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Motor Vehicles

The 2007 Session of the General Assembly enacted numerous acts making significant changes in motor vehicle laws, ranging from endorsing a new technology that promises to continuously monitor a defendant's alcohol concentration, to criminalizing insurance rate fraud by out-of-state residents attempting to benefit from North Carolina's lower rates of car insurance. Responding to calls for greater accountability for persons charged with speeding offenses, the General Assembly narrowed options available to judges upon disposition of certain speeding convictions. Also recognizing the contrasting need for more flexible-sentencing options for persons convicted of driving while revoked, the legislature enacted a limited driving privilege available for certain offenders. Identification information appeared again on the legislative agenda, and significant changes were enacted to the statutes governing the types of information required to obtain registration and title documents from the Division of Motor Vehicles (DMV). The General Assembly also acted to integrate the processes and time-tables for inspection and registration of private passenger vehicles. All of the disparate legislation is, of course, aimed at serving two broad purposes: maintaining the integrity of the processes for registering, titling, insuring, and inspecting motor vehicles and protecting motorists and others from the harm that can result from a motor vehicle that is operated improperly.

Alcohol-Related Offenses and Punishment

Continuous Alcohol Monitoring

Courts often order defendants to abstain from drinking as a condition of probation and then are left with the difficult task of determining whether a defendant has complied with that condition. DMV hearing officers also are reluctant to restore driving privileges to a defendant who continues to drink alcohol after multiple convictions for impaired driving. S.L. 2007-165 (S 1290) addresses this monitoring and abstinence verification issue by sanctioning the use of equipment designed to continuously monitor the defendant's sweat for the presence of alcohol.¹

1. The only company that currently offers such a product calls it a SCRAM[®] (Secure Continuous Remote Alcohol Monitoring) bracelet.

S.L. 2007-165 amends G.S. 20-19(d)(2) and (e), which permit DMV to conditionally restore the license of a repeat impaired driving offender. Before a license can be conditionally restored, the defendant is required to provide DMV satisfactory proof that the defendant is not currently an excessive user of alcohol, drugs, or prescription drugs, or unlawfully using any controlled substance—in addition to demonstrating that the defendant has not during the period of revocation been convicted of certain criminal offenses. Amendments to G.S. 20-19(e) permit DMV to conditionally restore a license after it has been revoked for at least twenty-four months under G.S. 20-17(a)(2) if the defendant proves that the defendant has not consumed any alcohol for the twelve months preceding the restoration while being monitored by a continuous alcohol monitoring device approved by the Department of Corrections (DOC) in addition to satisfying the other factors. The normal revocation period before a license may be conditionally restored under G.S. 20-19(e) is three years. Satisfaction of the one-year no-alcohol-consumption requirement shortens this period by twelve months.

DOC must establish regulations for continuous alcohol monitoring systems that are authorized for use by the courts as evidence that an offender on probation has abstained from the use of alcohol for a specified period of time. The term *continuous alcohol monitoring system* is defined as a device worn by a person that can detect, monitor, record, and report the amount of alcohol within the wearer's system continuously every day. These regulations must include procedures for supervising the offender, collecting and monitoring the results, and transmitting data to the court for its consideration. All courts, including those using continuous alcohol monitoring systems before December 1, 2007, must comply with DOC regulations established under the act.

S.L. 2007-165 also enacts new G.S. 20-179(e)(6a), adding as a mitigating factor for consideration by a judge in a sentencing for an impaired driving conviction the defendant's completion of a substance abuse assessment, compliance with its recommendations, and simultaneously maintaining sixty days of continuous abstinence from alcohol consumption, as proven by a continuous alcohol monitoring system. New G.S. 20-179(h1) through (h3) permit a judge to require as a condition of probation for defendants subject to Level One or Level Two punishments that a defendant abstain from consuming alcohol for at least thirty but not more than sixty days as verified by a continuous alcohol monitoring system. The total cost to the defendant for the continuous alcohol monitoring system may not exceed \$1,000. If the court determines that the defendant should not be required to pay the costs of the continuous alcohol monitoring system, it may not impose the use of such a system unless the local government entity responsible for the incarceration of the defendant in the local confinement facility agrees to pay the costs of the system. Fees or costs paid for the system must be paid to the clerk of court for the county in which the judgment was entered or the deferred prosecution agreement was filed and must be transmitted to the entity providing the continuous alcohol monitoring system.

The act amends G.S. 15A-1374 to include as an appropriate condition of parole a requirement that the parolee remain alcohol free and prove his or her abstinence through evaluation by a continuous alcohol monitoring system.

All of the aforementioned provisions of S.L. 2007-165 (other than the requirement that DOC establish regulations, which was effective immediately) were effective December 1, 2007, and apply to offenses committed on or after that date, although the act did not prohibit a court from allowing the use of continuous alcohol monitoring systems before that date.

DOC must issue Requests for Information by January 1, 2008, for continuous alcohol monitoring equipment and monitoring services to consider the development of a pilot program for the use of alcohol monitoring systems for offenders supervised by the Division of Community Corrections as an intermediate punishment or as a condition of probation. DOC must report to the General Assembly by October 1, 2008, on the following: (1) its evaluation of continuous alcohol monitoring systems as evidence of an offender's abstinence from alcohol; (2) the results of the Requests for Information for continuous alcohol monitoring of offenders supervised by the Division of Community Corrections; (3) its recommendations for implementing continuous alcohol monitoring, including an evaluation of the costs and benefits of alcohol monitoring technology, the size and characteristics of the offender population, the number of offenders to be monitored, the costs of the monitoring program, and the caseloads for probation officers who

would supervise offenders using the monitoring technology; and (4) whether the state should conduct a pilot program for continuous alcohol monitoring in limited jurisdictions or statewide. DOC must also explore funding options, including the possibility of charging a fee to offenders, and report on any funds identified to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

Impaired Driving

The General Assembly made numerous changes to the Motor Vehicle Driver Protection Act of 2006, which was a comprehensive re-write of the impaired driving laws.

