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LC03294/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2005

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS

Introduced By: Senators Gibbs, Blais, and Breene

Date Introduced: May 18, 2005

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-1-62 of the General Laws in Chapter 39-1 entitled "Public
2 Utilities Commission" is hereby amended to read as follows:

3 **39-1-62. E-911 Geographic Information System (GIS) and Technology Fund.**

4 **[Repealed effective June 30, 2007.]** -- (a) Preamble. - To allow the Rhode Island E-911
5 Emergency Telephone System agency to associate latitude and longitude coordinates provided by
6 wireless carriers with physical locations throughout the state, the agency must establish and
7 maintain a GIS database of street addresses and landmarks. The database will allow local
8 emergency response personnel to dispatch police, fire and rescue personnel to a specific address
9 or landmark of a cellular caller in the event the caller is unaware of his or her location, or is
10 physically unable to communicate it. Because more than half of the 530,000 9-1-1 phone calls
11 received in 2003 came from cellular phones, it is critical that the GIS database be developed and
12 maintained in order to improve caller location identification and reduce emergency personnel
13 response times.

14 (b) Definitions. - As used in this section, the following terms have the following
15 meanings:

16 (1) "System" means Emergency 911 Uniform Telephone System.

17 (2) "Agency" means Rhode Island 911 Emergency Telephone System.

18 (3) "Division" means the Division of Public Utilities and Carriers.

19 (4) "GIS and Technology Fund" means the programs and funding made available to the

1 Emergency 911 Uniform Telephone System to assist in paying the costs of the GIS database
2 development project and GIS systems maintenance, which will enable the system to locate
3 cellular phone callers by geocoding all addresses and landmarks in cities and towns throughout
4 the state. It also includes programs to create system redundancy and maintain state-of-the-art
5 equipment technology.

6 (c) Purpose. - The purpose of the GIS and Technology Fund shall be to:

7 (1) Implement and maintain a geographic information system database to assist in
8 locating wireless phone callers for emergency purposes in a manner consistent and in
9 coordination with the Rhode Island geographic information system administered by the Division
10 of Planning as provided for in section 42-11-10(g)(3); and

11 (2) Create system redundancy to ensure the reliability of 9-1-1 service to the public; and

12 (3) Maintain state-of-the-art equipment technology.

13 (d) Authority. - The agency shall establish, by rule or regulation, an appropriate funding
14 mechanism to recover from the general body of ratepayers the costs of funding GIS and
15 technology projects.

16 (1) The general assembly shall determine the amount of a monthly surcharge to be levied
17 upon each wireless ~~telecommunications~~ instrument, ~~or~~ device or means including prepaid,
18 cellular, telephony, Internet Voice Over Internet Protocol (VoIP), satellite, computer, radio,
19 communication, data, or any other wireless instrument, device or means that has access to,
20 connects with, interfaces with or is capable of delivering two-way interactive communications
21 services ~~comparable to those offered by telecommunications service providers~~ to the Rhode
22 Island E-911 Uniform Emergency Telephone System. The agency will provide the general
23 assembly with information and recommendations regarding the necessary level of funding to
24 effectuate the purposes of this article. The surcharge shall be billed monthly by each wireless
25 telecommunications services provider as defined in section 39-21.1-3 and shall be payable to the
26 wireless telecommunications services provider by the subscriber or prepaid service customer of
27 the telecommunications services. Each telecommunication services provider shall establish a
28 special (escrow) account to which it shall deposit on a monthly basis the amounts collected as a
29 surcharge under this section. The money collected by each wireless telecommunication services
30 provider shall be transferred within sixty (60) days after its inception of wireless, prepaid,
31 cellular, telephony, Voice Over Internet Protocol (VoIP), satellite, computer, Internet, or
32 communications, information or data services in this state and every month thereafter. Any
33 money not transferred in accordance with this paragraph shall be assessed interest at eight percent
34 (8%) per annum from the date the money should have been transferred. State, local and quasi-

1 governmental agencies shall be exempt from the surcharge. The surcharge shall be deposited in a
2 restricted receipt account, hereby created within the agency and known as the GIS and
3 Technology Fund, to pay any and all costs associated with the provisions of subsection (c). The
4 amount of the surcharge under this section shall not exceed thirty-five cents (\$.35) per wireless
5 phone.

