

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5997

Chapter 61, Laws of 1995

54th Legislature
1995 Regular Session

Fireworks regulation

EFFECTIVE DATE: 4/17/95

Passed by the Senate March 9, 1995
YEAS 38 NAYS 8

JOEL PRITCHARD

President of the Senate

Passed by the House April 4, 1995
YEAS 92 NAYS 4

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved April 17, 1995

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5997** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

April 17, 1995 - 4:01 p.m.

**Secretary of State
State of Washington**

1 **Sec. 3.** RCW 70.77.126 and 1984 c 249 s 1 are each amended to read
2 as follows:

3 "Fireworks" means any composition or device, in a finished state,
4 containing any combustible or explosive substance for the purpose of
5 producing a visible or audible effect by combustion, explosion,
6 deflagration, or detonation, and classified as common or special
7 fireworks by the United States bureau of explosives or contained in the
8 regulations of the United States department of transportation and
9 designated as U.N. 0335 1.3G or U.N. 0336 1.4G as of the effective date
10 of this act.

11 **Sec. 4.** RCW 70.77.131 and 1984 c 249 s 2 are each amended to read
12 as follows:

13 "Special fireworks" means any fireworks designed primarily for
14 exhibition display by producing visible or audible effects(~~((The term~~
15 ~~includes (1) fireworks commonly known as skyrockets, missile type~~
16 ~~rockets, firecrackers, salutes, and chasers; and (2) fireworks not~~
17 ~~classified as common fireworks)) and classified as such by the United
18 States bureau of explosives or in the regulations of the United States
19 department of transportation and designated as U.N. 0335 1.3G as of the
20 effective date of this act.~~

21 **Sec. 5.** RCW 70.77.136 and 1984 c 249 s 3 are each amended to read
22 as follows:

23 "Common fireworks" means any fireworks which are designed primarily
24 ((~~to~~)) for retail sale to the public during prescribed dates and which
25 produce visual or audible effects ((~~by~~)) through combustion and are
26 classified as common fireworks by the United States bureau of
27 explosives or in the regulations of the United States department of
28 transportation and designated as U.N. 0336 1.4G as of the effective
29 date of this act.

30 (~~((1) The term includes:~~

31 ~~(a) Ground and hand held sparkling devices, including items~~
32 ~~commonly known as dipped sticks, sparklers, cylindrical fountains, cone~~
33 ~~fountains, illuminating torches, wheels, ground spinners, and flutter~~
34 ~~sparklers;~~

35 ~~(b) Smoke devices;~~

36 ~~(c) Fireworks commonly known as helicopters, aeriels, spinners,~~
37 ~~roman candles, mines, and shells;~~

1 ~~(d) Class C explosives classified on January 1, 1984, as common~~
2 ~~fireworks by the United States department of transportation.~~

3 ~~(2) The term does not include fireworks commonly known as~~
4 ~~firecrackers, salutes, chasers, skyrockets, and missile type rockets.)~~

5 NEW SECTION. Sec. 6. (1) "New fireworks item" means any fireworks
6 initially classified or reclassified as special or common fireworks by
7 the United States bureau of explosives or in the regulations of the
8 United States department of transportation after the effective date of
9 this act.

10 (2) The director of community, trade, and economic development
11 through the director of fire protection shall classify any new
12 fireworks item in the same manner as the item is classified by the
13 United States bureau of explosives or in the regulations of the United
14 States department of transportation, unless the director of community,
15 trade, and economic development through the director of fire protection
16 determines, stating reasonable grounds, that the item should not be so
17 classified.

18 NEW SECTION. Sec. 7. No fireworks may be sold or offered for sale
19 to the public as common fireworks which are classified as sky rockets,
20 or missile-type rockets, firecrackers, salutes, or chasers as defined
21 by the United States department of transportation and the federal
22 consumer products safety commission except as provided in RCW
23 70.77.311.

24 **Sec. 8.** RCW 70.77.146 and 1994 c 133 s 1 are each amended to read
25 as follows:

26 "Special effects" means any combination of chemical elements or
27 chemical compounds capable of burning independently of the oxygen of
28 the atmosphere, and designed and intended to produce an audible,
29 visual, mechanical, or thermal effect as an integral part of a motion
30 picture, radio ~~((or))~~, television ~~((production))~~, theatrical, or opera
31 production, or live entertainment.