Impaired driving conviction remanded on appeal included as grossly aggravating factor. S.L. 2007-493 (S 999) amends G.S. 20-179(c)(1) to include as a grossly aggravating factor a prior conviction for an offense involving impaired driving if the conviction occurred in district court, the case was appealed to superior court, the appeal has been withdrawn or the case has been remanded back to district court, and a new sentencing hearing has not been held. Corresponding amendments to G.S. 20-38.7(c) remove the requirement that a district court delay sentencing in a remanded case until all pending charges of offenses involving impaired driving cases are resolved, which, in the case of more than one remanded impaired driving case, could result in an endless legal limbo because neither charge could be resolved without the other having been resolved. Other amendments clarify that the judge, not the jury, determines whether the defendant has convictions qualifying as an aggravating factor pursuant to G.S. 20-179(d)(5).

Forfeiture. S.L. 2007-493 amends G.S. 20-28.2(b) to specify that forfeiture of a vehicle driven by an impaired driver may be ordered at a *sentencing* hearing for the underlying offense involving impaired driving (former G.S. 20-28.2(b) permitted entry of an order of forfeiture at “a hearing” for the underlying offense) and to require that the evidence show that the *defendant is guilty* of an offense involving impaired driving, rather than merely that “the underlying offense involved impaired driving” before entry of an order of forfeiture. The 2006 amendments could have been read to authorize forfeitures before the underlying DWI charge was disposed of, and the 2007 amendments clarify the legislature’s intent.

Ignition interlock. S.L. 2007-164 (S 830) amends G.S. 20-54 and 20-54.1(a) to permit DMV to abide by interlock installation requirements of G.S. 20-17.8 notwithstanding provisions requiring DMV to refuse registration or issuance of a certificate of title if registration of a vehicle is suspended or revoked for any reason.

Revocation of license. S.L. 2007-493 amends G.S. 20-19(d) and (e) to require a four-year license revocation upon a conviction of G.S. 20-141.4(a3) (felony serious injury by vehicle) and permanent revocation upon a conviction of G.S. 20-141.4(a4) (aggravated felony serious injury by vehicle). Conditional restorations under G.S. 20-19(e) may extend for five (was, three) years. The act also amends G.S. 20-19(i) to clarify that it applies only upon conviction of an offense involving impaired driving and a fatality, to extend the revocation period before eligibility for conditional restoration from three to five years, and to condition eligibility on the absence of convictions for motor vehicle and alcohol/drug related offenses for five (was, three) years.

Repeat Felony Death by Vehicle. S.L. 2007-493 amends G.S. 20-141.4(a6) to create the offense of repeat felony death by vehicle based upon the same elements included in the previous version of the statute, which provided for enhanced sentencing for repeat offenders but did not set out a separate offense. The amendments also specify that the pleading and proof of previous convictions must be in accordance with G.S. 15A-928.

Explanation of reduction or dismissal. S.L. 2007-493 amends G.S. 20-138.4(a) to require a prosecutor to explain the reduction or dismissal of charges in a case subject to the implied-consent law or involving driving while license revoked for impaired driving when the prosecutor substitutes a charge that is not subject to the implied-consent law (formerly, the prosecutor had to explain the substitution of a charge that was “not an offense involving impaired driving”) or takes a discretionary action that effectively dismisses or reduces the original charge in a case subject to the implied-consent law (formerly, the requirement applied in “a case involving impaired driving.”) This change expands the category of offenses requiring an explanation.

Sentencing. S.L. 2007-493 amends G.S. 20-179 to clarify that the G.S. 20-179 sentencing hearing requirement does not apply to violations of G.S. 20-138.3 (driving by a person under twenty-one after consuming alcohol or drugs). The act also eliminates from G.S. 20-179(p) the option of paroling a defendant into a residential treatment program in lieu of requiring that the defendant complete a recommended substance abuse treatment or training program before being released on parole.

Court costs and fees. Section 30.10 of S.L. 2007-323 (H 1473), the 2007 appropriations act, amends G.S. 20-16.5(j) to increase the fee for return of a license civilly revoked for an implied-consent offense from \$50 to \$100 effective August 1, 2007. Fifty percent of the costs collected must be credited to the General fund, 25 percent must be used to fund a statewide chemical alcohol testing program, and 25 percent must be remitted to the county as reimbursement for jail expenses incurred due to the enforcement of impaired driving laws. Section 30.11 of the act, as amended by Section 9.1 of S.L. 2007-345 (H 714) enacts new G.S. 20-20.2, which provides for a processing fee of \$100 for issuance of a limited driving privilege, also effective August 1, 2007. The limited driving privilege is invalid if the processing fee is not paid to the clerk of superior court.

Obligation of health care provider to obtain sample for chemical analysis. S.L. 2007-115 (H 353) amends G.S. 20-139.1(c) and (d1) to permit a physician, nurse, emergency medical technician, or other qualified person to refuse a law enforcement officer's request to withdraw blood or collect urine for chemical analysis *only* if it reasonably appears that the procedure cannot be performed without endangering the safety of the person collecting the sample or the safety of the person from whom the sample is collected.

Gross impairment and high-risk drivers. S.L. 2007-493 made the following amendments effective for offenses committed on or after December 1, 2007.

Amendments to G.S. 20-179(d) and G.S. 20-179.3(g5) lower the alcohol concentration limit for gross impairment and for the mandatory ignition interlock requirement from 0.16 to 0.15 and provide that the results of a chemical analysis presented at trial or sentencing are conclusive as to the person's alcohol concentration. The act also lowers the threshold in G.S. 20-16.2(c1), which requires submission of an affidavit when a person has an alcohol concentration of 0.15 or more (was, 0.16). Amended G.S. 20-17.8(a) further provides that chemical analysis results showing an alcohol concentration of 0.15 (was, 0.16) or greater that are included in an affidavit must be used by DMV to determine a person's alcohol concentration for purposes of imposing ignition interlock as a requirement of license restoration. The effect of these amendments is to reduce the role played by judges in determining when interlocks are required as a condition of a person's relicensing after a revocation for an impaired driving conviction.

New G.S. 20-179.3(c1) adds additional limited driving privilege restrictions for "high-risk drivers," defined as persons convicted of an impaired driving offense with an alcohol concentration of 0.15 or more at the time of the offense. Again, these amendments provide that results of a chemical analysis presented at trial or sentencing are conclusive as to a person's alcohol concentration. Limited driving privileges issued to these drivers may not become effective until forty-five days after the final conviction under G.S. 20-138.1, must require the applicant to comply with ignition interlock requirements under 20-179.3(g5) (which requires a system set to prohibit driving with an alcohol concentration greater than 0.00), and must restrict the defendant to driving only to and from work, school, court-ordered treatment or substance abuse education, and any ignition interlock service facility. Section 31 of the act rewrites G.S. 7B-1903 to permit a court to order secure custody of a juvenile who is a danger to persons and is charged with violating G.S. 20-138.1 (Impaired driving) or G.S. 20-138.3 (Driving by person less than twenty-one years old after consuming alcohol or drugs) if there is a reasonable factual basis to believe the juvenile committed the offense alleged.

