

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE ENERGY, ENVIRONMENT AND NATURAL RESOURCES  
COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 212

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE PER- AND POLY-  
FLUOROALKYL SUBSTANCES PROTECTION ACT; PROHIBITING CERTAIN  
PRODUCTS THAT CONTAIN AN INTENTIONALLY ADDED PER- OR POLY-  
FLUOROALKYL SUBSTANCE; AUTHORIZING THE ENVIRONMENTAL  
IMPROVEMENT BOARD TO ADOPT RULES PROHIBITING CERTAIN PRODUCTS  
THAT CONTAIN AN INTENTIONALLY ADDED PER- OR POLY-FLUOROALKYL  
SUBSTANCE; REQUIRING DISCLOSURE OF INFORMATION AND TESTING OF  
PRODUCTS SOLD, OFFERED FOR SALE OR DISTRIBUTED FOR SALE IN THIS  
STATE THAT CONTAIN AN INTENTIONALLY ADDED PER- OR POLY-  
FLUOROALKYL SUBSTANCE; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
cited as the "Per- and Poly-Fluoroalkyl Substances Protection  
Act".

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1           SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
2 Per- and Poly-Fluoroalkyl Substances Protection Act:

3           A. "board" means the environmental improvement  
4 board;

5           B. "carpet or rug" means a fabric marketed or  
6 intended for use as a floor covering;

7           C. "chemical" means a substance with a distinct  
8 molecular composition or a group of structurally related  
9 substances and includes the breakdown of products of the  
10 substance or substances that form through decomposition,  
11 degradation or metabolism;

12           D. "cleaning product" means a finished product used  
13 for general cleaning purposes, including:

14                   (1) a polish or floor maintenance product;

15                   (2) an air care product labeled for the  
16 intended use of enhancing or conditioning the indoor  
17 environment by eliminating unpleasant odors or freshening the  
18 air; and

19                   (3) an automotive maintenance product labeled  
20 for the intended use of maintaining the appearance of a motor  
21 vehicle, but does not include automotive paint or paint repair  
22 products;

23           E. "consumer product" means a tangible personal  
24 property that is distributed in commerce and normally used for  
25 personal, family or household use, including product categories

.230797.4

1 that are normally used in households but designed for or sold  
2 to businesses, such as commercial carpet or floor waxes;

3 F. "cookware" means durable houseware items used to  
4 prepare, dispense or store food, foodstuffs or beverages;

5 G. "cosmetic" means a product or product component,  
6 other than soap, intended to be applied to the human body for  
7 cleansing, beautifying or promoting attractiveness;

8 H. "currently unavoidable use" means a use of a  
9 per- or poly-fluoroalkyl substance that the board has  
10 determined by rule to be essential for health, safety or the  
11 functioning of society and for which alternatives are not  
12 reasonably available;

13 I. "department" means the department of  
14 environment;

15 J. "fabric treatment" means a substance applied to  
16 fabric for stain, grease or water resistance or flame  
17 retardance;

18 K. "feminine hygiene product" means a disposable or  
19 reusable product to collect menstruation and vaginal discharge,  
20 including tampons, pads, sponges, menstruation underwear,  
21 discs, applicators and menstruation cups;

22 L. "firefighting foam" means a class B firefighting  
23 foam intended for use to control or extinguish a fire;

24 M. "food packaging" means a container, unit  
25 package, intermediate package or shipping container applied to

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1 or providing a means to market, protect, handle, deliver,  
2 serve, contain or store a food or beverage, including an  
3 individual assembled part of a food package;

4 N. "intentionally added" means a per- or poly-  
5 fluoroalkyl substance deliberately added or used during the  
6 manufacture of a product where the continued presence, at any  
7 level or concentration, of the per- or poly-fluoroalkyl  
8 substance is desired or expected in the final product or one of  
9 the product's components;

10 O. "juvenile product" means a product designed or  
11 marketed for use by children under twelve years old, including  
12 children's car seats, clothing and toys, but does not include  
13 an electronic product, including:

14 (1) personal computers and any associated  
15 equipment;

16 (2) audio and video equipment;