6 (2) The surcharge is hereby determined to be twenty-six cents (\$.26) per wireless phone,
7 prepaid, cellular, telephony, Voice Over Internet Protocol, satellite, computer, data or data only
8 wireless lines or Internet communication or data instrument, device or means which has access to,
9 connects with, activates or interfaces with or any combination of the above with the Rhode Island
10 E-911 Uniform Emergency Telephone System per month and shall be in addition to the wireless
11 surcharge charged under section 39-21.1-14. The twenty-six cents (\$.26) is to be billed to all
12 wireless telecommunication service providers, subscribers or prepaid service customers upon the
13 inception of services.

14 (3) The amount of the surcharge shall not be subject to the sales and use tax imposed
15 under chapter 18 of title 44 nor be included within the gross earnings of the telecommunications
16 corporation providing telecommunications service for the purpose of computing the tax under
17 chapter 13 of title 44.

18 (4) With respect to prepaid wireless telecommunication service providers and customers,
19 and notwithstanding anything to the contrary contained in this section, the surcharge shall be
20 collected and remitted to the agency by the prepaid wireless telecommunication service provider
21 under one of three methods:

22 (i) the prepaid wireless telecommunication service provider shall collect the surcharge, on
23 a monthly basis, from each active prepaid wireless telecommunication service customer whose
24 account balance is equal to or greater than the amount of the service charge; or

25 (ii) the prepaid wireless telecommunication service provider shall collect the surcharge,
26 on a monthly basis, at the point of sale; or

27 (iii) the prepaid wireless telecommunication service provider shall divide the total earned
28 prepaid wireless telephone revenue received by the prepaid wireless telecommunication service
29 provider within the monthly reporting period by fifty dollars (\$50.00), and multiply the quotient
30 by the amount of the surcharge.

31 The surcharge amount or an equivalent number of air-time minutes may be reduced from
32 a prepaid wireless telecommunication service customer's account when direct billing is not
33 possible.

34 (e) Administration. - The agency shall collect monthly from the wireless

1 telecommunications service providers [as defined in section 39-21.1-3](#) the amounts of the
2 surcharge collected from their subscribers [or prepaid customers](#). The agency shall deposit such
3 collections in an account maintained and administered by the Rhode Island 911 Emergency
4 Telephone System for use in developing and maintaining the geographic information system
5 database, creating system redundancy, and improving equipment technology. The agency is
6 further authorized and encouraged to seek matching funds from all local, state, and federal public
7 or private entities and shall coordinate its activities and share all information with the state
8 Division of Planning.

9 (f) The effective date of assessment for the GIS and Technology Fund shall be July 1,
10 2004.

11 (g) Nothing in this section shall be construed to constitute rate regulation of wireless
12 communications services carriers, nor shall this act be construed to prohibit wireless
13 communications services carriers from charging subscribers for any wireless service or feature.

14 (h) Except as otherwise provided by law, the agency shall not use, disclose or otherwise
15 make available call location information for any purpose other than as specified in subsection (c).

16 [\(i\) The attorney general shall, at the request of the E-911 uniform emergency telephone](#)
17 [system division, or any other agency that may replace it, or on its own initiative, commence](#)
18 [judicial proceedings in the superior court against any telecommunication services provider as](#)
19 [defined in section 39-21.1-3 \(11\) providing communication services to enforce the provisions of](#)
20 [this chapter.](#)

21 SECTION 2. Sections 39-21.1-3 and 39-21.1-14 of the General Laws in Chapter 39-21.1
22 entitled "911 Emergency Telephone Number Act" are hereby amended to read as follows:

23 **39-21.1-3. Definitions.** -- As used in this chapter:

24 (1) "Automatic location identification (ALI)" means the system capability to identify
25 automatically the geographical location of the telephone being used by the caller and to provide a
26 display of the location information at a public safety answering point.

27 (2) "Automatic number identification (ANI)" means the system capability to identify
28 automatically the calling telephone number and to provide a display of that number at a public
29 safety answering point.