Effective date of medical exception to interlock. S.L. 2007-493 provides that new G.S. 20-17.8(l), which provides for a medical exception to the interlock requirement, is effective December 1, 2006. Formerly, the provision was effective for *offenses* committed on or after December 1, 2006.

Fingerprinting of impaired driving suspects. S.L. 2007-370 (S 1211) enacts new G.S. 15A-502(a2) requiring that if a person charged with an offense involving impaired driving or driving while license revoked for impaired driving cannot produce a valid identification, the person must be fingerprinted and photographed by the arresting law enforcement agency. The act is effective October 1, 2007.

Drivers of Commercial Vehicles

S.L. 2007-492 (H 769) amends G.S. 20-17.4(1) to require DMV to disqualify the holder of a commercial driver's license based upon refusal to participate in a drug or alcohol test as well as for testing positive for drugs or alcohol. Amendments to G.S. 20-37.19(c) require employers to submit to DMV documentation of refusal to participate in a drug or alcohol test.

License Revocation for Giving Alcohol to a Minor

S.L. 2007-537 (H 1277) enacts new G.S. 18B-302(a1) separating the offense of *giving* alcohol to a minor from the offense of *selling* alcohol to a minor. Amended G.S. 20-17.3 provides for a one-year revocation of a person's license upon conviction of giving alcohol to a minor. Other amendments to G.S. 18B-302(g) and G.S. 20-17.3 provide for revocation of the license of a person over twenty-one years of age who is convicted of aiding and abetting another in selling or giving alcohol to a minor or aiding and abetting a minor to purchase, possess, or consume alcohol. Amendments to G.S. 20-17.3 provide that a person whose license is revoked for giving alcohol to a minor or for aiding and abetting a violation of G.S. 18B-302 is eligible for a limited driving privilege under G.S. 20-179.3.

The act also amends G.S. 18B-302.1 to make the punishment provisions applicable to selling alcohol to a minor apply to the now separate offense of giving alcohol to a minor. All of the aforementioned amendments are effective for offenses committed on or after December 1, 2007.

Combating Insurance Rate Fraud by Out-of-State Residents

S.L. 2007-443 (H 729) enacts new G.S. 58-2-164, effective January 1, 2008, making it a Class 3 misdemeanor to present a written or oral statement in support of an application for auto insurance or vehicle registration knowing that the application contains false or misleading information that an applicant is eligible for North Carolina automobile insurance. The act is intended to deter out-of-state residents from falsifying a North Carolina residence in order to receive lower insurance rates than they could in their home states. See "Car insurance bill backed," *News & Observer*, May 18, 2007, by David Ranii (discussing initial version of House Bill 729, which made rate evasion a felony offense). New G.S. 58-2-164(c) requires insurers and agents to take reasonable steps to verify information provided by an applicant regarding his or her address and the place the vehicle is garaged. Insurers may rely on their agents to verify eligibility. New G.S. 58-37-1(4a), as enacted by S.L. 2007-443 and amended by S.L. 2007-481 (S 1147), redefines persons eligible for nonfleet private passenger vehicle insurance, incorporating the former definition of *eligible risk* but adding eligibility requirements for service members, their spouses, and dependants stationed in or deployed from North Carolina. New G.S. 58-2-164(d) provides that neither insurers nor their agents, nor the Commissioner of Insurance, nor employees of the commissioner are, absent actual malice, subject to civil liability as a result of any statement or information provided or action taken pursuant to the statute criminalizing rate evasion. Insurers are authorized to refuse to issue a policy to an applicant who falsifies his or her eligibility, cancel or refuse to renew an already issued policy, or deny coverage for any claim arising from bodily injury or property damage suffered by the applicant. G.S. 58-2-164(h) provides that in a civil action for recovery based upon a claim for which a defendant has been convicted under the statute, the conviction may be entered into evidence against the defendant and establishes his or her

liability as a matter of law for damages, fees, or costs proven. Amendments to G.S. 58-2-163 require that insurance companies, their employees and representatives, and other persons licensed under G.S. Chapter 58, report violations of the rate evasion fraud provisions. The Joint Legislative Transportation Oversight Committee is authorized to study the issues related to automobile insurance rate evasion and to report findings and recommended legislation to the 2008 session of the 2007 General Assembly. S.L. 2007-481 makes corresponding amendments to G.S. 20-52(a), requiring that an owner applying for a certificate of title, a registration plate, or a registration card verify that he or she is eligible for North Carolina automobile insurance. DMV must include on the application for registration and title of a nonfleet private passenger vehicle a statement informing applicants that providing false information regarding the owner's eligibility for North Carolina automobile insurance is subject to criminal prosecution and can result in denial of insurance coverage. The owner must verify that he or she will inform the insurer before the next policy renewal if he or she becomes ineligible for North Carolina automobile insurance.

The Need to *Limit* Speed

Legislative action designed to close loopholes in conviction and sentencing for drivers charged with speeding followed close on the heels of the "Speed Unlimited" series published in *The News & Observer* in May 2007. Among the News & Observer's findings was that, in 2006, only 19 percent of drivers ticketed for speeding at 100 mph or more were convicted as charged. For the year ending June 30, 2006, the newspaper reported that four of five speeding drivers had charges dismissed or reduced or were given a prayer for judgment continued. S.L. 2007-380 (S 925) addressed two of the more prominent issues raised in the newspaper's report: pleas to improper equipment (an infraction) and the entry of prayers for judgment continued. The act amends G.S. 20-141(o) to remove a violation of G.S. 20-123.2, the statute requiring that motor vehicles be equipped with a working speedometer, as a lesser included offense of charges of speeding in excess of 25 mph over the posted speed limit. Other amendments to G.S. 20-141(o) require that a conviction for a violation of G.S. 20-123.2 be recorded in a driver's official record as "Improper equipment – Speedometer." New G.S. 20-141(p) provides that a driver charged with speeding more than 25 mph over the posted speed limit is ineligible for a disposition of prayer for judgment continued. The provision does not specify whether the offense with which a defendant is "charged" is determined by the law enforcement officer or district attorney. These amendments are effective for offenses committed on or after December 1, 2007.

