
HOUSE BILL 2150

State of Washington

57th Legislature

2001 Regular Session

By Representatives Morris, Delvin, Cooper and Esser

Read first time 02/19/2001. Referred to Committee on Technology, Telecommunications & Energy.

1 AN ACT Relating to a state wireless enhanced 911 excise tax;
2 amending RCW 38.52.010, 38.52.530, 38.52.540, 38.52.550, 82.14B.020,
3 82.14B.030, 82.14B.040, 82.14B.042, 82.14B.061, and 82.14B.200; adding
4 new sections to chapter 38.52 RCW; creating a new section; repealing
5 RCW 38.52.560; and providing an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that statewide
8 enhanced 911 has proven to be a lifesaving service and that routing a
9 911 call to the appropriate public safety answering point with a
10 display of the caller's identification and location should be available
11 for all users of telecommunications services, regardless of the
12 technology used to make and transmit the 911 call. The legislature
13 also finds that it is in the best public interest to ensure that there
14 is adequate ongoing funding to support enhanced 911 service.

15 **Sec. 2.** RCW 38.52.010 and 1997 c 49 s 1 are each amended to read
16 as follows:

17 As used in this chapter:

1 (1) "Emergency management" or "comprehensive emergency management"
2 means the preparation for and the carrying out of all emergency
3 functions, other than functions for which the military forces are
4 primarily responsible, to mitigate, prepare for, respond to, and
5 recover from emergencies and disasters, and to aid victims suffering
6 from injury or damage, resulting from disasters caused by all hazards,
7 whether natural, technological, or human caused, and to provide support
8 for search and rescue operations for persons and property in distress.
9 However, "emergency management" or "comprehensive emergency management"
10 does not mean preparation for emergency evacuation or relocation of
11 residents in anticipation of nuclear attack.

12 (2) "Local organization for emergency services or management" means
13 an organization created in accordance with the provisions of this
14 chapter by state or local authority to perform local emergency
15 management functions.

16 (3) "Political subdivision" means any county, city or town.

17 (4) "Emergency worker" means any person, including but not limited
18 to an architect registered under chapter 18.08 RCW or a professional
19 engineer registered under chapter 18.43 RCW, who is registered with a
20 local emergency management organization or the department and holds an
21 identification card issued by the local emergency management director
22 or the department for the purpose of engaging in authorized emergency
23 management activities or is an employee of the state of Washington or
24 any political subdivision thereof who is called upon to perform
25 emergency management activities.

26 (5) "Injury" as used in this chapter shall mean and include
27 accidental injuries and/or occupational diseases arising out of
28 emergency management activities.

29 (6)(a) "Emergency or disaster" as used in all sections of this
30 chapter except RCW 38.52.430 shall mean an event or set of
31 circumstances which: (I) Demands immediate action to preserve public
32 health, protect life, protect public property, or to provide relief to
33 any stricken community overtaken by such occurrences, or (ii) reaches
34 such a dimension or degree of destructiveness as to warrant the
35 governor declaring a state of emergency pursuant to RCW 43.06.010.

36 (b) "Emergency" as used in RCW 38.52.430 means an incident that
37 requires a normal police, coroner, fire, rescue, emergency medical
38 services, or utility response as a result of a violation of one of the
39 statutes enumerated in RCW 38.52.430.

1 (7) "Search and rescue" means the acts of searching for, rescuing,
2 or recovering by means of ground, marine, or air activity any person
3 who becomes lost, injured, or is killed while outdoors or as a result
4 of a natural, technological, or human caused disaster, including
5 instances involving searches for downed aircraft when ground personnel
6 are used. Nothing in this section shall affect appropriate activity by
7 the department of transportation under chapter 47.68 RCW.

8 (8) "Executive head" and "executive heads" means the county
9 executive in those charter counties with an elective office of county
10 executive, however designated, and, in the case of other counties, the
11 county legislative authority. In the case of cities and towns, it
12 means the mayor in those cities and towns with mayor-council or
13 commission forms of government, where the mayor is directly elected,
14 and it means the city manager in those cities and towns with council
15 manager forms of government. Cities and towns may also designate an
16 executive head for the purposes of this chapter by ordinance.

17 (9) "Director" means the adjutant general.