17 (3) calculators;

18 (4) wireless phones;

19 (5) gaming consoles;

20 (6) handheld devices incorporating a video  
21 screen; and

22 (7) any associated peripheral device, such as  
23 a mouse, keyboard, power supply unit or power cord;

24 P. "manufacturer" means:

25 (1) a person, a firm, an association, a

1 partnership, a corporation, an organization, a combination or a  
2 joint venture that creates, produces or assembles a product or  
3 whose brand name is affixed to a product; or

4 (2) in the case of a product imported into the  
5 United States, an importer or first domestic distributor of the  
6 product; provided that the person that created, produced or  
7 assembled the product or whose brand name is affixed to the  
8 product does not have an office or employees in the United  
9 States;

10 Q. "medical device" means an instrument, apparatus,  
11 an implement, a machine, an implant, an in vitro reagent or  
12 other similar or related device, including any component or  
13 accessory, that is a product regulated as a drug or medical  
14 device by the United States food and drug administration under  
15 the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 et  
16 seq.:

17 (1) recognized in an official compendium;

18 (2) intended for use in the diagnosis of  
19 disease or other conditions, or in the cure, mitigation,  
20 treatment or prevention of disease, in a human or an animal; or

21 (3) intended to affect the structure or  
22 function of the body of a human or an animal and that does not  
23 achieve its principal intended purposes through chemical action  
24 within or on the body of a human or an animal and that is not  
25 dependent on being metabolized for achievement of its principal

.230797.4

1 intended purpose;

2 R. "per- or poly-fluoroalkyl substance" means a  
3 substance in a class of fluorinated organic chemicals  
4 containing at least one fully fluorinated carbon atom that is  
5 solid or liquid at standard temperature and pressure;

6 S. "product" means an item created, produced,  
7 assembled, packaged or otherwise prepared for sale to a  
8 consumer, including a product component sold or distributed for  
9 personal, residential, commercial or industrial use or for use  
10 in making a product;

11 T. "ski wax" means a lubricant applied to the  
12 bottom of a snow runner, including a ski or snowboard, to  
13 improve grip or glide properties and includes associated tuning  
14 products;

15 U. "textile" means an item made in whole or in part  
16 from a natural or synthetic fiber, yarn or fabric, including  
17 leather, cotton, silk, jute, hemp, wool, viscose, nylon or  
18 polyester;

19 V. "textile furnishings" means a textile product  
20 made in whole or part from a natural or synthetic fiber, yarn  
21 or fabric that is used as furniture or a decorative accessory;  
22 and

23 W. "upholstered furniture" means furniture that is  
24 wholly or partially stuffed with a filling material.

25 SECTION 3. [NEW MATERIAL] PROHIBITION ON PRODUCTS

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1 CONTAINING PER- OR POLY-FLUOROALKYL SUBSTANCES--EXEMPTIONS.--

2 A. Subsections B through G of this section do not  
3 apply to:

4 (1) a product for which federal law governs  
5 the presence of a per- or poly-fluoroalkyl substance in the  
6 product in a manner that preempts state authority;

7 (2) used products offered for sale or resale;

8 (3) medical devices or drugs and the packaging  
9 of the medical devices or drugs that are regulated by the  
10 United States food and drug administration, including  
11 prosthetic and orthotic devices;

12 (4) cooling, heating, ventilation, air  
13 conditioning or refrigeration equipment that contains  
14 intentionally added per- or poly-fluoroalkyl substances or  
15 refrigerants listed as acceptable, acceptable subject to use  
16 conditions or acceptable to narrowed use limits by the United  
17 States environmental protection agency pursuant to the  
18 significant new alternatives policy program, 40 Code of Federal  
19 Regulations, Part 82, Subpart G and sold, offered for sale or  
20 distributed for sale for the use for which the refrigerant is  
21 listed pursuant to that program;

22 (5) a veterinary product and its packaging  
23 intended for use in or on animals, including diagnostic  
24 equipment or test kits and the veterinary product's components  
25 and any product that is a veterinary medical device, drug,

