AN ACT Relating to specialized forest products; amending RCW 76.48.020, 76.48.050, 76.48.060, 76.48.070, 76.48.075, 76.48.094, 76.48.096, 76.48.098, 76.48.100, 76.48.110, 76.48.120, and 76.48.150; adding new sections to chapter 76.48 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. (1) The legislature finds that the current law on specialized forest products provides important protections to the owners of forest land in Washington. However, these protections, as presently constituted, create a complicated regulatory environment for wood carvers, wood turners, instrument makers, and other wood hobbyists and small businesses. The criminal penalties possible under chapter 76.48 RCW increase the risk to otherwise lawful wood hobbyists who have difficulty navigating this complicated regulatory regime.

(2) With the introduction of this act, the legislature intends to begin a conversation on proper revisions to chapter 76.48 RCW that streamlines the permitting system for specialized forest products and creates a more equitable and manageable situation for wood hobbyists,
while maintaining the chapter's important protections that it provides to forest landowners.

NEW SECTION. Sec. 2. A new section is added to chapter 76.48 RCW to read as follows:

It is the intent of legislature for this chapter to be used by law enforcement authorities and others responsible for its implementation to pursue and prosecute those individuals that are genuinely engaged in the theft of large quantities of valuable forest materials, and not those individuals who are responsibly collecting wood or wood pieces from landowners who are aware and accepting of the collection. The legislature urges prosecutorial discretion where warranted and the consideration of all factors involved with a situation before bringing a criminal action under this chapter.

Sec. 3. RCW 76.48.020 and 2005 c 401 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authorization" means a properly completed preprinted form authorizing the transportation or possession of Christmas trees which contains the information required by RCW 76.48.080, a sample of which is filed before the harvesting occurs with the sheriff of the county in which the harvesting is to occur.

(2) "Bill of lading" means a written or printed itemized list or statement of particulars pertinent to the transportation or possession of a specialized forest product.

(3) "Carver" means an individual who either for business, artistic, or hobbyist pursuits uses specialized forest products to produce carvings or other artistic products.

(4) "Cascara bark" means the bark of a Cascara tree.

(5) "Cedar processor" means any person other than a carver who purchases, takes, or retains possession of cedar products or cedar salvage for later sale in the same or modified form following removal and delivery from the land where harvested.

(6) "Cedar products" means cedar shakeboards, shake and shingle bolts, and rounds one to three feet in length.
"Cedar salvage" means cedar chunks, slabs, stumps, and logs having a volume greater than one cubic foot and being harvested or transported from areas not associated with the concurrent logging of timber stands (a) under a forest practices application approved or notification received by the department of natural resources, or (b) under a contract or permit issued by an agency of the United States government.

"Christmas trees" means any evergreen trees or the top thereof, commonly known as Christmas trees, with limbs and branches, with or without roots, including fir, pine, spruce, cedar, and other coniferous species.

"Cut or picked evergreen foliage," commonly known as brush, means evergreen boughs, huckleberry, salal, fern, Oregon grape, rhododendron, mosses, bear grass, (scotch broom (Cytisus scoparius)), and other cut or picked evergreen products. "Cut or picked evergreen foliage" does not mean cones, berries, (any) foliage from any plant that does not remain green year-round, or seeds.

"Department" means the department of natural resources.

"Harvest" means to separate, by cutting, chopping, prying, picking, peeling, breaking, pulling, splitting, or otherwise removing, a specialized forest product (a) from its physical connection or contact with the land or vegetation upon which it is or was growing or (b) from the position in which it is lying upon the land.

"Harvest site" means each location where one or more persons are engaged in harvesting specialized forest products close enough to each other that communication can be conducted (with an investigating law enforcement officer) in a normal conversational tone.

"Landowner" means, with regard to real property, the private owner, the state of Washington or any political subdivision, the federal government, or a person who by deed, contract, or lease has authority to harvest and sell forest products of the property. "Landowner" does not include the purchaser or successful high bidder at a public or private timber sale.

"Native ornamental trees and shrubs" means any trees or shrubs which are not nursery grown and which have been removed from the ground with the roots intact.
"Permit area" means a designated tract of land that may contain single or multiple harvest sites.

"Person" includes the plural and all corporations, foreign or domestic, copartnerships, firms, and associations of persons.