18 (10) "Local director" means the director of a local organization of
19 emergency management or emergency services.

20 (11) "Department" means the state military department.

21 (12) "Emergency response" as used in RCW 38.52.430 means a public
22 agency's use of emergency services during an emergency or disaster as
23 defined in subsection (6)(b) of this section.

24 (13) "Expense of an emergency response" as used in RCW 38.52.430
25 means reasonable costs incurred by a public agency in reasonably making
26 an appropriate emergency response to the incident, but shall only
27 include those costs directly arising from the response to the
28 particular incident. Reasonable costs shall include the costs of
29 providing police, coroner, fire fighting, rescue, emergency medical
30 services, or utility response at the scene of the incident, as well as
31 the salaries of the personnel responding to the incident.

32 (14) "Public agency" means the state, and a city, county, municipal
33 corporation, district, town, or public authority located, in whole or
34 in part, within this state which provides or may provide fire fighting,
35 police, ambulance, medical, or other emergency services.

36 (15) "Incident command system" means: (a) An all-hazards, on-scene
37 functional management system that establishes common standards in
38 organization, terminology, and procedures; provides a means (unified
39 command) for the establishment of a common set of incident objectives

1 and strategies during multiagency/multijurisdiction operations while
2 maintaining individual agency/jurisdiction authority, responsibility,
3 and accountability; and is a component of the national interagency
4 incident management system; or (b) an equivalent and compatible all-
5 hazards, on-scene functional management system.

6 (16) "Radio communications service company" has the meaning
7 ascribed to it in RCW 82.14B.020.

8 (17) "Phase I E911 service" has the meaning as defined pursuant to
9 47 C.F.R. Sec. 20.18(d).

10 **Sec. 3.** RCW 38.52.530 and 2000 c 34 s 1 are each amended to read
11 as follows:

12 The enhanced 911 advisory committee is created to advise and assist
13 the state enhanced 911 coordinator in coordinating and facilitating the
14 implementation and operation of enhanced 911 throughout the state. The
15 director shall appoint members of the committee who represent diverse
16 geographical areas of the state and include state residents who are
17 members of the national emergency number association, the associated
18 public communications officers Washington chapter, the Washington state
19 fire chiefs association, the Washington association of sheriffs and
20 police chiefs, the Washington state council of fire fighters, the
21 Washington state council of police officers, the Washington ambulance
22 association, the state fire protection policy board, the Washington
23 fire commissioners association, the Washington state patrol, the
24 association of Washington cities, the Washington state association of
25 counties, the utilities and transportation commission or commission
26 staff, and an equal number of representatives of large and small local
27 exchange telephone companies and large and small radio communications
28 service companies offering commercial mobile radio service in the
29 state. This section expires December 31, 2006.

30 **Sec. 4.** RCW 38.52.540 and 1998 c 304 s 14 are each amended to read
31 as follows:

32 The enhanced 911 account is created in the state treasury. All
33 receipts from the state enhanced 911 excise tax imposed by RCW
34 82.14B.030(3) shall be deposited into the account. Moneys in the
35 account shall be used only to help ~~((implement and))~~ operate enhanced
36 911 statewide. ~~((Moneys in the account may be used to provide salary~~
37 ~~assistance on a temporary basis not to exceed three years to counties~~

1 with a population of less than seventy five thousand that need
2 additional resources to cover unfunded costs that can be shown to
3 result from handling 911 calls. Moneys in the account may be used to
4 assist multicounty regions, including ongoing salary assistance for
5 multicounty regions consisting of counties with populations of less
6 than seventy five thousand. However,)) Funds shall not be distributed
7 to any county that has not imposed the maximum county enhanced 911
8 taxes allowed under RCW 82.14B.030 (1) and (2). The state enhanced 911
9 coordinator, with the advice and assistance of the enhanced 911
10 advisory committee, shall specify by rule the purposes for which moneys
11 may be expended from this account.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 38.52 RCW
13 to read as follows:

14 (1) The wireless enhanced 911 account is created in the state
15 treasury. All receipts from the state enhanced 911 excise tax imposed
16 by RCW 82.14B.030(4) shall be deposited into the account. Moneys in
17 the account shall be used only for the implementation and operation of
18 wireless enhanced 911 statewide, including the full reimbursement of
19 radio communications service companies for recurring and nonrecurring
20 costs incurred in providing wireless enhanced 911 phase I service, up
21 to the total amount of funds generated by the excise taxes imposed by
22 RCW 82.14B.030 (2) and (4). All costs and expenses must be
23 commercially reasonable.