30 (3) "Communications common carrier" means any person, party, or entity which
31 provides communications services for profit by way of wire or radio. It includes re-sellers of
32 such services.

33 (4) "Communications services" means the transmission of sounds, messages, data,
34 information, codes, or signals between a point or points of origin and a point or points of

1 reception.

2 (5) "Private safety agency" means a private entity which provides emergency fire,
3 ambulance, or medical services.

4 (6) "Public agency" means the state government and any unit of local government or
5 special purpose district located in whole or in part within the state which provides or has authority
6 to provide firefighting, law enforcement, ambulance, medical, or other emergency services.

7 (7) "Public safety agency" means a functional division of a public agency which
8 provides firefighting, law enforcement, ambulance, medical, or other emergency services.

9 (8) "Public safety answering point (PSAP)" means a communications facility operated
10 on a twenty-four (24) hour basis, assigned responsibility to transmit 911 calls to other public
11 safety agencies. It is the first point of reception of a 911 call by a public safety agency and serves
12 the entire state.

13 (9) "Relay method" means the method of responding to a telephone request for
14 emergency service whereby a public safety answering point notes pertinent information and
15 relays it by telephone to the appropriate public safety agency or other provider of emergency
16 services for dispatch of an emergency service unit.

17 (10) "Selective call routing" means a feature that routes a 911 call from a central office
18 to the designated public safety answering point based upon the telephone number of the calling
19 party.

20 (11) "Telecommunication services provider", for purposes of this chapter and of chapter
21 21 of this title, means every person, party or entity which provides communications services,
22 telephony services, voice or data transmission services, and wireless prepaid services, including,
23 but not limited to: audio ~~communication~~, print ~~communication~~ information, Voice Over Internet
24 Protocol (VoIP), data or visual information, communication or transmission or any combination
25 thereof, for profit on a subscription, wireless prepaid service, wireless prepaid telephone calling
26 arrangement or pay-for-services or any other basis by means of landline local telephone exchange
27 ~~devices~~, cellular telephone ~~devices~~, wireless communication ~~devices~~, radio, telephony, Internet,
28 data, satellite, computer, prepaid wireless telephone, Voice Over Internet Protocols (VoIP)
29 instruments, devices or means, or any other communication or data instruments devices or means
30 which have access to, connect with, or interface with the E 9-1-1 Uniform Emergency Telephone
31 System. Telecommunication service provider includes "telephone common carrier,"
32 "communications common carrier," "telephone companies," and "common carrier" as those terms
33 are used in this chapter and in chapter 21 of this title, and "telecommunication common carrier"
34 as defined in the Code of Federal Regulations at 47 CFR part 22, as amended from time to time

1 [and as defined in the NENA Master Glossary of 9-1-1 Terminology as amended from time to](#)
2 [time.](#)

3 (12) "Telephone common carrier" means any person, party, or entity which provides
4 communications services for profit between a point of origin and a point of reception by way of a
5 land-line wire connection between the two (2) points. It includes re-sellers of such services.

6 (13) "The 911 authority" means the agency of the state government in which
7 responsibility for administering the implementation and operation of 911 system is vested by the
8 general assembly.

9 (14) "Transfer method" means the method of responding to a telephone request for
10 emergency service whereby a public safety answering point transfers the call directly to the
11 appropriate public safety agency or other provider of emergency service for dispatch of an
12 emergency service unit.

13 [\(15\) "Telephone service provider" means every person, party or entity that provides](#)
14 [telephone services to subscribers or wireless prepaid customers including, but not limited to,](#)
15 ["telephone common carrier" and "telecommunications service providers."](#)

16 [\(16\) "Telephony or Telephony Services Provider" \(see "Telephone Service Provider"\).](#)

17 [\(17\) "Voice Over Internet Protocol \(VoIP\)" provides distinct packetized voice or data](#)
18 [information in digital format using the Internet Protocol.](#)