"Processed cedar products" means cedar shakes, bolts, shingles, fence posts, hop poles, pickets, stakes, rails, or rounds sized between two and twelve inches in length.

"Sheriff" means, for the purpose of validating specialized forest products permits, the county sheriff, deputy sheriff, or an authorized employee of the sheriff's office or an agent of the office for the county where the permittee lives or the county from which the wood was harvested or transported.

"Specialized forest products" means Christmas trees, native ornamental trees and shrubs, cut or picked evergreen foliage, unprocessed cedar products, cedar salvage, wild edible mushrooms, and Cascara bark.

"Specialized forest products permit" means a printed document in a form printed by the department of natural resources, or true copy thereof, that is signed by a landowner or his or her authorized agent or representative, referred to in this chapter as "permittors" and validated by an appropriate county sheriff and authorizes a designated person, referred to in this chapter as "permittee," who has also signed the permit, to harvest, possess, and transport a designated specialized forest product from land owned or controlled and specified by the permittor and that is located in the county where the permit is issued.

"Specialty wood" means:

(a) Wood of the species western red cedar (Thuja plicata), Engelmann spruce (Picea engelmannii), Sitka spruce (Picea sitchensis), or big leaf maple (Acer macrophyllum), that is:

(i) In logs less than eight feet in length, chunks, or
(ii) Slabs, stumps, or burls, at least twenty-one inches long and seven and a quarter inches wide when measured from the outer surface toward the center, without knots in a portion of the surface area, and

(b) One or more of the following:
(i) Of the species western red cedar, Englemann spruce, Sitka spruce, big leaf maple, or western red alder;
(ii) Without knots in a portion of the surface area at least twenty-one inches long and seven and a quarter inches wide when measured from the outer surface toward the center; or
(iii)) is suitable for the purposes of making musical instruments (or ornamental boxes);
(b) Cedar or maple burls;
(c) Cedar stumps; or
(d) Three or fewer cedar logs, each eight feet or less in length used for carving.
"Specialty wood" does not include western red cedar that can be processed into cedar products, as defined in subsection (6) of this section, which are subject to the requirements listed in this chapter for the harvest, possession, and transportation of cedar as specialized forest products.
((20)) (21) "Specialty wood buyer" means the first person that receives any specialty wood product after it leaves the harvest site.
((21)) (22) "Specialty wood processor" means any person who purchases, takes, or retains possession of specialty wood products ((or specialty wood salvage)) for later sale in the same or modified form following removal and delivery from the land where harvested.
((22)) (23) "Transportation" means the physical conveyance of specialized forest products or specialty wood outside or off of a harvest site by any means.
((23)) (24) "True copy" means a replica of a validated specialized forest products permit as reproduced by a copy machine capable of effectively reproducing the information contained on the permittee's copy of the specialized forest products permit. A copy is made true by the permittee or the permittee and permittor signing in the space provided on the face of the copy. A true copy will be effective until the expiration date of the specialized forest products permit unless the permittee or the permittee and permittor specify an earlier date. A permittor may require the actual signatures of both the permittee and permittor for execution of a true copy by so indicating in the space provided on the original copy of the specialized forest products permit. A permittee, or, if so indicated,
the permittee and permittor, may condition the use of the true copy to
harvesting only, transportation only, possession only, or any
combination thereof.

"Wild edible mushrooms" means edible mushrooms not
cultivated or propagated by artificial means.

Sec. 4. RCW 76.48.050 and 2005 c 401 s 2 are each amended to read
as follows:

(1) Specialized forest products permits issued under this chapter must be properly completed and validated by an appropriate sheriff (of the county in which
the specialized forest products are to be harvested). Each permit
shall be separately numbered in consecutive numbers and display the name of the county and a contact number for the county where the permit was issued. All
specialized forest products permits shall expire at the end of the
calendar year in which issued, or sooner, at the discretion of the
permittor.