24 (2) Twenty-five cents of the forty-five cent excise tax imposed by
25 RCW 82.14B.030(4) must be distributed to the county within which the
26 place of primary use is located for implementation and operational
27 costs of wireless enhanced 911 within thirty days after the revenue is
28 deposited in the wireless enhanced 911 account. The first priority for
29 use of the funds from this account shall be reimbursement to radio
30 communications service companies for nonrecurring and recurring costs
31 incurred in providing wireless enhanced 911 service.

32 (3) Twenty cents of the forty-five cent excise tax imposed by RCW
33 82.14B.030(4) must remain in the wireless enhanced 911 account to be
34 used to assist counties with the implementation and operational costs
35 of wireless enhanced 911 service when the twenty-five cents specified
36 in subsection (2) of this section and the twenty-five cent excise tax
37 imposed in RCW 82.14B.030(2) are not sufficient to cover the costs of
38 this service. The first priority for use of the funds from this

1 account shall be reimbursement to radio communications service
2 companies for nonrecurring and recurring costs incurred in providing
3 wireless enhanced 911 service.

4 (4) Funds generated by the state enhanced 911 excise tax imposed by
5 RCW 82.14B.030(3) may not be distributed to any county that has not
6 imposed the maximum county enhanced 911 tax allowed under RCW
7 82.14B.030(1).

8 (5) Funds generated by the state enhanced 911 excise tax imposed by
9 RCW 82.14B.030(4) may not be distributed to any county that has not
10 imposed the maximum county enhanced 911 tax allowed under RCW
11 82.14B.030(2).

12 (6) Funds generated by the state enhanced 911 excise tax imposed by
13 RCW 82.14B.030(4) may not be distributed to any county that has not
14 made a valid request for Phase I E911 service to all radio
15 communications service companies who provide service within their
16 county.

17 (7) The state enhanced 911 coordinator, with the advice and
18 assistance of the enhanced 911 advisory committee, shall specify by
19 rule, not inconsistent with the intent of this section, the purposes
20 for which moneys may be expended from this account. The rules shall
21 specify a mechanism for radio communications service company full
22 reimbursement, including a centralized mechanism for the approval of
23 radio communications service company cost recovery plans, invoices, and
24 payment to radio communications service companies.

25 **Sec. 6.** RCW 38.52.550 and 1991 c 329 s 7 are each amended to read
26 as follows:

27 A telecommunications company providing emergency communications
28 systems or services or a business or individual providing data base
29 information to emergency communication system personnel shall not be
30 liable for civil damages caused by an act or omission of the company,
31 business, or individual in the:

32 (1) Good faith release of information not in the public record,
33 including unpublished or unlisted subscriber information to emergency
34 service providers responding to calls placed to a 911 or enhanced 911
35 emergency service; or

36 (2) Design, development, installation, maintenance, or provision of
37 consolidated 911 or enhanced 911 emergency communication systems or
38 services other than an act or omission constituting gross negligence or

1 wanton or willful misconduct. Immunity from civil liability for radio
2 communications service companies shall be to the same extent as that
3 found in the federal wireless communications and public safety act of
4 1999, P.L. 106-81.

5 NEW SECTION. **Sec. 7.** A new section is added to chapter 38.52 RCW
6 to read as follows:

7 In specifying rules defining the purposes for which moneys may be
8 expended, the state enhanced 911 coordinator is authorized to enter
9 into statewide agreements to improve the efficiency of 911 services for
10 all counties and shall consider base needs of individual counties for
11 specific assistance. Priorities for enhanced 911 funding are first to
12 assure that 911 dialing is operational statewide, second to assist as
13 necessary to assure that counties can achieve a basic service level for
14 911 operations, and third to assist counties as practicable to acquire
15 items of a capital nature appropriate to increasing 911 effectiveness.