Newly Authorized Limited Driving Privilege

S.L. 2007-293 (S 758), as amended by S.L. 2007-323, enacts new G.S. 20-20.1, which permits persons convicted of certain driving-while-license-revoked offenses to obtain a limited driving privilege. A person may not apply for a limited privilege if the underlying offense (that is, the offense for which license had been revoked when the person was charged with driving while license revoked) involved impaired driving. Moreover, a person whose license is revoked under G.S. 20-28.1 for committing a motor vehicle moving offense involving impaired driving while driving with a revoked license is not eligible for the privilege.

To be eligible, a person must meet the following requirements:

- Driver's license was revoked under G.S. 20-28(a) or G.S. 20-28.1.
- Person complied with revocation for required period.
 - One-year revocation = Ninety-day compliance period
 - Two-year revocation = One-year compliance period
 - Permanent revocation = Two-year compliance period
- Revocation period for underlying offense has expired.
- Revocation under 20-28(a) or 20-28.1 is the only revocation in effect.

- Person is ineligible for limited driving privilege under any other law.
- Person has not held a limited driving privilege issued under G.S. 20-20.1 at any time during the three years before the date the person files the current petition.
- Person has no pending charges for any motor vehicle offense in any state and no unpaid motor vehicle fines or penalties in any state.
- Any driver's license issued to applicant by another state has not been revoked by that state.
- DMV is not prohibited from issuing the license under G.S. 20-9(e) (so disabled that person cannot exercise reasonable and ordinary control over a motor vehicle, unable to understand highway warnings or direction signs) or G.S. 20-9(f) (license or driving privilege cancelled, suspended, or revoked in any jurisdiction if acts upon which cancellation, suspension, or revocation was based would constitute lawful grounds for cancellation, suspension or revocation in North Carolina had those things been done here).

A person eligible for a limited driving privilege pursuant to G.S. 20-20.1 applies for the privilege by filing a petition in the district court in the county where he or she resides. An applicant must attach to a petition a copy of his or her motor vehicle record and a sworn statement that he or she is eligible for a limited driving privilege. The applicant must provide proof of insurance to the court and may not, under the limited privilege, consume alcohol while driving or drive at any time while alcohol or an unauthorized controlled substance is in his or her body.

A limited driving privilege issued under G.S. 20-20.1 restricts a person to essential driving related to travel to and from the person's place of work and in the course of employment; travel necessary for maintenance of the person's household; and travel to provide emergency medical care for the person or for an immediate family member who resides in the same household. Driving related to emergency medical care is authorized at any time and without restriction as to routes.

The court may authorize driving for employment-related purposes during standard working hours (6 a.m. to 8 p.m.) Monday to Friday without specifying times and routes. If the person is required to drive for essential work-related purposes only during standard working hours, the limited driving privilege must prohibit driving during nonstandard work hours unless the driving is for emergency medical care or for authorized household maintenance. The limited driving privilege must state the name of the person's employer. If a person is required to drive during nonstandard working hours for an essential work-related purposes and the person provides documentation of that fact to the court, the court may authorize the person to drive for that purpose during those hours subject to additional specified limitations related to routes and times.

The term of a limited driving privilege is one year or the length of time remaining in the revocation period, whichever is shorter. When the term expires, DMV must reinstate the person's license if the person has paid the restoration fee under G.S. 20-7(i1), provided proof of financial responsibility, and provided proof for reinstatement of license. A violation of a limited driving privilege issued under G.S. 20-20.1 constitutes the offense of driving while license revoked under G.S. 20-28. When a person is charged with operating a motor vehicle in violation of the limited driving privilege, the limited driving privilege is suspended pending the final disposition of the charge.

Photographing Drivers Cited for Moving Violations When Identity in Question

S.L. 2007-534 (H 454) amends G.S. 15A-502(b), effective for offenses committed on or after December 1, 2007, to permit a law enforcement officer, upon citing the operator of a motor vehicle for a moving violation that carries driver's license points, to photograph the person if he or she does not produce a valid driver's license and the law enforcement officer has a reasonable suspicion concerning the person's identity. New subsection (b1) requires that the photograph be

taken only of the vehicle operator, from the neck up, and that the photograph be taken at the place where the citation is issued or at jail if an arrest is made. The law enforcement officer or agency must retain the photograph until the final disposition of the case, and must then destroy it. The photograph may not be used for any purpose other than to confirm the identity of the alleged offender.

Expunging Records of Civil License Revocation

S.L. 2007-509 (S 301) amends G.S. 15A-145(c) to require that upon expunction of certain misdemeanor convictions, civil driver's license revocations resulting from an expunged conviction also be expunged. Civil revocations pursuant to G.S. 20-16.2 for driving while impaired and other alcohol-related offenses are excepted from these provisions and *may not* be expunged. The amended statute is effective October 1, 2007, but the Administrative Office of the Courts and the DMV are required to develop a system for reviewing expungement records for earlier-expunged convictions to determine if earlier civil revocations should be expunged under the standards set forth in amended G.S. 15A-145(c).

Registration and Titling Information

Required Identification for Registration and Titling

S.L. 2007-481 (S 1147) amends G.S. 20-52, effective September 15, 2007, to require that a vehicle owner submit his or her North Carolina driver's license or identification card number rather than his or her Social Security number on an application for a certificate of title, registration plate, or registration card for a vehicle. Active duty military personnel stationed in North Carolina and their spouses and dependants may provide a home state driver's license or identification card number along with a valid active duty military identification or military dependant identification card. Students attending school in North Carolina may provide a home state driver's license or identification card along with proof of enrollment. Persons who garage a car in North Carolina for six or more months of the year may provide a home state driver's license or identification card number along with a signed affidavit certifying that the owner intends to principally garage the vehicle at a specified address in North Carolina. A person applying pursuant to a court-authorized sale or a sale authorized by G.S. 44A-4 (sale to enforce lien) for the purpose of issuing a title to be registered in another state or county may provide his or her home state driver's license number or identification card number. If a vehicle has more than one owner, a co-owner may provide a home state driver's license number or identification card number if at least one co-owner provides a North Carolina driver's license number or identification card number. An owner submitting an application for a motor home, house car, or house trailer may submit the owner's home state driver's license number or special identification card. S.L. 2007-481 enacts new G.S. 20-51(a1), which permits an owner with a medical condition preventing him or her from obtaining a driver's license or identification card to be issued a registration plate and certificate of title if he or she provides an affidavit certifying that he or she intends to principally garage the vehicle in North Carolina at a specified address.