(2) A properly completed specialized forest products permit form shall include:
(a) The date of its execution and expiration;
(b) The name, address, telephone number, if any, and
signature of the permittor;
(c) The name, address, telephone number, if any, and
signature of the permittee;
(d) The type of specialized forest products to be harvested
or transported;
(e) The approximate amount or volume of specialized forest
products to be harvested or transported;
(f) The street address, legal description, or description
by local landmarks of the property from which the specialized forest
products are to be harvested or transported, including the name of the
county, or the state or province if outside the state of Washington;
(g) A description by local landmarks of where the harvesting is
to occur, or from where the specialized forest products are to be
transported;
(h) For cedar products and cedar salvage (and
A copy of a map or aerial photograph, with defined permitted boundaries, included as an attachment to the permit;

((9)) (h) A copy of a valid picture identification of the permittee; and

((10)) (i) Any other condition or limitation which the permittor may specify.

(3) Except for the harvesting of Christmas trees, the permit or true copy ((thereof)) of the permit must be carried by the permittee and the permittee's agents and be available for inspection at all times. For the harvesting of Christmas trees only a single permit or true copy ((thereof)) of the permit is necessary to be available at the harvest site.

Sec. 5. RCW 76.48.060 and 2005 c 401 s 3 are each amended to read as follows:

(1) A specialized forest products permit validated by ((the)) an appropriate county sheriff shall be obtained by a person prior to harvesting from any lands, including his or her own, more than five Christmas trees, more than five native ornamental trees or shrubs, more than five pounds of cut or picked evergreen foliage, any unprocessed cedar products, cedar salvage, ((processed cedar products,)) or more than five pounds of Cascara bark, or more than five United States gallons of a single species of wild edible mushroom.

(2)(a) Specialized forest products permit forms shall be provided by the department ((of natural resources)), and shall be made available to permittees or permittors through the office of the county sheriff ((to permittees or permittors)) in reasonable quantities.

(b) A permit form shall be completed in triplicate for each permittor's property on which a permittee harvests specialized forest products.

(c) A properly completed permit form shall be ((mailed or)) presented for validation to the sheriff of the county in which the specialized forest products are to be harvested.

(3) Before a permit form is validated by the sheriff, sufficient personal identification may be required to reasonably identify the person ((mailing or)) presenting the permit form ((and the sheriff may conduct other investigations as deemed necessary to determine the}}
validity of the information alleged on the form). When the sheriff is
reasonably satisfied as to the truth of the information, the form shall
be validated with the sheriff's validation stamp.

(4) Upon validation, the form shall become the specialized forest
products permit authorizing the harvesting, possession, or
transportation of specialized forest products, subject to any other
conditions or limitations which the permittor may specify. Two copies
of the permit shall be given or mailed to the permittor, or one copy
shall be given or mailed to the permittor and the other copy given or
mailed to the permittee. The original permit shall be retained in the
office of the county sheriff validating the permit.

(5) In the event a single land ownership is situated in two or more
counties, a specialized forest product permit shall be completed as to
the land situated in each county.

(6) While engaged in harvesting of specialized forest products,
permittees, or their agents or employees, must have readily available
at each harvest site a valid permit or true copy of the permit for that
harvest site.

Sec. 6. RCW 76.48.070 and 2005 c 401 s 4 are each amended to read
as follows:

(1) Except as provided in RCW 76.48.100 and 76.48.075, it is
unlawful for any person (a) to possess, (b) to transport, or (c) to
possess and transport within the state of Washington, subject to any
other conditions or limitations specified in the specialized forest
products permit by the permittor, more than five Christmas trees, more
than five native ornamental trees or shrubs, more than five pounds of
cut or picked evergreen foliage, any processed cedar products, or more
than five pounds of Cascara bark, or more than five gallons of a single
species of wild edible mushroom without having in his or her possession
a written authorization, sales invoice, bill of lading, or specialized
forest products permit or a true copy thereof evidencing his or her
title to or authority to have possession of specialized forest products
being so possessed or transported.

(2) It is unlawful for any person either (a) to possess, (b) to
transport from the harvest site to the first cedar processor or buyer,
or (c) to possess and transport from the harvest site to the first
cedar processor or buyer within the state of Washington any cedar
products((\text{-})) or cedar salvage((\text{-})) without having in
his or her possession either a specialized forest products permit or a
true copy thereof evidencing his or her title to or authority to have
possession of the materials being so possessed or transported. The
specialized forest products permit or true copy are valid to possess,
transport, or possess and transport the cedar products((\text{-})) or cedar
salvage((\text{-})) or specialty wood) from the harvest site to the first cedar
((or specialty wood)) processor or buyer.