16 NEW SECTION. **Sec. 8.** A new section is added to chapter 38.52 RCW
17 to read as follows:

18 The state enhanced 911 coordinator, with the advice and assistance
19 of the enhanced 911 advisory committee, shall set nondiscriminatory,
20 uniform technical and operational standards consistent with the rules
21 of the federal communications commission for the transmission of 911
22 calls from radio communications service companies to enhanced 911
23 emergency communications systems. These standards must not exceed the
24 requirements set by the federal communications commission. The
25 authority given to the state enhanced 911 coordinator in this section
26 is limited to setting standards as set forth in this section and does
27 not constitute authority to regulate radio communications service
28 companies.

29 NEW SECTION. **Sec. 9.** A new section is added to chapter 38.52 RCW
30 to read as follows:

31 The enhanced 911 advisory committee and the state enhanced 911
32 coordinator shall recommend to the legislature on or before December
33 31, 2005, any revisions to the rate of the state enhanced 911 excise
34 tax imposed by RCW 82.14B.030(4) necessary for the continuation of
35 wireless enhanced 911 service.

1 **Sec. 10.** RCW 82.14B.020 and 1998 c 304 s 2 are each amended to
2 read as follows:

3 As used in this chapter:

4 (1) "Emergency services communication system" means a multicounty,
5 countywide, or districtwide radio or landline communications network,
6 including an enhanced 911 telephone system, which provides rapid public
7 access for coordinated dispatching of services, personnel, equipment,
8 and facilities for police, fire, medical, or other emergency services.

9 (2) "Enhanced 911 telephone system" means a public telephone system
10 consisting of a network, data base, and on-premises equipment that is
11 accessed by dialing 911 and that enables reporting police, fire,
12 medical, or other emergency situations to a public safety answering
13 point. The system includes the capability to selectively route
14 incoming 911 calls to the appropriate public safety answering point
15 that operates in a defined 911 service area and the capability to
16 automatically display the name, address, and telephone number of
17 incoming 911 calls at the appropriate public safety answering point.

18 (3) "Switched access line" means the telephone service line which
19 connects a subscriber's main telephone(s) or equivalent main
20 telephone(s) to the local exchange company's switching office.

21 (4) "Local exchange company" has the meaning ascribed to it in RCW
22 80.04.010.

23 (5) "Radio access line" means the telephone number assigned to or
24 used by a subscriber for two-way local wireless voice service available
25 to the public for hire from a radio communications service company.
26 Radio access lines include, but are not limited to, radio-telephone
27 communications lines used in cellular telephone service, personal
28 communications services, and network radio access lines, or their
29 functional and competitive equivalent. Radio access lines do not
30 include lines that provide access to one-way signaling service, such as
31 paging service, or to communications channels suitable only for data
32 transmission, or to nonlocal radio access line service, such as
33 wireless roaming service, or to a private telecommunications system.

34 (6) "Radio communications service company" has the meaning ascribed
35 to it in RCW 80.04.010, except that it does not include radio paging
36 providers. It does include those persons or entities that provide
37 commercial mobile radio services, as defined by 47 U.S.C. Sec.
38 332(d)(1), and both facilities-based and nonfacilities-based resellers.

1 (7) "Private telecommunications system" has the meaning ascribed to
2 it in RCW 80.04.010.

3 (8) "Subscriber" means the retail purchaser of telephone service as
4 telephone service is defined in RCW 82.04.065(3).

5 (9) "Place of primary use" has the meaning ascribed to it in the
6 federal mobile telecommunications sourcing act, P.L. 106-252.

7 **Sec. 11.** RCW 82.14B.030 and 1998 c 304 s 3 are each amended to
8 read as follows:

9 (1) The legislative authority of a county may impose a county
10 enhanced 911 excise tax on the use of switched access lines in an
11 amount not exceeding fifty cents per month for each switched access
12 line. The amount of tax shall be uniform for each switched access
13 line. Each county shall provide notice of such tax to all local
14 exchange companies serving in the county at least sixty days in advance
15 of the date on which the first payment is due.