19 **39-21.1-14. Funding.** -- (a) A monthly surcharge of one dollar (\$1.00) is hereby levied
20 upon each residence and business telephone line or trunk [or path and data, telephony, Internet,](#)
21 [Voice Over Internet Protocol \(VoIP\) wireline, line, trunk or path](#) in the state including PBX
22 trunks and centrex equivalent trunks and each line or trunk serving, and upon each user interface
23 number or extension number or similarly identifiable line, trunk, or path to or from a digital
24 network (such as, but not exclusive of, integrated services digital network (ISDN), Flexpath or
25 comparable digital private branch exchange, or connecting to or from a customer-based or
26 dedicated telephone switch site (such as, but not exclusive of, a private branch exchange (PBX)),
27 or connecting to or from a customer-based or dedicated central office (such as, but not exclusive
28 of, a centrex system but exclusive of trunks and lines provided to wireless communication
29 companies) [that can access to, connect with or interface with the Rhode Island E-911 Uniform](#)
30 [Emergency Telephone System \(RI E-911\).](#) The surcharge shall be billed by each
31 telecommunication services provider [at the inception of services](#) and shall be payable to the
32 telecommunication services provider by the subscriber of the ~~telecommunication~~ services. A
33 monthly surcharge of one dollar (\$1.00) is hereby levied effective July 1, 2002, on each wireless
34 ~~telecommunication~~ instrument ~~or~~, device [or means including prepaid, cellular, telephony,](#)

1 Internet, Voice Over Internet Protocol (VoIP), satellite, computer, radio, communication, data or
2 data only wireless lines or any other wireless instrument, device or means which has access to,
3 connects with, or activates or interfaces or any combination thereof with the E 9-1-1 Uniform
4 Emergency Telephone System. The surcharge shall be in addition to the surcharge collected
5 under section 39-1-62 and shall be billed by each telecommunication services provider and shall
6 be payable to the telecommunication services provider by the subscriber or prepaid services
7 customer. The E-911 Uniform Emergency Telephone System shall establish, by rule or regulation
8 an appropriate funding mechanism to recover from the general body of ratepayers this surcharge.

9 (b) The amount of the surcharge shall not be subject to the tax imposed under chapter 18
10 of title 44 nor be included within the telephone common carrier's gross earnings for the purpose
11 of computing the tax under chapter 13 of title 44.

12 (c) Each telephone common carrier and each telecommunication services provider shall
13 establish a special account to which it shall deposit on a monthly basis the amounts collected as a
14 surcharge under this section. ~~In determining the amount collected, the telephone common carrier~~
15 ~~or telecommunication services provider may include a factor for uncollectible billings computed~~
16 ~~in accordance with its customary business practice.~~

17 (d) The money collected by each telecommunication services provider ~~of wireline~~
18 ~~communication services~~ shall be transferred within sixty (60) days after its inception of wireline,
19 wireless, prepaid, cellular, telephony, Voice Over Internet Protocol (VoIP), satellite, computer,
20 Internet, or communications services in this state and every month thereafter, to the general
21 treasury, together with the accrued interest and shall be deposited in the general fund as general
22 revenue. ~~The money collected by each telecommunication services provider of wireless~~
23 ~~communication services shall be transferred within ninety (90) days, after the initial imposition of~~
24 ~~the surcharge, and every calendar quarter thereafter, to the general treasury with accrued interest~~
25 ~~and shall be deposited in the general fund as general revenue. Any money not transferred in~~
26 accordance with this paragraph shall be assessed interest at eight percent (8%) per annum from
27 the date the money should have been transferred.

28 (e) Every billed subscriber-user shall be liable for any surcharge imposed under this
29 section until it has been paid to the telephone common carrier or telecommunication services
30 provider. Any surcharge shall be added to and may be stated separately in the billing by the
31 telephone common carrier or telecommunication services provider and shall be collected by the
32 telephone common carrier or telecommunication services provider.

33 (f) Each telephone common carrier and telecommunication services provider shall
34 annually provide the E 9-1-1 uniform emergency telephone system division or any other agency

1 that may replace it, with a list of amounts uncollected together with the names and addresses of
2 its subscriber-users who can be determined by the telephone common carrier or
3 telecommunication services provider to have not paid the surcharge.