This act is the third ratified in the 2007 session enacting similar changes to G.S. 20-52. The first, S.L. 2007-164, required that an individual owner submit a North Carolina driver's license or identification card number and contained no provisions for submission of a license or identifying information from another state. As a result, certain applications for notation of a security interest could not be processed by DMV because none of the owners had a North Carolina driver's license or special identification card. S.L. 2007-209 (S 1350) repealed Section 4 of S.L. 2007-164 and provided that applications for notations of a security interest that had not been submitted or processed for this reason were deemed perfected as of the date of the execution of the security

agreement if the application was delivered to DMV with the required fee within twenty days of the effective date of the provision, July 11, 2007. S.L. 2007-209 also waives the requirement in G.S. 20-73 that a new owner apply to DMV for a new certificate of title within twenty-eight days for applications withheld or not processed because no owner had a North Carolina driver's license or identification card, provided that those requirements were met within twenty-eight days of S.L. 2007-209's enactment. In addition, Section 2 of S.L. 2007-209 enacted changes to G.S. 20-52 that were similar to those enacted by S.L. 2007-481, but S.L. 2007-481 repealed Section 2 of S.L. 2007-209, rendering its changes to 20-52 the final word—at least for the 2007 session.

Unified Carrier Registration Agreement

S.L. 2007-492 amends G.S. 20-382 to permit the Commissioner of Motor Vehicles to enter into the Unified Carrier Registration Agreement (UCRA), established under federal law, and into agreements with other jurisdictions participating in UCRA to exchange information for any audit or enforcement activity required by the UCRA. G.S. 20-382(b) is simplified: motor carriers that operate for-hire motor vehicles in interstate commerce in North Carolina and that are regulated by the United States Department of Transportation (USDOT) must verify to DMV that each for-hire motor vehicle the motor carrier operates is insured in accordance with the requirements set by the USDOT. A motor carrier that operates a for-hire motor vehicle in interstate commerce in North Carolina and is exempt from regulation by the USDOT must verify to DMV that each for-hire motor vehicle that the motor carrier operates in the state is insured as required by the North Carolina Utilities Commission. Amendments to G.S. 20-382(c) permit a motor carrier that is not registered to obtain an emergency trip permit allowing it to operate a for-hire motor vehicle in the state for a period not to exceed ten days. The act repeals G.S. 20-382.2, which provided penalties for failure to comply with registration or insurance verification requirements, and amends the fee schedule in G.S. 20-385 to remove the fee for verification of insurance for each for-hire motor vehicle operated in the state. The act further provides that if the Commissioner of Motor Vehicles enters into the UCRA, the agreement must specify the date on which any fees required under the agreement become effective, and the date selected must provide adequate time to implement fee provisions.

Sharing of Information with IDS

S.L. 2007-249 (S 1287) amends G.S. 20-7(b2) to permit DMV to disclose Social Security numbers from driver's license applications to the Office of Indigent Defense Services (IDS) for the purpose of verifying the identity of an IDS client and enforcing a court order to pay for legal services rendered.

Organ Donor Information

S.L. 2007-538 (H 1372) enacts the Revised Uniform Anatomical Gift Act, the provisions of which are discussed in greater detail in Chapter 14, "Health." Section 2 of the act amends G.S. 20-43.2 to provide that the purpose of the Donor Registry is to enable federally designated organ procurement organizations and eye banks to have access twenty-four hours a day, seven days a week (formerly, the statute merely required "timely access") to the registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made an anatomical gift through a symbol on the donor's or prospective donor's driver's license or special identification card or in another manner. Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the consent of the donor, prospective donor, or person who made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the person made an anatomical gift.

Verification of Title by Metal Recyclers and Salvage Yards

S.L. 2007-505 (S 1364) enacts new G.S. 20-62.1 permitting secondary metals recyclers and salvage yards that purchase motor vehicles for parts or scrap metal to purchase a motor vehicle without a certificate of title if the vehicle is ten model years old or older, and the buyer maintains specified records of all purchase transactions for motor vehicles for at least two years. One of the records that must be maintained is a written statement signed by the seller or the seller's agent stating that the seller has the right to sell and dispose of the motor vehicle. The act makes it a Class 1 misdemeanor to violate G.S. 20-62.1 or to falsify the seller's statement of ownership. A subsequent violation is a Class I felony. The act provides that any motor vehicle used to transport another vehicle illegally sold for parts or scrap may be seized by law enforcement and is subject to forfeiture by the court if the owner of the transport vehicle was privy to the commission of a crime. The act prohibits local governments from enacting any local law or ordinance regulating the sale of motor vehicles to secondary metals recyclers or salvage yards. These provisions are effective December 1, 2007.

Combined Processes for Inspection and Registration

Under current law, motor vehicles must be annually registered and inspected, but those processes operate separately on different time tables. A vehicle may be due for re-inspection in April, while its registration expires in June. Current inspection is reflected in a sticker placed on the windshield of a motor vehicle, but current registration is evidenced by a registration card and sticker placed on a license plate. Although a vehicle must have a current registration to pass inspection, registration may be renewed for a vehicle for which the safety or emissions inspection has expired. S.L. 2007-503 (H 679) integrates the registration and inspection processes, effective October 1, 2008, by requiring that a vehicle be inspected before its registration expires and by prohibiting DMV from renewing a vehicle's registration without a current safety or emissions inspection. The act implements a process for electronic submission of inspection authorizations from licensed safety and emissions inspectors to DMV and eliminates the inspection sticker.

