



S.B. 235

124th General Assembly
(As Introduced)

Sen. Spada

BILL SUMMARY

- Modifies the definition of "bingo" to include instant bingo, seal cards, and raffles within the definition of the term, to remove certain types of schemes and games of chance from the definition, and to include references to bingo sheets in the definition.
- Creates a license that authorizes certain charitable organizations to conduct bingo and instant bingo.
- Requires the licensing of manufacturers and distributors of bingo supplies.
- Regulates the sale of instant bingo and the conduct of raffles.
- Prohibits the playing of bingo and games of chance that a charitable organization conducts, in a premises where beer or liquor is sold for on-premises consumption.
- Makes other changes in the Charitable Gambling Law.

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CONTENT AND OPERATION

Definition of "bingo" and other related definitions

Bingo

The bill modifies the definition of "bingo" as follows (R.C. 2915.01(S)):

- (1) It includes instant bingo, raffles, and seal cards within the definition.
- (2) It removes the following from the definition: any other than a game that meets the traditional definition of bingo with the following characteristics:
 - (a) The participants use cards, sheets, or other devices that are divided into spaces arranged in horizontal, vertical, or diagonal rows of spaces, with each space, except free spaces, being designated by a single letter, number, or symbol; by a combination of letters, numbers, or symbols; by a combination of a letter and a number, a letter and a symbol, or a number and a symbol; or by any combination of letters, numbers, and symbols, with some or none of the spaces being designated as a free, complimentary, or similar space.
 - (b) The participants cover the spaces on the cards, sheets, or devices that correspond to letters, numbers, symbols, or combinations of such that are announced by a bingo game operator or otherwise transmitted to the participants.
 - (c) A bingo game operator announces, or otherwise transmits to the participants, letters, numbers, symbols, or any combination of such as set forth in division (S)(2)(a) of this section that appear on objects that a bingo game operator selects by chance that correspond to one of the possible letters, numbers, symbols, or combinations of such that can appear on the bingo cards, sheets, or devices.
 - (d) The winner of the bingo game is any participant who properly announces that a predetermined and preannounced pattern of spaces has been covered on a card, sheet, or device being used by the participant.

(3) It replaces all references to bingo cards with a reference to *bingo cards or sheets*.

Other definitions

The bill defines or modifies the definition of the following terms:

"Instant bingo" means a form of bingo in which one or more prizes are won by one or more persons who have purchased a folded, or banded ticket with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners (R.C. 2915.01(FF)).

"Raffle" means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket and in which one or more winners of the raffles are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle (R.C. 2915.01(GG)).

"Seal card" means a board or placard used in conjunction with instant bingo tickets that contain one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols (R.C. 2915.01(OO)).

The bill modifies the definition of "scheme of chance" to include a slot machine and to not include bingo (R.C. 2915.01(C)).

"Slot machine" means either of the following: (1) any mechanical, electronic, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain, the outcome of which is determined largely or wholly by chance, (2) any mechanical, electronic, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct or dispense bingo or a scheme or game of chance (R.C. 2915.01(PP)).

"Net profit" means gross profit minus the expenses a charitable organization may lawfully incur under current law (R.C. 2915.01(KK)).

"Gross profit" means gross receipts minus the amount actually expended for the payment of prize awards (R.C. 2915.01(JJ)).

"Premises," for purposes of the Charitable Gambling Law, means a building in which a bingo session is conducted or in which instant bingo is conducted other than at a bingo session, but does not include any area of land surrounding the building unless the area is used by a charitable organization that is

tax-exempt under subsection 501(a) and is described in subsection 501(c)(3) of the Internal Revenue Code and is used by the charitable organization in conjunction with games of chance authorized to be conducted at the organization's festivals (R.C. 2915.01(LL)).

"Distributor" means any person who purchases or obtains bingo supplies and who sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this state (R.C. 2915.01(HH)).