4 (g) Included within, but not limited to, the purposes for which the money collected may
5 be used are rent, lease, purchase, improve, construct, maintenance, repair, and utilities for the
6 equipment and site or sites occupied by the E 91-1 uniform emergency telephone system;
7 salaries, benefits, and other associated personnel costs; acquisition, upgrade or modification of
8 PSAP equipment to be capable of receiving E 91-1 information, including necessary computer
9 hardware, software, and data base provisioning, addressing, and non-recurring costs of
10 establishing emergency services; network development, operation and maintenance; data-base
11 development, operation, and maintenance; on-premise equipment maintenance and operation;
12 training emergency service personnel regarding use of E 91-1; educating consumers regarding
13 the operations, limitations, role and responsible use of E 91-1; reimbursement to telephone
14 common carriers or telecommunication services providers of rates or recurring costs associated
15 with any services, operation, administration or maintenance of E 91-1 services as approved by
16 the division; reimbursement to telecommunication services providers or telephone common
17 carriers of other costs associated with providing E 91-1 services, including the cost of the design,
18 development, and implementation of equipment or software necessary to provide E 91-1 service
19 information to PSAP's, as approved by the division.

20 (h) [Deleted by P.L. 2000, ch. 55, art. 28, section 1.]

21 (i) Nothing in this section shall be construed to constitute rate regulation of wireless
22 communication services carriers, nor shall this act be construed to prohibit wireless
23 communication services carriers from charging subscribers for any wireless service or feature.

24 [\(j\) State, local and quasi-governmental agencies shall be exempt from the surcharge.](#)

25 SECTION 3. Section 44-18-7 of the General Laws in Chapter 44-18 entitled "Sales and
26 Use Taxes - Liability and Computation" is hereby amended to read as follows:

27 **44-18-7. Additional definitions.** -- (a) "Hotel" means every building or other structure
28 kept, used, maintained, advertised as, or held out to the public to be a place where living quarters
29 are supplied for pay to transient or permanent guests and tenants and includes a motel.

30 (b) "Living quarters" means sleeping rooms, sleeping or housekeeping accommodations,
31 or any other room or accommodation in any part of the hotel, rooming house, or tourist camp
32 which is available for or rented out for hire in the lodging of guests.

33 (c) "Rooming house" means every house, boat, vehicle, motor court, or other structure
34 kept, used, maintained, advertised, or held out to the public to be a place where living quarters are

1 supplied for pay to transient or permanent guests or tenants, whether in one or adjoining
2 buildings.

3 (d) "Sales" means and includes:

4 (1) Any transfer of title or possession, exchange, barter, lease, or rental, conditional or
5 otherwise, in any manner or by any means of tangible personal property for a consideration.

6 "Transfer of possession", "lease", or "rental" includes transactions found by the tax administrator
7 to be in lieu of a transfer of title, exchange, or barter.

8 (2) The producing, fabricating, processing, printing, or imprinting of tangible personal
9 property for a consideration for consumers who furnish either directly or indirectly the materials
10 used in the producing, fabricating, processing, printing, or imprinting.

11 (3) The furnishing and distributing of tangible personal property for a consideration by
12 social, athletic, and similar clubs and fraternal organizations to their members or others.

13 (4) The furnishing, preparing, or serving for consideration of food, meals, or drinks,
14 including any cover, minimum, entertainment, or other charge in connection therewith.

15 (5) A transaction whereby the possession of tangible personal property is transferred, but
16 the seller retains the title as security for the payment of the price.

17 (6) Any withdrawal, except a withdrawal pursuant to a transaction in foreign or interstate
18 commerce, of tangible personal property from the place where it is located for delivery to a point
19 in this state for the purpose of the transfer of title or possession, exchange, barter, lease, or rental,
20 conditional or otherwise, in any manner or by any means whatsoever, of the property for a
21 consideration.

22 (7) A transfer for a consideration of the title or possession of tangible personal property,
23 which has been produced, fabricated, or printed to the special order of the customer, or any
24 publication.

25 (8) The furnishing and distributing of electricity, natural gas, artificial gas, steam,
26 refrigeration, and water.