.230797.4

1 biologic or parasiticide or that is otherwise used in a  
2 veterinary medical setting or in veterinary medical  
3 applications that are regulated by or under the jurisdiction  
4 of:

5 (a) the United States food and drug  
6 administration;

7 (b) the United States department of  
8 agriculture pursuant to the federal Virus-Serum-Toxin Act; or

9 (c) the United States environmental  
10 protection agency pursuant to the Federal Insecticide,  
11 Fungicide, and Rodenticide Act, except that any such products  
12 approved by the United States environmental protection agency  
13 pursuant to that law for aerial and land application are not  
14 exempt from this section;

15 (6) a product developed or manufactured for  
16 the purpose of public health or environmental or water quality  
17 testing;

18 (7) a motor vehicle or motor vehicle equipment  
19 regulated under a federal motor vehicle safety standard, as  
20 defined in 49 United States Code, Section 30102(a)(10), except  
21 that the exemption under this paragraph does not apply to any  
22 textile article or refrigerant that is included in or as a  
23 component part of such products;

24 (8) any other motor vehicle, including an  
25 off-highway vehicle or a specialty motor vehicle, such as an

.230797.4



1 all-terrain vehicle, a side by-side vehicle, farm equipment or  
2 a personal assistive mobility device;

3 (9) a watercraft, an aircraft, a lighter-than-  
4 air aircraft or a seaplane;

5 (10) a semiconductor, including semiconductors  
6 incorporated in electronic equipment, and materials used in the  
7 manufacture of semiconductors;

8 (11) non-consumer electronics and non-consumer  
9 laboratory equipment not ordinarily used for personal, family  
10 or household purposes;

11 (12) a product that contains intentionally  
12 added per- or poly-fluoroalkyl substances with uses that are  
13 currently listed as acceptable, acceptable subject to use  
14 conditions or acceptable subject to narrowed use limits in the  
15 United States environmental protection agency's rules under the  
16 significant new alternatives policy program; provided that the  
17 product contains per- or poly-fluoroalkyl substances that are  
18 being used as substitutes for ozone-depleting substances under  
19 the conditions specified in the rules;

20 (13) a product used for the generation,  
21 distribution or storage of electricity;

22 (14) equipment directly used in the  
23 manufacture or development of the products described in  
24 Paragraphs (1) through (13) of this subsection;

25 (15) a product for which the board has adopted

.230797.4

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1 a rule providing that the use of the per- or poly-fluoroalkyl  
2 substance in that product is a currently unavoidable use;

3 (16) any consumer product that contains  
4 intentionally added per- or poly-fluoroalkyl substances that  
5 are approved for sale by the board pursuant to the following:

6 (a) the board may adopt rules to create,  
7 enforce or terminate a per- and poly-fluoroalkyl substance  
8 stewardship program for products exempted in this subsection.  
9 In establishing a stewardship program, the board may consider  
10 statewide collection systems that provide access to the public  
11 for the drop-off of consumer products containing an  
12 intentionally added per- or poly-fluoroalkyl substance at no  
13 cost to the consumer; and

14 (b) if the board adopts rules to create  
15 a per- and poly-fluoroalkyl substance stewardship program, the  
16 board shall adopt rules necessary for the implementation and  
17 operation of the program, including rules to establish what  
18 criteria manufacturers, other entities or organizations must  
19 meet to qualify for the program; or

20 (17) a product that contains fluoropolymers  
21 consisting of polymeric substances for which the backbone of  
22 the polymer is either a per- or polyfluorinated carbon-only  
23 backbone or a perfluorinated polyether backbone that is a solid  
24 at standard temperature and pressure.

25 B. Beginning January 1, 2027, the state or a person

.230797.4

1 on behalf of the state shall not purchase a product that  
2 contains an intentionally added per- or poly-fluoroalkyl  
3 substance.

4 C. Beginning January 1, 2027, a manufacturer shall  
5 not sell, offer for sale or distribute for sale in this state,  
6 directly or indirectly or through intermediaries, the following  
7 products if that product contains an intentionally added per-  
8 or poly-fluoroalkyl substance:

- 9 (1) cookware;
- 10 (2) food packaging;
- 11 (3) dental floss;
- 12 (4) juvenile products; and
- 13 (5) firefighting foam.