"Manufacturer" means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale (R.C. 2915.01(II)).

"Revoke" means to void permanently all rights and privileges of the holder of an operator's, distributor's, or manufacturer's license issued under the Charitable Gambling Law or a charitable gaming license issued by another jurisdiction (R.C. 2915.01(MM)).

"Suspend" means to interrupt temporarily all rights and privileges of the holder of an operator's, distributor's, or manufacturer's license issued under the Charitable Gambling Law or a charitable gaming license issued by another jurisdiction (R.C. 2915.01(NN)).

The bill expands the definition of "gambling offense" found in the Charitable Gaming Law to include the new criminal offenses the bill creates (R.C. 2915.01(G)).

The bill provides that to qualify as a "volunteer firefighter's organization," an organization must be organized and operated to provide financial support for a volunteer fire department or volunteer fire company that is recognized or ratified by the county, municipal corporation, or township in which it is located (R.C. 2915.01(L)).

The bill modifies the definition of "game of chance" to not include bingo (R.C. 2915.01(D)).

The bill modifies the definition of "gambling device" to replace "slot machine" with "a slot machine designed for use in connection with bingo or a scheme or game of chance" and to include "bingo supplies sold or used in violation of the Gambling Law" with the definition (R.C. 2915.01(F)).

The bill modifies the definition of "charitable bingo game" to mean any bingo described in the definition of bingo, except a raffle, that is conducted by a charitable organization that has obtained a license and the proceeds of which are

used for a charitable purpose and removes the word "game" from the defined term (R.C. 2915.01(R)).

The bill redefines "conduct" to mean to back, promote, organize, manage, carry on, or prepare for the operation of *bingo or* (added by the bill) a scheme or game of chance (removes existing statement that it does not include any act performed by a bingo game operator) (R.C. 2915.01(U)).

The bill redefines "bingo game operator" to mean any person, except security personnel, who performs work or labor at the site of a bingo game *session or at the site of instant bingo conducted other than at a bingo session* (italicized provisions added by the bill), including, but not limited to, collecting money from participants, handing out bingo cards *or sheets* or objects to cover spaces on the bingo cards *or sheets*, *selling bingo cards or sheets*, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on the bingo cards *or sheets* (added by the bill), calling out the combinations of *those* letters and numbers, *identifying winners*, distributing prizes to the winner of the bingo game, *selling instant bingo tickets or raffle tickets*, *selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle*, *cleaning up the premises*, and preparing, selling, and serving food or beverages (R.C. 2915.01(U)).

The bill redefines "participant" to mean any person who plays bingo (R.C. 2915.01(V)).

The bill redefines "bingo session" to mean a period that includes both of the following (R.C. 2915.01(W)):

(1) Not to exceed five continuous hours *for the conduct of one or more games described in the primary definition of bingo and instant bingo*;

(2) *A period for the conduct of instant bingo for not more than one hour before and not more than one hour after the period described in the prior paragraph.*

The bill redefines "gross receipts" to include references to instant bingo other than a bingo session and raffles (R.C. 2915.01(X)).

"Bingo supplies" means bingo cards or sheets, devices for selecting the objects that contain the combination of bingo letters and numbers, instant bingo tickets, raffle tickets, and seal cards. Items that are bingo supplies are not gambling devices if sold and used in accordance with the Charitable Gambling Law. (R.C. 2915.01(EE).)

License to conduct bingo and instant bingo

The bill authorizes a charitable organization to apply for and the Attorney General to issue a license that would allow any charitable organization to conduct regular bingo and instant bingo other than at a bingo session (R.C. 2915.08(A)(1)). The annual application fee for a bingo license is based upon the sum of the total gross receipts of the charitable organization, and the total of all money or assets received by any person that operates or assists in the operation of any game of chance for the charitable organization, during the one-year period ending on October 31 of the year immediately preceding the year for which the license is sought. The fee is determined as follows: if the sum is less than \$250,000 a fee of \$500; if the sum is \$250,000 or more but less than \$500,000 a fee of \$1,000; if the sum is \$500,000 or more but less than \$750,000 a fee of \$1,500; if the sum is \$750,000 or more but less than \$1 million a fee of \$2,000; if the sum is \$1 million or more but less than \$1.5 million a fee of \$3,500; and if the sum is \$1.5 million or more a fee of \$5,000. The annual fee for a charitable bingo license under current law is \$100 (R.C. 2915.08(A)(1)).