27 (9) (i) The furnishing for consideration of telecommunications service which includes
28 local exchange service, intrastate toll service, interstate and international toll service including
29 cellular mobile telephone or telecommunications service, specialized mobile radio and pagers and
30 paging service including any form of mobile two-way communication and including the
31 furnishing, rental, or leasing of all equipment or services pertaining or incidental to it; provided,
32 that the service is: rendered in its entirety within this state, originated in this state and terminated
33 in another state or a foreign country and with respect to which the service is charged to a
34 telephone number, customer, or account located in this state or to the account of any transmission

1 instrument in this state, originated in another state or a foreign country and terminated in this state
2 and is charged to a telephone number, customer, or account located in this state at which the
3 service is terminated, or to the account of any transmission instrument in this state at which the
4 service is terminated; provided, that the service does not include receipts except as otherwise
5 provided in sections 44-18-8 and 44-18-12. For the purposes of chapters 44-18 and 44-19 only,
6 telecommunication service does not include service rendered using a prepaid telephone calling
7 arrangement. ~~Telecommunications service does not include service rendered using a prepaid~~
8 ~~telephone calling arrangement.~~

9 (ii) Notwithstanding the provisions of paragraph (i) of this subdivision, in accordance
10 with the Mobile Telecommunications Sourcing Act (4 U.S.C. sections 116 -- 126), subject to the
11 specific exemptions described in 4 U.S.C. section 116(c), and the exemptions provided in
12 sections 44-18-8 and 44-18-12, mobile telecommunications services that are deemed to be
13 provided by the customer's home service provider are subject to tax under this chapter if the
14 customer's place of primary use is in this state regardless of where the mobile
15 telecommunications services originate, terminate or pass through. Mobile telecommunications
16 services provided to a customer, the charges for which are billed by or for the customer's home
17 service provider, shall be deemed to be provided by the customer's home service provider. For the
18 purposes of this paragraph:

19 (A) "Customer" means either: (I) a person or entity that contracts with a home service
20 provider for mobile telecommunications services; or (II) if the end user of mobile
21 telecommunications services is not the contracting party, the end user of the mobile
22 telecommunication service, but this clause applies only for the purpose of determining the place
23 of primary use. "Customer" does not include a reseller of mobile telecommunications services or
24 a serving carrier that is under an arrangement to serve the customer outside the home service
25 provider's licensed service area.

26 (B) "Home service provider" means a facilities-based carrier or reseller with which the
27 customer contracts for the provision of mobile telecommunications services.

28 (C) "Mobile telecommunications service" means commercial mobile radio service as
29 defined in 47 CFR 20.3 in effect on June 1, 1999.

30 (D) "Place of primary use" means the street address representative of where the
31 customer's use of the mobile telecommunications service primarily occurs, which must be:

32 (I) The residential street address or the primary business street address of the customer;

33 and

34 (II) Within the licensed service area of the home service provider.

1 (iii) All other definitions and provisions of the Mobile Telecommunications Act as
2 provided in 4 U.S.C. sections 116 -- 126 are adopted.

3 (10) The furnishing of service for transmission of messages by telegraph, cable, or radio
4 and the furnishing of community antenna television, subscription television, and cable television
5 services.

6 (11) The rental of living quarters in any hotel, rooming house, or tourist camp.

7 (12) The transfer for consideration of prepaid telephone calling arrangements and the
8 recharge of prepaid telephone calling arrangements. If the transfer or recharge of a prepaid
9 telephone calling arrangement does not take place at a vendor's place of business, the transfer or
10 recharge is conclusively determined to take place at the customer's shipping address, or if there is
11 no item shipped, at the customer's billing address or the location associated with the customer's
12 mobile telephone number. "Prepaid telephone calling arrangement" means and includes a prepaid
13 telephone calling card and/or the right to exclusively purchase telecommunications services, that
14 must be paid for in advance, that enables the origination of calls using an access number and/or
15 authorization code, whether manually or electronically dialed.

16 (e) "Tourist camp" means a place where tents, tent houses, camp cottages, or cabins or
17 other structures are located and offered to the public or any segment of the public for human
18 habitation.

19 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC UTILITIES AND CARRIERS

1 This act would amend various laws regarding the Rhode Island E911 Emergency
2 Telephone System to identify new communication technologies and to subject those new
3 technologies to the 911 surcharge.

4 This act would take effect upon passage.

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