notification of renewal as provided by this section shall not excuse the applicant from properly obtaining any registration at the proper time by presenting proof of ownership to the Tax Commission's state office or to a motor license agent.

SECTION 6. AMENDATORY 63 O.S. 1991, Section 4021, as last amended by Section 14, Chapter 6, O.S.L. 2000 (63 O.S. Supp. 2000, Section 4021), is amended to read as follows:

Section 4021. A. The application required for the initial and annual registration of a vessel or a motor shall be accompanied by payment of the following fees:

1. Where the manufacturer's factory delivered price, or in the absence of such price being published in a recognized publication for the use of marine dealers and/or for purposes of insurance and financing firms, where the provable original or new cost of all materials, is One Hundred Fifty Dollars (\$150.00) or less, the registration and license fee for the first and for each succeeding year's registration shall be One Dollar (\$1.00);

2. Where the manufacturer's factory delivered price, or in the absence of such price being published as provided in paragraph 1 of this section, where the value of such vessel or motor is determined and fixed as above required and, is in excess of One Hundred Fifty Dollars (\$150.00), there shall be added to the fee of One Dollar (\$1.00), the sum of One Dollar (\$1.00) for each One Hundred Dollars

(\$100.00) or any fraction thereof, in excess of One Hundred Fifty Dollars (\$150.00) provided such fee shall not exceed One Hundred Fifty Dollars (\$150.00);

3. After the first year's registration in this state under the Oklahoma Vessel and Motor Registration Act of any new vessel or new motor under paragraph 2 of this subsection, the registration for the second year shall be ninety percent (90%) of the fee computed and assessed hereunder for the first year, and thereafter, such fee shall be computed and assessed at ninety percent (90%) of the previous year's fee and shall be so computed and assessed for the next nine (9) successive years provided such fee shall not exceed One Hundred Fifty Dollars (\$150.00);

4. The initial and annual registration fee for any vessel which is a part of a fleet used for lodging and for which a rental fee and sales tax are collected shall be Forty Dollars (\$40.00) in lieu of the fees required by paragraphs 1 through 3 of this subsection. For the purpose of this paragraph, "fleet" means twenty or more vessels operated by a business organization from a single anchorage. The fee provided for in this paragraph may be reduced annually to zero until the total reduction equals the difference between the sum of the fees paid pursuant to paragraphs 1 through 3 of this subsection for the two registration years preceding January 1, 1990, and the fee provided for in this paragraph;

5. For any vessel or motor owned and numbered, registered or licensed prior to January 1, 1990, in this or any other state, or in the absence of such registration upon proof of the year, model and age of same, the registration fee shall be computed and assessed at the rate hereinabove provided for a new vessel or motor based on the value thereof determined as provided in this subsection, but reduced as though same had been registered for each prior year of its existence. Except as provided in paragraph 1 of this subsection, the registration fee for the eleventh year computed in accordance

with the provisions of this subsection shall be the amount of the fee to be assessed for such eleventh year and shall be the minimum annual registration fee for such vessel or motor for any subsequent year; and

6. The initial and annual registration fee for any vessel or motor which is not being used in a trade or business or for any commercial purpose and is owned by:

- a. a nonresident member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders,
- b. a resident member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders,
- c. the spouse, who resides in Oklahoma, of a resident or nonresident member of the Armed Forces of the United States serving in a foreign country, or
- d. any Oklahoma resident who is stationed out of state due to an official assignment of the Armed Forces of the United States,

shall be the lesser of either a Fifteen Dollar (\$15.00) registration fee or the fee computed and assessed for vessels or motors of similar age and model pursuant to this section.

B. As used in this section, the term "manufacturer's factory delivered price" shall represent the recommended retail selling price and shall not mean the wholesale price to a dealer.

C. The Tax Commission shall assess the registration fees and penalties for the year or years a vessel or motor was not registered as provided in the Oklahoma Vessel and Motor Registration Act. For vessels or motors not registered for two (2) or more years, the registration fees and penalties shall be due only for the current year and one (1) previous year.

D. Upon each vessel or motor repossessed by a mortgagee, a fee of Forty-six Dollars (\$46.00) shall be assessed. This fee shall be in lieu of any applicable vessel or motor excise tax and registration fees. Each motor license agent accepting applications for certificates of title for such vessel or motors shall receive Seven Dollars (\$7.00) to be deducted from the license fee specified in this paragraph for each application accepted.

E. All vessels or motors owned by the State of Oklahoma, its agencies or departments, or political subdivisions thereof, or which under the law would be exempt from direct ad valorem taxation, shall be registered pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act for an annual fee of Two Dollars and twenty-five cents (\$2.25) irrespective of whether registered by a motor license agent or the Tax Commission.

F. All vessels and motors owned by Boy Scouts of America, Girl Scouts of U.S.A., and the Campfire Girls, devoted exclusively to youth programs emphasizing physical fitness, character development and citizenship training, are hereby exempt from the payment of registration fees required by this section. Provided all of such vessels or motors shall be registered and shall otherwise comply with the provisions of the Oklahoma Vessel and Motor Registration Act.