For purposes of this subsection, a true copy requires the actual
signatures of both the permittee and the permittor for the execution of
a true copy.

\textbf{Sec. 7.} RCW 76.48.075 and 2005 c 401 s 5 are each amended to read
as follows:

(1) It is unlawful for any person to transport or cause to be
transported into this state from any other state or province
specialized forest products, except those harvested from that person's
own property, without: (a) First acquiring and having readily
available for inspection a document indicating the true origin of the
specialized forest products as being outside the state, or (b) without
acquiring a specialized forest products permit as provided in
subsection (4) of this section.

(2) Any person transporting or causing to be transported
specialized forest products into this state from any other state or
province shall, upon request of any person to whom the specialized
forest products are sold or delivered, or are to be sold or delivered,
or upon request of any law enforcement officer, prepare and sign a
statement indicating the true origin of the specialized forest
products, the date of delivery, and the license number of the vehicle
making delivery, and shall leave the statement with the person making
the request.

(3) It is unlawful for any person to possess specialized forest
products, transported into this state, with knowledge that the products
were introduced into this state in violation of this chapter.

(4) When any person transporting or causing to be transported into
this state specialized forest products elects to acquire a specialized
forest products permit, the specialized forest products transported
into this state shall be deemed to be harvested in the county of entry,
and the sheriff of that county (may) shall validate the permit as if the products were so harvested, except that the permit shall also indicate the actual harvest site outside the state.

(5) A cedar (or specialty wood) processor shall comply with RCW 76.48.096 by requiring a person transporting specialized forest products into this state from any other state or province to display a specialized forest products permit, or true copy thereof, or other governmental document indicating the true origin of the specialized forest products as being outside the state. For purposes of this subsection, a true copy requires the actual signatures of both the permittee and the permittor for the execution of a true copy. The cedar (or specialty wood) processor shall make and maintain a record of the purchase, taking possession, or retention of cedar products and cedar salvage in compliance with RCW 76.48.094.

(6) If, under official inquiry, investigation, or other authorized proceeding regarding specialized forest products not covered by a valid specialized forest products permit or other acceptable document, the inspecting law enforcement officer has probable cause to believe that the specialized forest products were harvested in this state or wrongfully obtained in another state or province, the officer may take into custody and detain, for a reasonable time, the specialized forest products, and all supporting documents, invoices, and bills of lading, (and the vehicle in which the products were transported) until the true origin of the specialized forest products can be determined.

Sec. 8. RCW 76.48.094 and 2005 c 401 s 7 are each amended to read as follows:

(1) Cedar (or specialty wood) processors shall make and maintain a record of the purchase, taking possession, or retention of cedar products, cedar salvage, or specialty wood for at least one year after the date of receipt. The record must be legible and must be made at the time each delivery is made.

(2) The bill of lading must accompany all cedar products (or cedar salvage (or specialty wood) products (after the products are received by the cedar or specialty wood processor)) during transport or during the time when the material is on property not owned by the owner of the material. The bill of lading must include the specialized
forest products permit number or the information provided for in RCW 76.48.075(5) and must also specify:

(a) The date of transportation;
(b) The name and address of the first cedar (or specialty wood) processor or buyer who recorded the specialized forest products information;
(c) The name and address from where the cedar (or specialty wood) products are being transported;
(d) The name of the person receiving the cedar (or specialty wood) products;
(e) The address to where the cedar (or specialty wood) products are being transported;
(f) The name of the driver;
(g) The vehicle license number;
(h) The type of cedar (or specialty wood) product being shipped; and
(i) The amount of cedar (or specialty wood) product being shipped.

Sec. 9. RCW 76.48.096 and 2005 c 401 s 8 are each amended to read as follows:

Except as otherwise provided in RCW 76.48.100, it is unlawful for any cedar (or specialty wood) buyer or processor to purchase, take possession, or retain cedar (or specialty wood) products or cedar salvage subsequent to the harvesting and prior to the retail sale of the products, unless the supplier thereof displays a specialized forest products permit, or true copy thereof that appears to be valid, or obtains the information under RCW 76.48.075(5).