16 (2) The legislative authority of a county may also impose a county
17 911 excise tax on the use of radio access lines whose place of primary
18 use is located within the county in an amount not exceeding twenty-five
19 cents per month for each radio access line. The amount of tax shall be
20 uniform for each radio access line. The county shall provide notice of
21 such tax to all radio communications service companies serving in the
22 county at least sixty days in advance of the date on which the first
23 payment is due. Any county imposing this tax shall include in its
24 ordinance a refund mechanism whereby the amount of any tax ordered to
25 be refunded by the judgment of a court of record, or as a result of the
26 resolution of any appeal therefrom, shall be refunded to the radio
27 communications service company or local exchange company that collected
28 the tax, and those companies shall reimburse the subscribers who paid
29 the tax. The ordinance shall further provide that to the extent the
30 subscribers who paid the tax cannot be identified or located, the tax
31 paid by those subscribers shall be returned to the county.

32 (3) A state enhanced 911 excise tax is imposed on all switched
33 access lines in the state. The amount of tax shall not exceed twenty
34 cents per month for each switched access line. The tax shall be
35 uniform for each switched access line. The tax imposed under this
36 subsection shall be remitted to the department of revenue by local
37 exchange companies on a tax return provided by the department. Tax

1 proceeds shall be deposited by the treasurer in the enhanced 911
2 account created in RCW 38.52.540.

3 (4) A state enhanced 911 excise tax is imposed on all radio access
4 lines whose place of primary use is located within the state in an
5 amount of forty-five cents per month for each radio access line. The
6 tax must be uniform for each radio access line. The tax imposed under
7 this section must be remitted to the department of revenue by radio
8 communications service companies, including those companies that resell
9 radio access lines, on a tax return provided by the department that
10 must include designation of the county within which the place of
11 primary use is located. Tax proceeds must be deposited by the
12 treasurer in the wireless enhanced 911 account created in RCW
13 38.52.540. The tax imposed under this section is not subject to the
14 state sales and use tax or any local tax.

15 (5) By August 31st of each year the state enhanced 911 coordinator
16 shall recommend the level for the next year of the state enhanced 911
17 excise tax imposed by subsection (3) of this section, based on a
18 systematic cost and revenue analysis, to the utilities and
19 transportation commission. The commission shall by the following
20 October 31st determine the level of the state enhanced 911 excise tax
21 for the following year.

22 **Sec. 12.** RCW 82.14B.040 and 1998 c 304 s 4 are each amended to
23 read as follows:

24 The state enhanced 911 tax and the county enhanced 911 tax on
25 switched access lines shall be collected from the subscriber by the
26 local exchange company providing the switched access line. The state
27 enhanced 911 tax and the county 911 tax on radio access lines shall be
28 collected from the subscriber by the radio communications service
29 company providing the radio access line to the subscriber. The amount
30 of the tax shall be stated separately on the billing statement which is
31 sent to the subscriber.

32 **Sec. 13.** RCW 82.14B.042 and 2000 c 106 s 2 are each amended to
33 read as follows:

34 (1) The state enhanced 911 excise (~~(tax)~~) taxes imposed by this
35 chapter must be paid by the subscriber to the local exchange company
36 providing the switched access line or the radio communications service
37 company providing the radio access line, and each local exchange

1 company and each radio communications service company shall collect
2 from the subscriber the full amount of the (~~tax~~) taxes payable. The
3 state enhanced 911 excise (~~tax~~) taxes required by this chapter to be
4 collected by the local exchange company (~~is~~) or the radio
5 communications service company are deemed to be held in trust by the
6 local exchange company or the radio communications service company
7 until paid to the department. Any local exchange company or radio
8 communications service company that appropriates or converts the tax
9 collected to its own use or to any use other than the payment of the
10 tax to the extent that the money collected is not available for payment
11 on the due date as prescribed in this chapter is guilty of a gross
12 misdemeanor.

13 (2) If any local exchange company or radio communications service
14 company fails to collect the state enhanced 911 excise tax or, after
15 collecting the tax, fails to pay it to the department in the manner
16 prescribed by this chapter, whether such failure is the result of its
17 own act or the result of acts or conditions beyond its control, the
18 local exchange company or the radio communications service company is
19 personally liable to the state for the amount of the tax, unless the
20 local exchange company or the radio communications service company has
21 taken from the buyer in good faith a properly executed resale
22 certificate under RCW 82.14B.200.