G. A credit shall be allowed with respect to the fee for registration of any new vessel or new motor, when such new vessel or motor is a replacement for:

1. A new original vessel or new original motor which is stolen from the purchaser/registrant within ninety (90) days of the date of purchase of the original vessel or new original motor as certified by a police report or other documentation as required by the Tax Commission; or

2. A defective new original vessel or new original motor returned by the purchaser/registrant to the seller within six (6)

months of the date of purchase of the defective new original vessel or new original motor as certified by the manufacturer.

Such credit shall be in the amount of the fee for registration which was paid for the new original vessel or new original motor and shall be applied to the registration fee for the replacement vessel or motor. In no event will said credit be refunded.

H. Upon proper proof of a lost certificate of registration being made to the Tax Commission or one of its motor license agents, accompanied by an application therefor and payment of the fees required by the Oklahoma Vessel and Motor Registration Act, a duplicate certificate of registration shall be issued to the applicant. The charge for such duplicate certificate of registration shall be Two Dollars and twenty-five cents (\$2.25), which charge shall be in addition to any other fees imposed by Section 4022 of this title for any such vessel or motor.

I. In addition to any other fees levied by the Oklahoma Vessel and Motor Registration Act, there is levied and there shall be paid to the Tax Commission a fee of One Dollar (\$1.00) upon every vessel or motor for which a registration or license fee is required pursuant to the provisions of this section. The fee shall accrue and shall be collected upon each vessel or motor under the same circumstances and shall be payable in the same manner and times as apply to vessel and motor licenses and registrations under the provisions of the Oklahoma Vessel and Motor Registration Act; provided, the fee shall be paid in full for the then current year at the time any vehicle is first registered in a calendar year.

Monies collected pursuant to this subsection shall be apportioned by the Tax Commission to the State Treasurer for deposit in the Trauma Care Assistance Revolving Fund created in Section 330.97 of this title.

The collection and payment of the fee shall be a prerequisite to license or registration of any vessel or motor.

J. In addition to any other fees levied by the Oklahoma Vessel and Motor Registration Act, there is levied and there shall be paid to the Tax Commission a fee of Two Dollars (\$2.00) upon every vessel for which a registration or license fee is required pursuant to the provisions of this section. The fee shall accrue and shall be collected upon each vessel under the same circumstances and shall be payable in the same manner and times as apply to vessel licenses and registrations under the provisions of the Oklahoma Vessel and Motor Registration Act; provided, the fee shall be paid in full for the then current year at the time any vehicle is first registered in a calendar year. Monies from each fee collected pursuant to this subsection shall be apportioned by the Tax Commission as follows:

1. One Dollar (\$1.00) to the Department of Public Safety Revolving Fund shall be used for implementation, administration, and education related to the Oklahoma Marine Sanitation Act; and

2. One Dollar (\$1.00) to be retained by the Tax Commission or the motor license agent processing the registration.

The collection and payment of the fee shall be a prerequisite to license or registration of any vessel or motor.

SECTION 7. AMENDATORY 63 O.S. 1991, Section 4030, as last amended by Section 5, Chapter 332, O.S.L. 1999 (63 O.S. Supp. 2000, Section 4030), is amended to read as follows:

Section 4030. A. Except as otherwise provided by this section, every vessel on the waters of this state shall display the permanent number assigned to it by the Oklahoma Tax Commission which number shall not be obliterated, erased, mutilated, removed or missing.

B. The vessels authorized to display a number other than that required by the provisions of the Oklahoma Vessel and Motor Registration Act are:

1. A documented vessel, provided that such vessel is currently registered, is displaying both current registration decals, and the name, hailing port and official federal documentation number

assigned to it are displayed on the vessel according to federal law or federal rules and regulations;

2. A vessel from a country other than the United States temporarily using the waters of this state;

3. A vessel from another state owned by an out-of-state resident using the waters of this state;

4. A vessel whose owner is the United States, a state or a subdivision thereof; provided, however, if such vessel is used for recreational or rental purposes on the public waters of this state, said vessel shall display the permanent number assigned to it by the Tax Commission;

5. A vessel that is used exclusively and solely for racing purposes;

6. A vessel that is used exclusively and solely as a lifeboat; and

7. A commercial flotation device which is assigned a permit by the Oklahoma Scenic Rivers Commission pursuant to the provisions of Sections 1461 et seq. of Title 82 of the Oklahoma Statutes.

C. Except as otherwise provided for in this section, every vessel and every outboard motor on the waters of this state shall display the current registration decals or decal assigned to it by the ~~Oklahoma~~ Tax Commission. Any person who displays on a vessel a registration decal which indicates the vessel is not equipped with a marine sanitation device when the vessel is equipped with a marine sanitation device, as defined in Section 4201 of this title, shall, upon conviction, be deemed guilty of a misdemeanor and be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00).