The bill requires the Attorney General to deposit all license fees received for bingo licenses into the state treasury to the credit of the charitable law fund (R.C. 2915.08(A)(2)). It also modifies the information that a bingo license application must contain (R.C. 2915.01(A)(3)).

The bill authorizes instead of requires as under existing law the Attorney General to adopt rules to enforce the Charitable Bingo Law, expands the purpose of those rules to include insuring that instant bingo sessions are conducted in accordance with the law. It prohibits the Attorney General from granting more than one license to a particular charitable organization. The bill modifies the licensing provisions of the Charitable Bingo Law to include references to conducting instant bingo other than at a bingo session. (R.C. 2915.08(B) to (G).)

Licensing of distributors of bingo supplies

The bill prohibits any person from selling, offering to sell, or otherwise providing bingo supplies for use in Ohio without having obtained a distributor license from the Attorney General. A violator of this prohibition is guilty of "illegally operating as a distributor," a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense. (R.C. 2915.081(A) and (G).) The bill defines "distributor" as any person who purchases or obtains bingo supplies and who sells, offers for sale, or otherwise provides bingo supplies to another person for use in Ohio and defines "bingo supplies" as bingo cards or sheets, devices for selecting the objects that contain the combination of bingo letters and numbers, instant bingo tickets, raffle tickets, and seal cards (R.C. 2915.01(EE) and (HH)).

The bill authorizes the Attorney General to issue a distributor license to any person that meets the bill's requirements for being issued such a license. The application for a distributor license must be on a form that the Attorney General prescribes and accompanied by the annual fee. The license is valid for a period of one year, and the annual fee for the license is \$2,500. (R.C. 2915.081(B).)

The bill authorizes the Attorney General to refuse to issue a distributor license to any person that has, or that has an officer or partner or other person with an ownership interest of 10% or more who has, (1) been convicted of a felony under the laws of Ohio, another state, or the United States, (2) been convicted of any gambling offense, (3) made a material incorrect or false statement to the Attorney General in a license application submitted for a distributor license or submitted to a gambling licensing authority in another jurisdiction if the statement resulted in license revocation through administrative action in that jurisdiction, (4) submitted any incorrect or false information relating to the application if the information is material to the granting of the license, (5) maintained any incorrect or false information material to the granting of the license in the records the bill requires the distributor to maintain, or (6) had a license related to gambling revoked in Ohio or another jurisdiction (R.C. 2915.081(C)). The Attorney General must not issue a distributor license to any person that is involved in the conduct of bingo on behalf of a charitable organization or that is a lessor of premises used for the conduct of bingo. The Attorney General may suspend or revoke a distributor license for any of the reasons for which the Attorney General may refuse to issue a distributor license or if the distributor holding the license violates any provision of the Charitable Gambling Law or any rule adopted under it. The refusal to issue, the suspension of, and the revocation of a distributor license are subject to the Administrative Procedure Act (R.C. 2915.081(D) and (F)).

The bill prohibits a distributor from (1) selling, offering to sell, or otherwise providing or offering to provide bingo supplies to any person in Ohio except a charitable organization licensed to conduct bingo or to another licensed distributor, or (2) purchasing bingo supplies for use in Ohio except from a manufacturer licensed to sell bingo supplies or from another licensed distributor. The bill permits a distributor to accept only checks as payment for the sale of bingo supplies and requires that payment by a distributor for these sales be made only by check. A violator of either of these prohibitions is guilty of "illegally operating as a distributor," a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense. (R.C. 2915.081(E) and (G).)