S.L. 2007-503 amends G.S. 20-66 to prohibit DMV from renewing the registration of a vehicle that does not have a current safety or emissions inspection and to require that registration plates that are not renewed be surrendered to DMV within 120 days of expiration. Amended G.S. 20-183.2 defines *electronic inspection authorization* as an inspection authorization generated automatically through the electronic accounting system that creates a unique authorization number assigned to a vehicle's inspection receipt upon successful passage of an inspection. During the transition period to use of electronic inspection authorizations, inspection stickers are included as electronic inspection authorizations. Under the new law, safety inspection stations must have equipment and software to transfer electronically information on safety inspections to DMV. During the initial implementation of the electronic inspection process, the vendor selected by DMV must provide the equipment and software at no cost to a station that holds a license for safety or emissions inspections on October 1, 2008.

Amendments to G.S. 20-183.4C impose the following new requirements:

- Purchasers of all new or used vehicles (including those purchased at a public auction) must receive receipts certifying that the vehicles have been inspected and are in compliance.
- New vehicles purchased out of state must be inspected within ten days after they are registered in North Carolina.
- Used vehicles acquired in a private sale in North Carolina must be inspected within thirty days after the vehicle is registered with DMV or when the current registration expires if it has not received a passing inspection within the previous twelve months.
- An unregistered vehicle must be inspected within thirty days after the vehicle is registered with DMV or within thirty days after a transferred registration expires.

- A person who owns a vehicle located outside of North Carolina when its emissions inspection becomes due may obtain an emissions inspection in the jurisdiction where the vehicle is located in lieu of a North Carolina emissions inspection, as long as the inspection meets the requirements of 40 C.F.R. § 51.

Also effective October 1, 2008, the fee for a safety inspection increases from \$8.25 to \$12.75. Amendments also provide that a vehicle owner may obtain an emissions inspection waiver only if the cost of repairs to correct the emissions inspection failure is at least \$200, regardless of the vehicle's age and impose a \$250 penalty, regardless of the vehicle's age, for failure to obtain a required emissions inspection within four months after it is due, tampering with an emission control device, or incorrectly stating the county of registration to avoid having an emissions inspection. DMV must report on the progress of integrating the inspection and registration systems to the General Assembly by May 1, 2008.

In other changes, effective January 1, 2009, S.L. 2007-364 (S 509) increases the time allowed for re-inspection of a vehicle after a failed inspection from thirty to sixty days. A vehicle owner presenting a vehicle for re-inspection at the same inspection station within sixty days is not required to pay another inspection fee.

The act also amends G.S. 20-183.8A to waive civil penalties for failure to obtain a required emissions inspection within four months after it is due assessed against a person who was out of the state on active military duty from the time the inspection expired to the date the four-month grace period expired if no person operated the vehicle during this period and the person obtained a current inspection sticker within thirty days after returning to North Carolina. Other amendments to G.S. 20-183.8A, effective July 1, 2008, reduce the penalty from \$250 to \$50 for failure to have a vehicle inspected within four months after it is required to be inspected.

Dealer Plates and Registration of Sold Vehicles

S.L. 2007-481 (S 1147) enacts new G.S. 20-79(d)(6), permitting a motor vehicle dealer to maintain on file in its place of business copies of registration cards for its cars with dealer license plates as long as the vehicles are being driven within North Carolina, eliminating the requirement that the registration card be carried by the person operating the motor vehicle. New G.S. 20-183.4C(1a) permits a new motor vehicle dealer licensed to perform an inspection to examine the safety and emissions control devices on a new motor vehicle and perform services necessary to ensure that the vehicle conforms to the manufacturer specifications contained in its predelivery checklist. The completion of the predelivery inspection procedure constitutes the inspection required by G.S. 20-183.4C(1), and the date of inspection is the date of sale of the motor vehicle.

S.L. 2007-291 (H 135) amends G.S. 20-79 to permit DMV to issue to manufacturers and other persons licensed under Article 12 of G.S. Chapter 20 the appropriate classification of dealer license plates and to exempt manufacturers from restrictions on the number of dealer plates that may be issued to them. DMV may issue dealer plates with symbols that vary depending upon the classification of plate issued and must provide smaller license plates for motorcycle dealers and manufacturers.

Integrated System for Registration and Taxation of Motor Vehicles

The General Assembly enacted S.L. 2007-471 (H 1688) to remove a political hurdle that threatened implementation of the combined system for taxation and registration of motor vehicles. The act permits automobile dealers to obtain limited registrations for vehicles sold to customers without requiring them to collect property taxes at the time of sale.

Effective July 1, 2010, or when DMV and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection of motor vehicles is in operation, S.L. 2007-471 amends G.S. 20-79.1 to allow automobile dealers to register and obtain license plates for newly sold vehicles without collecting property taxes at the time of sale. New G.S. 20-79.1A provides for the issuance of limited registration plates, a new type of license plate bearing a visible marker denoting its temporary status, to dealers and others who submit an application for title and registration fees to DMV. Limited registrations expire on the last day of the second month following the date the registration was applied for. New G.S. 105-330.5(a2) provides that limited registrations become valid for the remainder of the year upon payment of county and municipal taxes and fees, and requires the Property Tax Division of the Department of Revenue to include this information in its notice to the owner of the vehicle. A dealer or any other person may opt to pay property taxes at the time the application for title is submitted and registration fees are paid and thereby obtain an annual rather than a limited registration.

S.L. 2007-471 also divorces the taxation of International Registration Plan (IRP) vehicles from the process of registering these vehicles. The IRP is a registration reciprocity agreement among forty-eight states, the District of Columbia, and provinces of Canada providing for payment of registration fees for fleet vehicles on the basis of total distance operated in all jurisdictions.² S.L. 2007-164 amends G.S. 20-91(c), which governs audits of vehicles registered under the IRP, to provide effective July 1, 2007, that the failure to pay fees or taxes within thirty days after the billing date is cause for denying registration of a vehicle registered or formerly registered through the IRP.

Tag Agents and Offices

S.L. 2007-243 (S 60) enacts new G.S. 20-63(h2), which requires DMV upon closing the only contract license plate agency in a county to designate as soon as practicable a temporary location for the issuance of all registration documents issue by DMV for that county. The street address and telephone number of the temporary location must be posted at the former agency location for at least thirty days. A former contract agent who fails to comply with these provisions is guilty of a Class 3 misdemeanor.

S.L. 2007-488 (S 1457) enacts new G.S. 20-63.01, effective January 1, 2008, to require tag agents to obtain a bond of at least \$100,000 in favor of DMV. Tag agents who are unable to obtain a bond may seek a waiver from DMV and approval of a listed bond alternative, which may consist of assigning to DMV a savings account or certificate of deposit in an amount equal to the required bond.