D. The owner of any vessel issued a permanent number pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title, shall place on or attach to the vessel said permanent number in such manner as may be prescribed by

the rules of the Tax Commission, in order that it may be clearly visible. The number shall be maintained in legible condition.

E. The provisions of this section shall not apply to sailboards.

SECTION 8. AMENDATORY 63 O.S. 1991, Section 4201, as last amended by Section 29, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 2000, Section 4201), is amended to read as follows:

Section 4201. In addition to the terms defined by the Oklahoma Vessel and Motor Registration Act, ~~Section 4002 et seq. of this title,~~ for the purposes of the Oklahoma Boating Safety Regulation Act, ~~Section 4201 et seq. of this title:~~

1. "Anchorage area" means a place specifically indicated by the authority in charge of a body of water for anchoring or mooring a vessel;

2. "Buoy" means an anchored marker for marking a position on the water, or a hazard, shoal or mooring, or any other prohibitive activity area;

3. "Capacity plate" means a sign posted in view of the operator's station on a vessel which designates the maximum weight capacity and horsepower restrictions of a vessel for safe operation;

4. "Class A vessel" means a vessel which is less than sixteen (16) feet in length;

5. "Class 1 vessel" means a vessel which is sixteen (16) feet or longer and less than twenty-six (26) feet in length;

6. "Class 2 vessel" means a vessel which is twenty-six (26) feet or longer and less than forty (40) feet in length;

7. "Class 3 vessel" means a vessel which is forty (40) feet or longer in length;

8. "Diver's flag" means a red flag not less than twenty (20) inches by twenty-four (24) inches with a four-inch white stripe running from one upper corner to a diagonal lower corner, and such flag is used to indicate a submerged diver;

9. "Emergency vessel" means any law enforcement vessel which is legally authorized to operate in the emergency mode;

10. "Law enforcement vessel" means any vessel legally authorized to operate under the color of law;

11. "Manipulate" means to guide, steer or otherwise control;

12. "Marine sewage" means any substance, treated or untreated, that contains any of the waste products of humans or animals ~~or~~ ~~foodstuffs~~;

13. "Marine ~~toilet~~ sanitation device" means any permanently installed latrine, head, lavatory or toilet, or other device or system intended to receive marine sewage and which is located on or in any vessel;

14. "Operator" means the person who operates, has actual physical control, or has charge of the navigation or use of a vessel;

15. "Parasail" means any device which, when airborne, is used or capable of being used for lifting or suspending a person who is being or will be towed by a vessel;

16. "Personal flotation device" means only a United States Coast Guard approved flotation device;

17. "Personal watercraft" means a vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel, or a vessel which is similar in appearance and operation to a personal watercraft but which is powered by an outboard or propeller driven motor, or a vessel less than sixteen (16) feet in length which travels across the water above or on a cushion of air provided by engines, propellers or other means of propulsion;

18. "Reportable boating accident" means an accident, collision or other casualty involving a vessel which results in loss of life,

injury sufficient to require first aid or medical attention or actual physical damage to property in excess of Five Hundred Dollars (\$500.00);

19. "Sanctioned event" means any organized event on the waters of this state, including but not limited to regattas, motorboat or other boat races, marine parades, tournaments and exhibitions, which is approved and permitted by an authorizing agency;

20. "Under way" means the movement of a vessel whether by mechanical or nonmechanical means which is other than incidental to the force of wind, waves or current; and

21. "Wake" means the track of waves left by a vessel or other object moving through the water, and such waves are greater than the natural waves in the immediate area of the vessel, or are cresting and showing white water, or may cause injury or damage to any person or property.

SECTION 9. AMENDATORY 63 O.S. 1991, Section 4213, as last amended by Section 4, Chapter 321, O.S.L. 1993 (63 O.S. Supp. 2000, Section 4213), is amended to read as follows:

Section 4213. A. No person shall place or dispose of marine sewage ~~in~~ from any vessel into any waters of this state.

B. ~~On and after July 1, 1995, no~~ No person shall operate a vessel equipped with a marine ~~toilet~~ sanitation device which is not a total retention system ~~in accordance with federal~~. A total retention system is a Type III device as defined in United States Coast Guard regulations regarding marine ~~toilets~~ sanitation devices, at 33 C.F.R Part 159.

C. Any person who violates any provision of subsection A or B of this section, shall, upon conviction, be deemed guilty of a misdemeanor and shall:

1. For the first offense, be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Dollars (\$2,000.00); and

2. For a second or subsequent offense, be punished by a fine of not less than Two Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars (\$5,000.00).

D. Any officer or employee of the Department of Public Safety, or any other peace officer, is granted the authority to enter, at all reasonable times, in or upon any vessel for the purpose of inspecting, investigating conditions, and conducting tests relating to marine sanitation devices or for any other purpose under the Oklahoma Marine Sanitation Act, and to take applicable enforcement action, if necessary.

SECTION 10. This act shall become effective July 1, 2001.

SECTION 11. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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