Licensing of manufacturers and distributors of bingo supplies

The bill prohibits any manufacturer from selling, offering to sell, or otherwise providing or offering to provide bingo supplies for use in Ohio without

having obtained a manufacturer license from the Attorney General. A violator of this prohibition is guilty of "illegally operating as a manufacturer," a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense. (R.C. 2915.082(A) and (F).) The bill defines "manufacturer" as any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale (R.C. 2915.01(II)).

The bill authorizes the Attorney General to issue a manufacturer license to any person who meets the bill's requirements for being issued such a license. The application for a manufacturer license must be on a form that the Attorney General prescribes and be accompanied by the annual fee. The license is valid for a period of one year, and the annual fee for the license is \$2,500. (R.C. 2915.082(B).)

The bill authorizes the Attorney General to refuse to issue a manufacturer license to any person that has, or that has an officer or partner or other person with an ownership interest of 10% or more who has, (1) been convicted of a felony under the laws of Ohio, another state, or the United States, (2) been convicted of any gambling offense, (3) made a material incorrect or false statement to the Attorney General in a license application submitted for a manufacturer license or submitted to a gambling licensing authority in another jurisdiction if the statement resulted in license revocation through administrative action in the other jurisdiction, (4) submitted any incorrect or false information relating to an application if the information is material to the granting of the license, (5) maintained any incorrect or false information material to the granting of the license in records the bill requires the manufacturer to maintain, or (6) had a license related to gambling revoked in Ohio or another jurisdiction. The Attorney General may suspend or revoke a manufacturer license for any of the reasons for which the Attorney General may refuse to issue a manufacturer license or if the manufacturer holding the license violates any provision of the Charitable Gambling Law or any rule adopted under it. The refusal to issue, the suspension of, or the revocation of a manufacturer license is subject to the Administrative Procedure Act. (R.C. 2915.082(C) and (E).)

The bill prohibits a manufacturer from selling, offering to sell, or otherwise providing or offering to provide bingo supplies to any person in Ohio except a licensed distributor. It requires that a manufacturer accept only checks as payment for the sale of bingo supplies. (R.C. 2915.082(D).) A violator of this prohibition is guilty of "illegally operating as a manufacturer," a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense (R.C. 2915.082(F)).

Maintenance of records

Under current law, a charitable organization that conducts a bingo session or a scheme or game of chance is required to maintain for at least three years itemized lists of the gross receipts of, and all prizes awarded at, each bingo session or scheme or game of chance. Under the bill, these same records must also be maintained for each raffle. A list also must be maintained of the total prizes awarded from each game of chance, each regular bingo game, and each raffle, and of the name and address of all persons who are winners of prizes of more than \$600 in value (\$100 under existing law). The bill requires each charitable organization to conduct and record an inventory of all bingo supplies as of November 1 of each year. (R.C. 2915.10(A) and (C).)

Current law requires that these charitable organizations maintain an itemized list of the charitable recipients of the proceeds of a bingo session or game or scheme of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the proceeds of a bingo session, or the money or assets received from a scheme or game of chance for a charitable purpose, a list of each purpose and an itemized list of each expenditure for each purpose. The bill requires these charitable organizations to maintain an itemized list of the charitable recipients of the net profit of the bingo session, raffle, or game of chance, and if the organization uses the net profit, a list showing each purpose and an itemized list showing each expenditure for each purpose. (R.C. 2915.10(A).)

Under the bill, the gross profit from each bingo session must be deposited into a checking account devoted exclusively to the bingo session. Payments for allowable expenses and to charitable recipients must be made only by checks from the bingo session account. (R.C. 2915.10(B).)

The bill authorizes the Attorney General, in accordance with the Administrative Procedure Act, to adopt rules establishing standards of accounting, record keeping, and reporting to ensure that charitable receipts from bingo sessions, raffles, and games of chance are properly accounted (R.C. 2915.10(D)).