14 D. Beginning January 1, 2028, a manufacturer shall  
15 not sell, offer for sale or distribute for sale in this state,  
16 directly or indirectly or through intermediaries, the following  
17 products if that product contains an intentionally added per-  
18 or poly-fluoroalkyl substance:

- 19 (1) carpets or rugs;
- 20 (2) cleaning products;
- 21 (3) cosmetics;
- 22 (4) fabric treatments;
- 23 (5) feminine hygiene products;
- 24 (6) textiles;
- 25 (7) textile furnishings;

.230797.4

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1 (8) ski wax; and

2 (9) upholstered furniture.

3 E. The board may adopt rules to prohibit consumer  
4 products that contain an intentionally added per- or poly-  
5 fluoroalkyl substance by category or use that a manufacturer  
6 may not sell, offer for sale or distribute for sale in this  
7 state, directly or indirectly or through intermediaries, upon a  
8 finding that a prohibition on the product is necessary to  
9 protect human health or the environment. The board shall set  
10 effective dates for a prohibition established by rule pursuant  
11 to this subsection; provided that the board shall not set an  
12 effective date for the prohibition of a product less than six  
13 months after the adoption of the final rule to prohibit the  
14 product or earlier than January 1, 2027. The board shall  
15 prioritize the prohibition of consumer products containing an  
16 intentionally added per- or poly-fluoroalkyl substance that are  
17 most likely to harm human health or contaminate the  
18 environment.

19 F. Beginning January 1, 2029, a manufacturer shall  
20 not sell, offer for sale or distribute for sale in this state,  
21 directly or indirectly or through intermediaries, a product  
22 containing an intentionally added per- or poly-fluoroalkyl  
23 substance, unless the board has adopted a rule providing that  
24 the use of the per- or poly-fluoroalkyl substance in that  
25 product is a currently unavoidable use. The board may adopt

.230797.4

1 rules to designate that the use of a per- or poly-fluoroalkyl  
2 substance in a certain product is a currently unavoidable use;  
3 provided that the use of a per- or poly-fluoroalkyl substance  
4 in a product listed in Subsection C or D of this section is  
5 prohibited and shall not be designated as a currently  
6 unavoidable use.

7 G. The department shall consult with the New Mexico  
8 department of agriculture before petitioning the board pursuant  
9 to Subsection E or F of this section with respect to a  
10 pesticide, fertilizer, agricultural liming material or plant or  
11 soil amendment that contains an intentionally added per- or  
12 poly-fluoroalkyl substance. However, if a pesticide is  
13 regulated by or under the jurisdiction of the Federal  
14 Insecticide, Fungicide, and Rodenticide Act, then Subsections B  
15 through F of this section do not apply to the pesticide.

16 SECTION 4. [NEW MATERIAL] RULES.--

17 A. The board shall adopt rules to:

18 (1) create a series of ranges for the amount  
19 of a per- or poly-fluoroalkyl substance in a product that  
20 contains an intentionally added per- or poly-fluoroalkyl  
21 substance for reporting purposes unless exempted in Subsection  
22 A of Section 3 of the Per- and Poly-Fluoroalkyl Substances  
23 Protection Act;

24 (2) identify currently unavoidable uses of a  
25 per- or poly-fluoroalkyl substance that are essential for

.230797.4

1 health, safety or the functioning of society and for which  
2 alternatives are not reasonably available unless exempted in  
3 Subsection A of Section 3 of the Per- and Poly-Fluoroalkyl  
4 Substances Protection Act; and

5 (3) as pertaining to firefighting foam:

6 (a) require a periodic inventory of  
7 firefighting foam quantifies stored or used in New Mexico;

8 (b) require the use of firefighting foam  
9 for emergency purposes only; and

10 (c) require the cleanup of discarded  
11 firefighting foam pursuant to the Hazardous Waste Act.

12 For purposes of this subsection, "emergency purposes" does  
13 not include training or the use of firefighting foam in fire  
14 suppression systems.