32 **Sec. 9.** RCW 70.77.180 and 1984 c 249 s 5 are each amended to read
33 as follows:

34 "Permit" means the official permission granted by a local public
35 agency for the purpose of establishing and maintaining a place within

1 the jurisdiction of the local agency where fireworks are manufactured,
2 constructed, produced, packaged, stored, sold, (~~exchanged, discharged~~
3 ~~or used~~) or exchanged and the official permission granted by a local
4 agency for a public display of fireworks.

5 **Sec. 10.** RCW 70.77.200 and 1961 c 228 s 17 are each amended to
6 read as follows:

7 "Importer" includes any person who for any purpose other than
8 personal use:

9 (1) Brings fireworks into this state or causes fireworks to be
10 brought into this state;

11 (2) Procures the delivery or receives shipments of any fireworks
12 into this state; or

13 (3) Buys or contracts to buy fireworks for shipment into this
14 state.

15 **Sec. 11.** RCW 70.77.205 and 1961 c 228 s 18 are each amended to
16 read as follows:

17 "Manufacturer" includes any person who manufactures, makes,
18 constructs, fabricates, or produces any fireworks article or device but
19 does not include persons who assemble or fabricate sets or mechanical
20 pieces in public displays of fireworks or persons who assemble common
21 fireworks items or sets or packages containing common fireworks items.

22 **Sec. 12.** RCW 70.77.250 and 1986 c 266 s 100 are each amended to
23 read as follows:

24 (1) The director of community, trade, and economic development,
25 through the director of fire protection, shall enforce and administer
26 this chapter.

27 (2) The director of community, trade, and economic development,
28 through the director of fire protection, shall appoint such deputies
29 and employees as may be necessary and required to carry out the
30 provisions of this chapter.

31 (3) The director of community, trade, and economic development,
32 through the director of fire protection, may prescribe such rules
33 relating to fireworks as may be necessary for (~~the protection of life~~
34 ~~and property and for~~) the implementation of this chapter.

35 (4) The director of community, trade, and economic development,
36 through the director of fire protection, shall prescribe such rules as

1 may be necessary to ensure state-wide minimum standards for the
2 enforcement of this chapter. Counties, cities, and towns shall comply
3 with such state rules. Any local rules adopted by local authorities
4 that are more restrictive than state law (~~(as to the types of fireworks~~
5 ~~that may be sold)~~) shall have an effective date no sooner than one year
6 after their adoption.

7 (5) The director of community, trade, and economic development,
8 through the director of fire protection, may exercise the necessary
9 police powers to enforce the criminal provisions of this chapter. This
10 grant of police powers does not prevent any other state agency or local
11 government agency having general law enforcement powers from enforcing
12 this chapter within the jurisdiction of the agency or local government.

13 **Sec. 13.** RCW 70.77.255 and 1994 c 133 s 4 are each amended to read
14 as follows:

15 (1) Except as otherwise provided in this chapter, no person,
16 without an appropriate state license or permit may:

17 (a) Manufacture, import, possess, or sell any fireworks at
18 wholesale or retail for any use;

19 (b) Make a public display of fireworks; or

20 (c) Transport fireworks, except as a public carrier delivering to
21 a licensee.

22 (2) Except as authorized by a license and permit under subsection
23 (1)(b) of this section or as provided in RCW 70.77.311, no person may
24 discharge special fireworks at any place.

25 (3) No person less than eighteen years of age may apply for or
26 receive a license or permit under this chapter.

27 (4) No license or permit is required for the possession or use of
28 common fireworks lawfully purchased at retail.

29 **Sec. 14.** RCW 70.77.270 and 1994 c 133 s 6 are each amended to read
30 as follows:

31 (1) The governing body of a city or county (~~(may)) shall~~ grant (~~(or~~
32 ~~deny)) an application for a permit under RCW 70.77.260(1)(~~.—The~~
33 ~~governing body may place reasonable conditions on any permit it~~
34 ~~issues)) if the application meets the standards under this chapter, and
35 the ordinances of the city or county.~~~~

36 (2) The director of community, trade, and economic development
37 through the director of fire protection shall prescribe uniform, state-

1 wide standards for retail fireworks stands. All cities and counties
2 which allow retail fireworks sales shall comply with these standards.

3 (3) No retail fireworks permit may be issued to any applicant
4 unless the retail fireworks stand is covered by a liability insurance
5 policy with coverage of not less than fifty thousand dollars and five
6 hundred thousand dollars for bodily injury liability for each person
7 and occurrence, respectively, and not less than fifty thousand dollars
8 for property damage liability for each occurrence, unless such
9 insurance is not readily available from at least three approved
10 insurance companies. If insurance in this amount is not offered, each
11 fireworks permit shall be covered by a liability insurance policy in
12 the maximum amount offered by at least three different approved
13 insurance companies.