A distributor is required by the bill to maintain, for a period of three years after the date of sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in Ohio. The record must include all of the following for each instance: (1) the name of the manufacturer from which the distributor purchased the bingo supplies and the date of the purchase, (2) the name and address of the charitable organization or other distributor to which the bingo supplies were sold or otherwise provided, (3) a description that clearly identifies the bingo supplies, and (4) invoices that include the serial numbers of all instant bingo games sold to each charitable organization. (R.C. 2915.10(E).)

The bill requires a manufacturer to maintain, for a period of three years after the date of sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in Ohio. The record must include all of the following: (1) the name and address of the distributor to whom the bingo supplies were sold or otherwise provided, (2) a description that clearly identifies the bingo supplies, and (3) invoices that include the serial numbers of all instant bingo games sold to each distributor. (R.C. 2915.10(F).)

The bill authorizes the Attorney General or any law enforcement agency to inspect, during normal business hours, the books, records, inventory, and business premises of a licensed distributor or manufacturer and to take other reasonable action to determine whether there has been a violation of the Charitable Gambling Law (R.C. 2915.10(H)).

Current law allows the Attorney General or any local law enforcement agency to investigate any charitable organization or any officer, agent, trustee, member, or employee of the organization, examine the accounts and records of the organization, and conduct inspections, audits, and observations of bingo games or schemes or games of chance while they are in session. The bill permits such investigations and other activities to be carried out also with regard to bingo sessions, raffles, and bingo conducted other than at a bingo session. Under the bill, the Attorney General or any other local law enforcement authority, may take any other necessary and reasonable action to determine if there has been a violation of the Charitable Gambling Law, and any local law enforcement agency may proceed to enforce the Charitable Gambling Law after giving written notice to the Attorney General when commencing an action. (R.C. 2915.10(G).) Whoever fails to comply with any of the bill's requirements related to the maintenance of records, as described above, is guilty of a fourth degree felony rather than a first degree misdemeanor as under current law (R.C. 2915.10(J)).

Regulation of the sale of instant bingo

The bill prohibits a charitable organization from conducting instant bingo or using seal cards unless that organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(3) of the Internal Revenue Code. The charitable organization is not permitted to conduct instant bingo on any day, at any time, or at any premises not specified on the organization's license.

No charitable organization that conducts instant bingo other than at a bingo session may fail to comply with the requirements of the Charitable Gambling Law that govern the conduct of instant bingo at a bingo session, the use of gross

receipts from instant bingo conducted at a bingo session, and the keeping of instant bingo records relative to a bingo session. (R.C. 2915.091(A).)

The bill prohibits a charitable organization that conducts instant bingo from doing any of the following: (1) selling any instant bingo ticket for a price different from the price printed on the ticket by the manufacturer, (2) using any instant bingo ticket as a prize or award, or (3) selling an instant bingo ticket to a person under 18 years of age. (R.C. 2915.091(B).)

The Attorney General may adopt rules, in accordance with the Administrative Procedure Act, governing the sale of instant bingo tickets by charitable organizations and establishing standards for instant bingo tickets (R.C. 2915.091(C)).

Whoever violates any of the above prohibitions is guilty of illegal instant bingo conduct. Illegal instant bingo conduct is a misdemeanor of the first degree. If the offender has previously been convicted of a violation, illegal instant bingo conduct is a felony of the fifth degree. (R.C. 2915.091(D).)

The conduct of raffles

The bill authorizes a charitable organization to conduct a raffle without a license to conduct bingo. However, charitable organizations may not conduct a raffle unless that organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(3) of the Internal Revenue Code. No charitable organization may conduct more than 12 raffles during a calendar year. A raffle drawing may not be conducted on premises other than premises that a charitable organization uses for its charitable programs. (R.C. 2915.092(A), (B), and (C).)