The act permits DMV to operate its own tag office in Charlotte in addition to Raleigh. Amendments to G.S. 20-63 require DMV to accept electronic applications for registration documents and authorize DMV to collect fees from online motor vehicle registration vendors under contract with DMV. DMV must contract with at least two online motor vehicle registration vendors who may in turn contract with motor vehicle dealers. Tag agents also are authorized to contract with online motor vehicle registration vendors that are under contract with DMV to complete and file registration documents.

2. International Registration Plan© with Official Commentary, (July 1, 2006), at 3, 83-84, *available at* <http://www.irponline.org/irp/DocumentDisplay.aspx?id={4A507479-F628-420A-AEA8-F185BF156D32}>; see also 19A N.C.A.C. 3E .0401 (providing that apportionable vehicles used or intended for use in two or more jurisdictions that allocate or proportionally register vehicles must be registered in accordance with the provisions of the IRP).

Drivers' Licenses Again to Expire on Birthdays

S.L. 2007-56 (S 1026) amends G.S. 20-7(f) to restore the licensee's birthday as the expiration date for a driver's license. The amendments are retroactive to January 1, 2007. (S.L. 2006-257 amended G.S. 20-7(f) effective January 1, 2007, to provide for the expiration of drivers' licenses issued to persons eighteen years old and older eight or five years after the *date of issuance*, rather than on the licensee's birthday, which traditionally has served as the date of license expiration.) New G.S. 20-7(f)(2a) differentiates renewed licenses from original licenses and provides that renewed licenses issued to a person at least eighteen years old but less than fifty-four years old expire eight years after the expiration date of the license that is renewed and renewed licenses issued to a person at least fifty-four years old expire five years after the expiration date of the license that is renewed.

The act also amends G.S. 20-7(f)(3) and (s) to provide for the issuance of licenses of shorter duration to applicants with valid documentation issued under the authority of the federal government demonstrating the applicant's legal presence of limited duration in the United States (the former version of the statute provided for limited duration licenses only for applicants holding *visas* of limited duration). Licenses of limited duration must expire by the end of the authorization for the applicant's legal presence in the United States. Amended G.S. 20-15(a)(3) confers upon DMV the authority to cancel a license upon determination that a licensee is no longer authorized under federal law to be legally present in the country.

S.L. 2007-350 (H 1546) amends G.S. 20-7(f)(2) to require that a commercial driver's license with a school bus endorsement expires on the birth date of the licensee three years after the date of issuance.

Submission of Voter Lists to County Jury Commission

S.L. 2007-512 (H 943) enacts new G.S. 130A-121, which requires the State Registrar to submit to each county jury commission and the Commissioner of Motor Vehicles a list of all residents of the county and state, respectively, who have died in the two years prior to July 1 of each odd-numbered year. Amended G.S. 9-2 and G.S. 20-43.4 require the Commissioner of Motor Vehicles to remove from the list of registered voters supplied to the county jury commission pursuant to G.S. 20-43.4 the names of county residents who have recently died, as determined from the Registrar's list. The act also amends G.S. 20-43.4 to require the list provided to the county jury commission to be updated annually if an annual jury list is prepared. Other amendments require that the commissioner omit from the list the name of any formerly licensed driver whose license is expired and has not been renewed for at least eight years. The list must contain drivers' Social Security numbers as well as other specified identifying information. Corresponding amendments to G.S. 20-7(b2) permit DMV to disclose a Social Security number to each county jury commission for the purpose of verifying the identity of deceased persons whose names should be removed from jury lists. The provisions of S.L. 2007-512 are effective October 1, 2007.

Seat Belts and Child Restraints

S.L. 2007-289 (H 1330) exempts passengers transported by a law enforcement officer from the requirement that a backseat passenger wear a seat belt. S.L. 2007-6 (H 61) amends G.S. 20-37.1, the law requiring child restraint systems, to eliminate the exception for attending to a child's personal needs, thereby ensuring compliance with federal regulations. S.L. 2007-404 (S 1495) amends G.S. 20-135.2A(c) effective December 1, 2007, to exempt from the seat belt law drivers and passengers of residential garbage or recycling trucks while the trucks are operating during collection rounds.

School Bus Safety

S.L. 2007-382 (S 924) amends 20-217(g), which makes it a Class I felony to strike a person when willfully moving, passing, or attempting to pass a stopped school bus, to remove the requirement that the driver cause serious bodily injury to the person struck. This amendment is effective December 1, 2007. The act also amends G.S. 20-4.01(27)d4. to eliminate the requirement that the letters "School Bus" be eight inches in height, instead requiring that they be "plainly visible" and to require, effective August 1, 2007, that school buses be painted yellow.

Mobile Phone Use.

S.L. 2007-261 (H 183) enacts new G.S. 20-137.4, effective December 1, 2007, making it a Class 2 misdemeanor to use a mobile telephone or additional technology while operating a public or private school bus, operating a school activity bus, or transporting students for hire in any vehicle. Use of such a device in a stationary vehicle or in an emergency situation is excepted from the statute. Local governments are specifically prohibited from passing any ordinance regulating the use of mobile telephones or additional technology associated with a mobile telephone by operators of school buses. In 2006 legislation was enacted to prohibit drivers under eighteen from using these devices while driving.

Traffic Control and Other Technical Issues

Move-Over Requirement

S.L. 2007-360 (H 563) amends the definition of *public service vehicle* in G.S. 20-157(f) (the "move over" law) to remove the requirement that such a vehicle must have been called to the scene by a motorist or law enforcement officer. The act also alters the description of a red-light traffic signal in G.S. 20-158(b)(2) and substitutes the term *traffic signal* for *stoplight* and the term *traffic control device* for *signaling device* in G.S. 20-158(b)(5) and (c). New G.S. 20-158(b)(6) provides that when a traffic signal is not illuminated due to a power outage or malfunction, vehicles must approach the intersection and proceed through it as though it was controlled by a stop sign on all approaches. The subdivision does not apply if an authorized person or traffic control device is directing movement of traffic at the intersection.