14 No wholesaler may knowingly sell or supply fireworks to any retail
15 fireworks stand unless the wholesaler determines that the retail
16 fireworks stand is covered by liability insurance in the same amount as
17 provided in this subsection.

18 **Sec. 15.** RCW 70.77.280 and 1994 c 133 s 7 are each amended to read
19 as follows:

20 The local fire official receiving an application for a permit under
21 RCW 70.77.260(2) for a public display of fireworks shall investigate
22 whether the character and location of the display as proposed would be
23 hazardous to property or dangerous to any person. Based on the
24 investigation, the official shall submit a report of findings and a
25 recommendation for or against the issuance of the permit, together with
26 reasons, to the governing body of the city or county. The governing
27 body ~~((may)) shall grant ((or deny)) the application ((and may place~~
28 ~~reasonable conditions on any permit it issues))~~ if it meets the
29 requirements of this chapter and the ordinance of the city or county.

30 **Sec. 16.** RCW 70.77.285 and 1984 c 249 s 15 are each amended to
31 read as follows:

32 Except as provided in RCW 70.77.355, the applicant for a permit
33 under RCW 70.77.260(2) for a public display of fireworks shall include
34 with the application evidence of a bond issued by an authorized surety
35 company. The bond shall be in the amount required by RCW 70.77.295 and
36 shall be conditioned upon the applicant's payment of all damages to
37 persons or property resulting from or caused by such public display of

1 fireworks, or any negligence on the part of the applicant or its
2 agents, servants, employees, or subcontractors in the presentation of
3 the display. Instead of a bond, the applicant may include a
4 certificate of insurance evidencing the carrying of appropriate
5 ((public)) liability insurance in the amount required by RCW 70.77.295
6 for the benefit of the person named therein as assured, as evidence of
7 ability to respond in damages. The local fire official receiving the
8 application shall approve the bond or insurance if it meets the
9 requirements of this section.

10 **Sec. 17.** RCW 70.77.311 and 1984 c 249 s 19 are each amended to
11 read as follows:

12 (1) No license is required for the purchase of agricultural and
13 wildlife fireworks by government agencies if:

14 (a) The agricultural and wildlife fireworks are used for wildlife
15 control or are distributed to farmers, ranchers, or growers through a
16 wildlife management program administered by the United States
17 department of the interior or an equivalent state or local governmental
18 agency;

19 (b) The distribution is in response to a written application
20 describing the wildlife management problem that requires use of the
21 devices;

22 (c) It is of no greater quantity than necessary to control the
23 described problem; and

24 (d) It is limited to situations where other means of control are
25 unavailable or inadequate.

26 (2) No license is required for religious organizations or private
27 organizations or persons to purchase or use common fireworks and such
28 audible ground devices as firecrackers, salutes, and chasers if:

29 (a) Purchased from a licensed manufacturer, importer, or
30 wholesaler;

31 (b) For use on prescribed dates and locations;

32 (c) For religious or specific purposes; and

33 (d) A permit is obtained from the local fire official. No fee may
34 be charged for this permit.

35 **Sec. 18.** RCW 70.77.315 and 1986 c 266 s 102 are each amended to
36 read as follows:

1 Any person who desires to engage in the manufacture, importation,
2 sale, or use of fireworks, except use as provided in RCW 70.77.255(4)
3 and 70.77.311, shall make a written application to the director of
4 community, trade, and economic development, through the director of
5 fire protection, on forms provided by him or her. Such application
6 shall be accompanied by the annual license fee as prescribed in this
7 chapter.

8 **Sec. 19.** RCW 70.77.343 and 1991 c 135 s 6 are each amended to read
9 as follows:

10 (~~{(1)}~~) (1) License fees, in addition to the fees in RCW
11 70.77.340, shall be charged as follows:

12	Manufacturer	\$ 1,500.00
13	Importer	900.00
14	Wholesaler	1,000.00
15	Retailer (for each separate outlet)	30.00
16	Public display for special fireworks	40.00
17	Pyrotechnic operator for special fireworks	5.00

18 (2) All receipts from the license fees in this section shall be
19 placed in the fire services trust fund and at least seventy-five
20 percent of these receipts shall be used to fund a state-wide public
21 education campaign developed by the department and the licensed
22 fireworks industry emphasizing the safe and responsible use of legal
23 fireworks and the remaining receipts shall be used to fund state-wide
24 enforcement efforts against the sale and use of fireworks that are
25 illegal under this chapter.