Whoever violates any of the above prohibitions is guilty of illegal conduct of a raffle. Illegal conduct of a raffle is a misdemeanor of the first degree. If the offender has previously been convicted of a violation, illegal conduct of a raffle is a felony of the fifth degree. (R.C. 2915.092(D).)

Prohibition against the playing of bingo and games of chance in a premises where beer or liquor is sold for on-premises consumption

The bill exempts from the prohibition against gambling games of chance that are not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to the Charitable Gambling Law *and are not conducted on any premises for which a permit for the sale of beer or intoxicating liquor has been issued* (R.C. 2915.02(D)(1)(e)).

The bill expands the offense of public gaming by prohibiting the following: (1) it prohibits any person, while at a tavern or other establishment at which beer or intoxicating liquor is sold for consumption on the premises, from playing bingo or any game of chance that a charitable organization conducts, (2) it prohibits any person who is the owner or lessee, or who has custody, control, or supervision, of a tavern or other establishment at which beer or intoxicating liquor is sold for consumption on the premises from recklessly permitting the premises to be used or occupied for a purpose described in (1) above. Whoever violates either of those prohibitions is guilty of "public gaming," a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on a subsequent offense. Premises used or occupied in violation of the prohibition constitute a nuisance subject to abatement. (R.C. 2915.04(C) and (F).)

Inclusion of bingo in offense of cheating

The bill modifies the offense of cheating to include bingo. The bill prohibits any person, with purpose to defraud or knowing that the person is facilitating a fraud, from engaging in conduct designed to corrupt the outcome of bingo. Whoever violates this prohibition is guilty of "cheating," a misdemeanor of the first degree on a first offense and a felony of the fifth degree on a subsequent offense. The offense is also a felony of the fifth degree if the potential gain from the cheating is \$500 or more. (R.C. 2915.05.)

Other changes in the Charitable Gambling Law

Deposit of licensing fees

The bill requires the Attorney General to pay all license fees received for the licensing of bingo and instant bingo operators under R.C. 2915.08, distributors of bingo supplies under R.C. 2915.081, and manufacturers of bingo supplies under R.C. 2915.082 into the state treasury to the credit of the charitable law fund (R.C. 109.32).

Automatic termination of order issued by a common pleas court suspending the effect of an order of the Attorney General

The bill provides that any order issued by a common pleas court suspending the effect of an order of the Attorney General that revokes or suspends any bingo license must terminate not more than 15 months after the date of the filing of a notice of appeal in the common pleas court, even if the matter has not been finally adjudicated within that time (R.C. 119.12).

Conforming changes

The bill amends several Revised Code sections to make conforming changes that reflect substantive changes made in other parts of the bill (R.C. 173.121(B), 1531.01(TT), 1711.09, 2915.01(F), (H), (R), (S), (T), (V), (W), (X), and (Y), 2915.02, 2915.11, 2915.12, 3763.01, and 4301.03).

COMMENT

The following are descriptions of subsections of the Internal Revenue Code referred to by the bill:

Subsection 501(c)(3) concerns corporations, and any community chest, fund, or foundation, that are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes or for the prevention of cruelty to children or animals.

Subsection 501(c)(4) describes civic leagues composed of employees of a municipality that devote their net earnings exclusively to charitable, recreational, or educational purposes. Subsection 501(c)(8) describes fraternal organizations that provide payment of life, sick, accident, or other benefits to their members, and subsection 501(c)(10) describes domestic fraternal organizations that devote earnings exclusively to religious, charitable, scientific, educational, and fraternal purposes other than the payment of life, sick, accident, or other benefits to their members. Subsection 501(c)(19) describes certain war veteran organizations and their auxiliaries.

Subsections 509(a)(1), (a)(2), and (a)(3) generally refer to political subdivisions, subsection 501(c)(3) organizations that are not private foundations, and organizations to which a contribution is tax-deductible on an individual's federal income tax return.

HISTORY

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