Sec. 10. RCW 76.48.098 and 2005 c 401 s 9 are each amended to read as follows:

Every cedar (or specialty wood) buyer or processor shall prominently display a valid registration certificate, or copy thereof, obtained from the department of revenue under RCW 82.32.030 at each location where the buyer or processor receives cedar products (or cedar salvage (or specialty wood)).

When dealing with cedar processors, permittees shall sell cedar
products, cedar salvage, or specialty wood products) only to cedar processors displaying registration certificates which appear to be valid.

Sec. 11. RCW 76.48.100 and 2005 c 401 s 10 are each amended to read as follows:

The provisions of this chapter do not apply to:

1. Nursery grown products.
2. Logs (except as included in the definition of "cedar salvage" under RCW 76.48.020), poles, pilings, or other major forest products from which substantially all of the limbs and branches have been removed, specialty wood, and cedar salvage when harvested concurrently with timber stands (a) under an approved forest practices application or notification, or (b) under a contract or permit issued by an agency of the United States government.
3. The activities of a landowner, his or her agent, or representative, or of a lessee of land in carrying on noncommercial property management, maintenance, or improvements on or in connection with the land of the landowner or lessee, including harvesting, possession, and transport of specialized forest products or specialty wood.

Sec. 12. RCW 76.48.110 and 2005 c 401 s 11 are each amended to read as follows:

(1)(a) Whenever any law enforcement officer has probable cause to believe that a person is harvesting or is in possession of or transporting specialized forest products or specialty wood in violation of the provisions of this chapter, he or she may, at the time of making an arrest, seize and take possession of any paperwork, specialized forest products, or specialty wood found. (If the specialized forest product is a cedar product, cedar salvage, or specialty wood, at the time of making an arrest the law enforcement officer may seize and take possession of any equipment, vehicles, tools, or paperwork.) The law enforcement officer shall provide reasonable protection for the paperwork, ((equipment, vehicles, tools,)) specialized forest products, or specialty wood involved during the period of litigation or he or she shall dispose of the ((equipment, vehicles, tools,))
paperwork, ((e)) specialized forest products, or specialty wood at the discretion or order of the court before which the arrested person is ordered to appear.

((2)) (b) Upon any disposition of the case by the court, the court shall make a reasonable effort to return the ((equipment, vehicles, tools,)) paperwork, ((e)) specialized forest products, or specialty wood to its rightful owner or pay the proceeds of any sale of specialized forest products or specialty wood less any reasonable expenses of the sale to the rightful owner. If for any reason, the proceeds of the sale cannot be disposed of to the rightful owner, the proceeds, less the reasonable expenses of the sale, shall be paid to the treasurer of the county in which the violation occurred. The county treasurer shall deposit the same in the county general fund. The return of the ((equipment, vehicles, tools,)) paperwork, (e) specialized forest products, or specialty wood or the payment of the proceeds of any sale of products seized to the owner shall not preclude the court from imposing any fine or penalty upon the violator for the violation of the provisions of this chapter.

(2) If no seizure of specialized forest products or specialty wood is made under this section, but the specialized forest products or specialty wood are later proved to be stolen, the sheriff shall commission an independent third-party appraisal based on the description of the stolen specialized forest products or specialty wood. Upon conviction, the transporter of the stolen specialized forest products or specialty wood shall pay the rightful owner three times the appraised market value of the specialized forest products or specialty wood and reimburse the sheriff for reasonable appraisal costs.

Sec. 13. RCW 76.48.120 and 2003 c 53 s 373 are each amended to read as follows:

(1) It is unlawful for any person, upon official inquiry, investigation, or other authorized proceedings, to offer as genuine any paper, document, or other instrument in writing purporting to be a specialized forest products permit, or true copy thereof, authorization, bill of sale, sales invoice, receipt or bill of lading, or to make any representation of authority to possess or conduct
harvesting or transporting of specialty wood or specialized forest products, knowing the same to be in any manner false, fraudulent, forged, or stolen.

(2) Any person who knowingly or intentionally violates this section is guilty of a class C felony punishable (by imprisonment in a state correctional institution for a maximum term fixed by the court of not more than five years or by a fine of not more than five thousand dollars, or by both imprisonment and fine) under chapter 9A.20 RCW.