26 **Sec. 20.** RCW 70.77.345 and 1991 c 135 s 5 are each amended to read
27 as follows:

28 (~~The~~) Every license (~~fees~~) issued shall be for the calendar
29 year from January 1st to December 31st or for the remaining portion
30 thereof of the calendar year for which the license application is made.

31 **Sec. 21.** RCW 70.77.375 and 1986 c 266 s 108 are each amended to
32 read as follows:

33 The director of community, trade, and economic development, through
34 the director of fire protection, upon reasonable opportunity to be

1 heard, (~~shall~~) may revoke any license issued pursuant to this
2 chapter, if he or she finds that:

3 (1) The licensee has violated any provisions of this chapter or any
4 rule or regulations made by the director of community, trade, and
5 economic development, through the director of fire protection, under
6 and with the authority of this chapter;

7 (2) The licensee has created or caused a fire nuisance;

8 (3) Any licensee has failed or refused to file any required
9 reports; or

10 (4) Any fact or condition exists which, if it had existed at the
11 time of the original application for such license, reasonably would
12 have warranted the director of community, trade, and economic
13 development, through the director of fire protection, in refusing
14 originally to issue such license.

15 **Sec. 22.** RCW 70.77.395 and 1984 c 249 s 24 are each amended to
16 read as follows:

17 (~~Except as provided in RCW 70.77.311, no~~) It is legal to sell,
18 purchase, use, and discharge common fireworks (~~shall be sold or~~
19 ~~discharged~~) within this state (~~except~~) from twelve o'clock noon on
20 the twenty-eighth of June to twelve o'clock noon on the sixth of July
21 of each year and as provided in RCW 70.77.311. However, no common
22 fireworks may be sold or discharged between the hours of eleven o'clock
23 p.m. and nine o'clock a.m., except on July 4th from nine o'clock a.m.
24 through twelve o'clock midnight, and except from six o'clock p.m. on
25 December 31st until one o'clock a.m. on January 1st of the subsequent
26 year: PROVIDED, That a city or county may prohibit the sale or
27 discharge of common fireworks on December 31, 1995, by enacting an
28 ordinance prohibiting such sale or discharge within sixty days of the
29 effective date of this act.

30 **Sec. 23.** RCW 70.77.435 and 1994 c 133 s 11 are each amended to
31 read as follows:

32 Any fireworks which are illegally sold, offered for sale, used,
33 discharged, possessed or transported in violation of the provisions of
34 this chapter or the rules or regulations of the director of community,
35 trade, and economic development, through the director of fire
36 protection, shall be subject to seizure by the director of community,
37 trade, and economic development, through the director of fire

1 protection, or his or her deputy, or by state agencies or local
2 governments having general law enforcement authority. Any fireworks
3 seized (~~((under this section))~~) by legal process anywhere in the state
4 may be disposed of by the director of community, trade, and economic
5 development, through the director of fire protection, or the agency
6 conducting the seizure, by summary destruction at any time subsequent
7 to thirty days from such seizure or ten days from the final termination
8 of proceedings under the provisions of RCW 70.77.440, whichever is
9 later.

10 **Sec. 24.** RCW 70.77.440 and 1994 c 133 s 12 are each amended to
11 read as follows:

12 (1) (~~((Any person whose fireworks are seized under the provisions of~~
13 ~~RCW 70.77.435 may within ten days after such seizure petition the~~
14 ~~agency conducting the seizure to return the fireworks seized upon the~~
15 ~~ground that such fireworks were illegally or erroneously seized. Any~~
16 ~~petition filed hereunder shall be considered by the authority~~
17 ~~conducting the seizure within fifteen days after filing and an oral~~
18 ~~hearing granted the petitioner, if requested. Hearings shall be~~
19 ~~conducted in accordance with state law or chapter 34.05 RCW. Notice of~~
20 ~~the decision of the authority conducting the hearing shall be served~~
21 ~~upon the petitioner. The authority conducting the hearing may order~~
22 ~~the fireworks seized under this chapter disposed of or returned to the~~
23 ~~petitioner if illegally or erroneously seized. The determination of~~
24 ~~the authority conducting the hearing is final unless within sixty days~~
25 ~~an action is commenced in a court of competent jurisdiction in the~~
26 ~~state of Washington for the recovery of the fireworks seized under this~~
27 ~~chapter.~~