15 B. The board may:

16 (1) adopt other rules that the board deems  
17 necessary to carry out the provisions of the Per- and Poly-  
18 Fluoroalkyl Substances Protection Act, including requiring the  
19 labeling of products in English and Spanish; and

20 (2) consider determinations made by other  
21 states with respect to currently unavoidable uses for products  
22 containing intentionally added per- or poly-fluoroalkyl  
23 substances.

24 SECTION 5. [NEW MATERIAL] RULES--INFORMATION REQUIRED--  
25 EXTENSIONS--WAIVERS.--

.230797.4

1           A. The board shall adopt rules that enumerate the  
2 information required of a manufacturer and necessary for the  
3 department to implement the Per- and Poly-Fluoroalkyl  
4 Substances Protection Act. The information required shall  
5 include:

6                   (1) a brief description of the product,  
7 including a universal product code, stock keeping unit or other  
8 numeric code assigned to the product;

9                   (2) the purpose for which a per- or poly-  
10 fluoroalkyl substance is used in the product;

11                   (3) the amount of each per- or poly-  
12 fluoroalkyl substance in the product, identified by its  
13 chemical abstracts service registry number and reported as an  
14 exact quantity determined using commercially available  
15 analytical methods or as falling within a range approved for  
16 reporting purposes by the department;

17                   (4) the name and address of the manufacturer  
18 and the name, address and phone number of a contact person for  
19 the manufacturer; and

20                   (5) any additional information requested by  
21 the department as necessary.

22           B. On or before January 1, 2027, a manufacturer of  
23 a product sold, offered for sale or distributed for sale in the  
24 state, directly or indirectly or through intermediaries, that  
25 contains an intentionally added per- or poly-fluoroalkyl

.230797.4

1 substance shall submit to the department the information  
2 required by Subsection A of this section or a rule adopted  
3 pursuant to that subsection.

4 C. On or after January 1, 2028, a manufacturer  
5 shall not sell, offer for sale or distribute for sale in this  
6 state, directly or indirectly or through intermediaries, a  
7 product if testing requested by the department demonstrates  
8 that the product contains an intentionally added per- or poly-  
9 fluoroalkyl substance and the manufacturer has failed to  
10 provide the department the information required by Subsection A  
11 of this section or a rule adopted pursuant to that subsection.

12 D. On or after January 1, 2028, a manufacturer  
13 shall not sell, offer for sale or distribute for sale in this  
14 state, directly or indirectly or through intermediaries, a  
15 product that contains an intentionally added per- or poly-  
16 fluoroalkyl substance unless the manufacturer has submitted to  
17 the department the information required by Subsection A of this  
18 section or a rule adopted pursuant to that subsection. A  
19 product reported pursuant to this subsection containing an  
20 intentionally added per- or poly-fluoroalkyl substance may be  
21 prohibited from sale pursuant to the Per- and Poly-Fluoroalkyl  
22 Substances Protection Act and to rules adopted pursuant to that  
23 act.

24 E. A manufacturer shall submit a revision of the  
25 information provided on a product within thirty days of a

.230797.4



1 significant change to the information the manufacturer  
2 previously submitted or upon the request of the department.

3 F. Upon written approval from the department, a  
4 manufacturer may provide the information required by this  
5 section to the department for a category or type of product or  
6 product component.

7 G. The department may waive the obligation of a  
8 manufacturer to submit all or part of the information required  
9 by this section if the department determines that substantially  
10 equivalent information is already publicly available. The  
11 department may grant a waiver to a manufacturer or a group of  
12 manufacturers for multiple products or a product category.

13 H. The department may enter into an agreement with  
14 one or more other states or political subdivisions of a state  
15 to collect information and may accept information to a shared  
16 system as meeting the information requirements of this section.

17 I. The department may extend the deadline for a  
18 manufacturer to submit the information required by this section  
19 upon a determination by the department that the circumstances  
20 merit an extension of time.

21 J. Upon receiving information from a manufacturer,  
22 the department shall notify the manufacturer that adequate  
23 information has been received or that additional information is  
24 required. A manufacturer shall submit to the department any  
25 additional information requested by the department within

.230797.4

1 thirty days of the request.