(3)Whenever any law enforcement officer reasonably suspects that a specialized forest products permit or true copy thereof, authorization, bill of sale, sales invoice, or bill of lading is forged, fraudulent, or stolen, it may be retained by the officer until its authenticity can be verified.

Sec. 14. RCW 76.48.150 and 2005 c 401 s 13 are each amended to read as follows:

(1) The department of natural resources is the designated agency to develop and print the specialized forest products permit and distribute it to the county sheriffs. ((In addition,))

(2) The department of natural resources shall develop educational material and other printed information for law enforcement, forest landowners, and specialized forest products harvesters, buyers, and processors specific to this chapter.

NEW SECTION. Sec. 15. A new section is added to chapter 76.48 RCW to read as follows:

Except as otherwise provided for in RCW 76.48.100:

(1) A bill of sale shall be obtained by a person prior to harvesting from any lands, including his or her own, any specialty wood.

(2) A bill of sale shall be completed in duplicate for each permittor's property on which a permittee harvests specialty wood.

(3) Upon the signature of the permittor, the bill of sale shall become the authorization to harvest, possess, or transport the specialty wood from the origin of harvest until the first sale or transfer, subject to any other conditions or limitations that the permittor may specify. One copy of the bill of sale shall be given or
mailed to the permittor and the other copy given or mailed to the
permittee.

(4) While engaged in harvesting of specialty wood, permittees or
their agents or employees must have readily available at each harvest
site the original bill of sale. The original bill of sale shall be
presented to any law enforcement officer upon request for inspection.
No duplicates or copies of a bill of sale may be presented as a valid
bill of sale or authentication of ownership of specialty wood under
this chapter.

NEW SECTION. Sec. 16. A new section is added to chapter 76.48 RCW
to read as follows:

A bill of sale, for use for the harvest, possession, donation, and
transportation of specialty wood from the origin of the harvest shall
consist of and specify:

(1) The date of its execution;
(2) The name, address, and phone number of the buyer;
(3) The name, address, and phone number of the seller;
(4) The number and description, including species, of the specialty
wood being purchased or transported;
(5) The location of harvest site or place of sale or donation, by
address, local landmarks, or legal description;
(6) The date, time, and signature of the buyer;
(7) The date, time, and signature of the seller.

NEW SECTION. Sec. 17. A new section is added to chapter 76.48 RCW
to read as follows:

Except as otherwise provided in RCW 76.48.100:

(1) It is unlawful for any specialty wood processor to purchase,
take possession, or retain specialty wood products subsequent to the
harvesting and prior to the retail sale of the products unless the
supplier thereof displays a bill of sale that appears to be valid or
obtains the information as required by this chapter.

(2) Specialty wood processors shall make and maintain a record of
the purchase, taking possession, or retention of specialty wood for at
least one year after the date of receipt. The record must be legible,
include the information provided on the bill of sale, and must be made
at the time each delivery is made. Records related to the purchase, possession, or retention of specialty wood shall, upon request, be made available for inspection by any law enforcement officer.

(3) A subsequent bill of sale shall accompany all specialty wood products sold, donated, or otherwise disposed of to another person after the products have been initially received by the specialty wood processor. In addition to the requirements listed for a bill of sale in section 16 of this act, a bill of sale from a specialty wood processor for resale of specialty wood must include the specialty wood processor's department of revenue registration certificate number, required in section 18 of this act.

NEW SECTION. Sec. 18. A new section is added to chapter 76.48 RCW to read as follows:

Every specialty wood processor shall prominently display a valid registration certificate, or copy thereof, obtained from the department of revenue under RCW 82.32.030 at each location where the processor receives specialty wood.

NEW SECTION. Sec. 19. A new section is added to chapter 76.48 RCW to read as follows:

It is unlawful for a person to:

(1) Harvest specialty wood, or engage in activities or phases of harvesting, possessing, or transporting specialty wood, as described in RCW 76.48.020 without first obtaining permission from the landowner or their duly authorized agent or representative in the form of a bill of sale as described in section 16 of this act; or

(2) Engage in activities processing specialty wood, retaining processed specialty wood, or selling or disposing of processed specialty wood without meeting the requirements of sections 17 and 18 of this act.

Nothing in this section precludes the prosecution for crimes under other state law.

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