Abandoned Vehicles

S.L. 2007-360 amends G.S. 20-161(e) to permit a law enforcement officer to remove from the right of way of a public highway, including a rest area, a vehicle parked or left standing twenty-four (was, forty-eight) hours or more. Pursuant to amended G.S. 21-161(f), an investigating law enforcement officer may remove a wrecked, abandoned, disabled, unattended, burned, or partially dismantled vehicle, cargo, or other personal property from the state highway system (formerly, these items could be removed from "a controlled access highway") if it constitutes a hazard.

Protests on State Roadways

S.L. 2007-360 enacts new G.S. 20-174.2 to permit a municipality or county to adopt an ordinance regulating the time, place and manner of gatherings, picket lines, or protests by pedestrians on state roadways and highways. Such an ordinance may not restrict the activities of licensees, employees, or contractors of DOT or a municipality who are working in construction or maintenance, or making traffic or engineering surveys.

Speed Zone Signs

S.L. 2007-164 repeals G.S. 136-33.2, which required signs marking the beginning and end of all speed zones, and enacts new G.S. 136-33.2A, which requires that a sign be erected 600 feet in advance of the beginning of any speed zone indicating a change in the speed limit.

Gated Communities

S.L. 2007-455 (H 976) amends G.S. 20-4.01(32), effective December 1, 2007, to clarify that roads used by vehicular traffic within or leading to a gated community are public vehicular areas. Many motor vehicle laws are enforceable on public vehicular areas as well as on streets and highways. S.L. 2007-455 enacts new G.S. 20-158.3, effective December 1, 2007, requiring that persons or entities responsible for controlled access to a road that is a public vehicular area (that is, a gated community) provide immediate access to those areas for emergency service vehicles, including law enforcement, fire, rescue, ambulance, and first responder vehicles.

Motorcycles

S.L. 2007-260 (S 1359) enacts G.S. 20-158(e), effective December 1, 2007, creating a defense for motorcycles entering certain intersections controlled by steady-beam traffic signals emitting a red light. The operator of a motorcycle, after stopping for a minimum of three minutes, may proceed through an intersection controlled by a traffic signal activated by a vehicle sensor if the sensor fails to detect the motorcycle and activate the signal.

Amended G.S. 20-140.4(a)(2), effective January 1, 2008, specifies that operators and passengers of mopeds and motorcycles must wear and secure the retention straps of safety helmets that comply with Federal Motor Vehicle Safety Standard 218.

Passenger Buses

S.L. 2007-499 (H 514) amends G.S. 20-116 to allow passenger buses more than forty-five feet long to operate on public streets and highways.

State Highway System

S.L. 2007-164 requires DOT to establish performance standards for the maintenance and operation of the state highway system and to report to the General Assembly by December 31 of each even-numbered year on the condition of the state highway system and maintenance funding needs.

Tandem Vehicles

S.L. 2007-77 (S 1456) amends G.S. 20-116(e) to except from the requirement that a tandem vehicle not exceed sixty feet in length semitrailers not more than forty-eight feet long that are combined with a truck tractor.

Tow Trucks

S.L. 2007-404 (S 1495) enacts new G.S. 20-101(d), effective December 1, 2007, to require that a motor vehicle used to tow or transport another vehicle have printed on the side of the vehicle in letters at least three inches tall the name and address of the registered owner of the towing vehicle and the name of the business or person being hired, if different.

Local Acts

Abandoned and Junked Vehicles

S.L. 2007-505 (S 1364) amends G.S. 160A-303.2(a) to add Monroe to the cities that may regulate the abandonment of junked vehicles on public and private property.

ATV Use by Law Enforcement and Emergency Personnel

S.L. 2007-433 (H 767) enacts new G.S. 20-171.23 to permit law enforcement officers and fire, rescue, and emergency medical services personnel acting in the course of their duties to operate all-terrain vehicles (ATV) on public highways where the speed limit is 35 mph or less. New G.S. 20-171.4 permits municipal and county employees in the following jurisdictions to operate motorized ATVs on public highways where the speed limit is 35 mph or less: the towns of Ansonville, Atlantic Beach, Burgaw, Carolina Beach, Cramerton, Dallas, Davidson, Duck, Emerald Isle, Franklin, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Murphy, Nags Head, North Topsail Beach, Oakboro, Ocean Isle Beach, Pine Knoll Shores, Stanley, Surf City, Sylva, Topsail Beach, and Wrightsville Beach; the cities of Albemarle, Belmont, Cherryville, Gastonia, Kings Mountain, Mount Holly, and Rockingham; and the counties of Cleveland, Currituck, Gaston, Surry, and Wilkes. The act repeals previous local acts authorizing the use of ATVs in various counties and cities and was effective October 1, 2007.

Golf Cart Use by Law Enforcement and Municipal Employees

S.L. 2007-215 (H 638) enacts new G.S. 20-114.4 applicable only to the City of King and the Town of Maiden permitting law enforcement officers and municipal employees to operate golf carts on public streets or highways within the city limits.

Golf Cart Use by Citizens

S.L. 2007-204 (H 279), S.L. 2007-259 (H 254), S.L. 2007-72 (H 538), and S.L. 2007-336 (H 849) allow the City of Conover and the towns of Badin, Carolina Beach, Emerald Isle, Fremont, Faison, Indian Beach, Kings Mountain, Kure Beach, Morrisville, North Topsail Beach, Shelby, and Wrightsville Beach to allow and regulate golf cart use on municipal streets. In recent years, many cities and towns have been authorized by local act to allow and regulate such golf cart use. Local ordinances may require registration of golf carts, require certain equipment (such as seat belts or rear view mirror and reflectors), limit loads and hours of operation, and specify who may operate the golf carts.

Special License Plates

No recent session of the General Assembly may be completed without authorization for additional special license plates. Amendments to G.S. 20-63(b) authorize the following special license plates as non-First in Flight plates: Back Country Horsemen of North Carolina; Hospice Care; Home Care and Hospice; NC Tennis Foundation; and AIDS Awareness. Other newly authorized registration plates recognize ALS Research, Brain Injury Awareness, Breast Cancer Earlier Detection, Bronze Star Combat Recipients, E-911 Telecommunication, Juvenile Diabetes Research Foundation, Maggie Valley Trout Festival, National Kidney Foundation, and Prostate Cancer Awareness.

Other provisions of S.L. 2007-483 (S 103) and S.L. 2007-400 (S 1036) amend fees for certain special license plates and add special registration plates for certain state government officials.

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