23 (3) The amount of tax, until paid by the subscriber to the local
24 exchange company, the radio communications service company, or to the
25 department, constitutes a debt from the subscriber to the local
26 exchange company or the radio communications service company. Any
27 local exchange company or radio communications service company that
28 fails or refuses to collect the tax as required with intent to violate
29 the provisions of this chapter or to gain some advantage or benefit,
30 either direct or indirect, and any subscriber who refuses to pay any
31 tax due under this chapter is guilty of a misdemeanor. The state
32 enhanced 911 excise (~~tax~~) taxes required by this chapter to be
33 collected by the local exchange company or the radio communications
34 service company must be stated separately on the billing statement that
35 is sent to the subscriber.

36 (4) If a subscriber has failed to pay to the local exchange company
37 or the radio communications service company the state enhanced 911
38 excise (~~tax~~) taxes imposed by this chapter and the local exchange
39 company or the radio communications service company has not paid the

1 amount of the tax to the department, the department may, in its
2 discretion, proceed directly against the subscriber for collection of
3 the tax, in which case a penalty of ten percent may be added to the
4 amount of the tax for failure of the subscriber to pay the tax to the
5 local exchange company or the radio communications service company,
6 regardless of when the tax is collected by the department. Tax under
7 this chapter is due as provided under RCW 82.14B.061.

8 **Sec. 14.** RCW 82.14B.061 and 2000 c 106 s 3 are each amended to
9 read as follows:

10 (1) The department of revenue shall administer and shall adopt such
11 rules as may be necessary to enforce and administer the state enhanced
12 911 excise (~~((tax))~~) taxes imposed by this chapter. Chapter 82.32 RCW,
13 with the exception of RCW 82.32.045, 82.32.145, and 82.32.380, applies
14 to the administration, collection, and enforcement of the state
15 enhanced 911 excise (~~((tax))~~) taxes.

16 (2) The state enhanced 911 excise (~~((tax))~~) taxes imposed by this
17 chapter, along with reports and returns on forms prescribed by the
18 department, are due at the same time the taxpayer reports other taxes
19 under RCW 82.32.045. If no other taxes are reported under RCW
20 82.32.045, the taxpayer shall remit tax on an annual basis in
21 accordance with RCW 82.32.045.

22 (3) The department of revenue may relieve any taxpayer or class of
23 taxpayers from the obligation of remitting monthly and may require the
24 return to cover other longer reporting periods, but in no event may
25 returns be filed for a period greater than one year.

26 (4) The state enhanced 911 excise (~~((tax))~~) taxes imposed by this
27 chapter (~~((is))~~) are in addition to any taxes imposed upon the same
28 persons under chapters 82.08 and 82.12 RCW.

29 **Sec. 15.** RCW 82.14B.200 and 1998 c 304 s 10 are each amended to
30 read as follows:

31 (1) Unless a local exchange company or a radio communications
32 service company has taken from the buyer a resale certificate or
33 equivalent document under RCW 82.04.470, the burden of proving that a
34 sale of the use of a switched access (~~((lines-[line]))~~) line or radio
35 access line was not a sale to a subscriber is upon the person who made
36 the sale.

1 (2) If a local exchange company or a radio communications service
2 company does not receive a resale certificate at the time of the sale,
3 have a resale certificate on file at the time of the sale, or obtain a
4 resale certificate from the buyer within a reasonable time after the
5 sale, the local exchange company or the radio communications service
6 company remains liable for the tax as provided in RCW 82.14B.042,
7 unless the local exchange company or the radio communications service
8 company can demonstrate facts and circumstances according to rules
9 adopted by the department of revenue that show the sale was properly
10 made without payment of the state enhanced 911 excise tax.

11 (3) The penalty imposed by RCW 82.32.291 may not be assessed on
12 state enhanced 911 excise taxes due but not paid as a result of the
13 improper use of a resale certificate. This subsection does not
14 prohibit or restrict the application of other penalties authorized by
15 law.

16 NEW SECTION. **Sec. 16.** RCW 38.52.560 (Automatic number
17 identification--Wireless two-way telecommunications service) and 1994
18 c 96 s 5 are each repealed.

19 NEW SECTION. **Sec. 17.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 18.** This act takes effect January 1, 2002.

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