2 K. The requirements of this section do not apply to  
3 products that are exempt pursuant to Subsection A of Section 3  
4 of the Per- and Poly-Fluoroalkyl Substances Protection Act.

5 SECTION 6. [NEW MATERIAL] TESTING REQUIRED--CERTIFICATE  
6 OF COMPLIANCE--EXEMPTION.--

7 A. If the department has reason to believe that a  
8 product containing an intentionally added per- or poly-  
9 fluoroalkyl substance is being sold, offered for sale or  
10 distributed for sale in the state, directly or indirectly or  
11 through intermediaries, the department may direct the  
12 manufacturer of the product to, within thirty days, provide the  
13 department with testing results that demonstrate the amount of  
14 each per- or poly-fluoroalkyl substance, identified by its  
15 chemical abstracts service registry number, in the product,  
16 reported as an exact quantity determined using commercially  
17 available analytical methods or as falling within a range  
18 approved for reporting purposes by the department.

19 B. If testing demonstrates that the product does  
20 not contain an intentionally added per- or poly-fluoroalkyl  
21 substance, the manufacturer shall provide the department with a  
22 certificate of compliance attesting that the product does not  
23 contain an intentionally added per- or poly-fluoroalkyl  
24 substance, the testing results and any other relevant  
25 information.

.230797.4

1 C. If testing demonstrates that the product  
2 contains an intentionally added per- or poly-fluoroalkyl  
3 substance, the manufacturer shall:

4 (1) provide to the department, within thirty  
5 days, the information required for a product pursuant to the  
6 Per- and Poly-Fluoroalkyl Substances Protection Act or rules  
7 adopted pursuant to that act; and

8 (2) notify a person that sells, offers for  
9 sale or distributes the product for sale in this state that the  
10 product is prohibited in this state and provide the department  
11 with a list of the names and addresses of the people notified.

12 D. The department may notify a person that sells,  
13 offers for sale or distributes for sale in this state a product  
14 prohibited by the Per- and Poly-Fluoroalkyl Substances  
15 Protection Act or rules adopted pursuant to that act that the  
16 product is prohibited in this state.

17 E. The provisions of this section do not apply to a  
18 medical device or drug or the packaging of a medical device or  
19 drug that is regulated by the United States food and drug  
20 administration.

21 SECTION 7. [NEW MATERIAL] ENFORCEMENT--CIVIL PENALTY.--

22 A. A person that violates a provision of the Per-  
23 and Poly-Fluoroalkyl Substances Protection Act or a rule  
24 adopted pursuant to that act shall be assessed a civil penalty  
25 not to exceed fifteen thousand dollars (\$15,000), and for each

.230797.4

1 day during which any portion of a violation occurs, the  
2 department may assess the person administrative costs the  
3 department incurs for enforcement of the Per- and Poly-  
4 Fluoroalkyl Substances Protection Act or a rule adopted  
5 pursuant to that act.

6 B. A person that fails to comply with an  
7 administrative order issued pursuant to the Per- and Poly-  
8 Fluoroalkyl Substances Protection Act or a rule adopted  
9 pursuant to that act may be assessed, pursuant to a court  
10 order, a civil penalty of not more than twenty-five thousand  
11 dollars (\$25,000) for each day of noncompliance.

12 C. Penalties imposed pursuant to this section are  
13 independent of any damages, remediation or cleanup costs,  
14 environmental restoration costs or other monetary or  
15 nonmonetary remedies that may be imposed by statutory,  
16 decisional or regulatory laws.

17 D. In an action to enforce the provisions of the  
18 Per- and Poly-Fluoroalkyl Substances Protection Act or an  
19 ordinance, rule or order adopted, imposed or issued pursuant to  
20 that act:

21 (1) the department shall be represented by the  
22 attorney general or the department;

23 (2) a municipality shall be represented by the  
24 attorney general or the municipality; and

25 (3) a county shall be represented by the

1 district attorney within whose district the county lies.

2 E. Penalties collected pursuant to this section  
3 shall be deposited in the recycling and illegal dumping fund.

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