28 (2) ~~If the fireworks are not returned to the petitioner or~~
29 ~~destroyed pursuant to RCW 70.77.435, the director of community, trade,~~
30 ~~and economic development, through the director of fire protection, or~~
31 ~~the agency conducting the seizure may sell confiscated common~~
32 ~~fireworks, special fireworks, and chemicals used to make fireworks,~~
33 ~~that are legal for use and possession under this chapter, to~~
34 ~~wholesalers or manufacturers, authorized to possess and use such~~
35 ~~fireworks or chemicals under a license issued by the director of~~
36 ~~community, trade, and economic development, through the director of~~
37 ~~fire protection.)) In the event of seizure under RCW 70.77.435,
38 proceedings for forfeiture shall be deemed commenced by the seizure.~~

1 The director of community, trade, and economic development or deputy
2 director of community, trade, and economic development, through the
3 director of fire protection or the agency conducting the seizure, under
4 whose authority the seizure was made shall cause notice to be served
5 within fifteen days following the seizure on the owner of the fireworks
6 seized and the person in charge thereof and any person having any known
7 right or interest therein, of the seizure and intended forfeiture of
8 the seized property. The notice may be served by any method authorized
9 by law or court rule including but not limited to service by certified
10 mail with return receipt requested. Service by mail shall be deemed
11 complete upon mailing within the fifteen-day period following the
12 seizure.

13 (2) If no person notifies the director of community, trade, and
14 economic development, through the director of fire protection or the
15 agency conducting the seizure, in writing of the person's claim of
16 lawful ownership or right to lawful possession of seized fireworks
17 within thirty days of the seizure, the seized fireworks shall be deemed
18 forfeited.

19 (3) If any person notifies the director of community, trade, and
20 economic development, through the director of fire protection or the
21 agency conducting the seizure, in writing of the person's claim of
22 lawful ownership or possession of the fireworks within thirty days of
23 the seizure, the person or persons shall be afforded a reasonable
24 opportunity to be heard as to the claim or right. The hearing shall be
25 before an administrative law judge appointed under chapter 34.12 RCW,
26 except that any person asserting a claim or right may remove the matter
27 to a court of competent jurisdiction if the aggregate value of the
28 seized fireworks is more than five hundred dollars. The hearing before
29 an administrative law judge and any appeal therefrom shall be under
30 Title 34 RCW. In a court hearing between two or more claimants to the
31 article or articles involved, the prevailing party shall be entitled to
32 a judgment for costs and reasonable attorneys' fees. The burden of
33 producing evidence shall be upon the person claiming to have the lawful
34 right to possession of the seized fireworks. The director of
35 community, trade, and economic development, through the director of
36 fire protection or the agency conducting the seizure, shall promptly
37 return the fireworks to the claimant upon a determination by the
38 administrative law judge or court that the claimant is lawfully
39 entitled to possession of the fireworks.

1 (4) When fireworks are forfeited under this chapter the director of
2 community, trade, and economic development, through the director of
3 fire protection or the agency conducting the seizure, may:

4 (a) Dispose of the fireworks by summary destruction; or

5 (b) Sell the forfeited fireworks and chemicals used to make
6 fireworks, that are legal for use and possession under this chapter, to
7 wholesalers or manufacturers, authorized to possess and use such
8 fireworks or chemicals under a license issued by the director of
9 community, trade, and economic development, through the director of
10 fire protection. Sale shall be by public auction after publishing a
11 notice of the date, place, and time of the auction in a newspaper of
12 general circulation in the county in which the auction is to be held,
13 at least three days before the date of the auction. The proceeds of
14 the sale of the seized fireworks under this section (~~shall be~~
15 deposited in the general fund. ~~Fireworks that are not legal for use~~
16 and possession in this state shall be destroyed by the director of
17 community, trade, and economic development, through the director of
18 fire protection, or by the agency conducting the seizure)) may be
19 retained by the agency conducting the seizure and used to offset the
20 costs of seizure and/or storage costs of the seized fireworks. The
21 remaining proceeds, if any, shall be deposited in the fire services
22 trust fund and shall be used for the same purposes and in the same
23 percentages as specified in RCW 70.77.343.

24 **Sec. 25.** RCW 70.77.455 and 1986 c 266 s 114 are each amended to
25 read as follows:

26 (1) All licensees shall maintain and make available to the director
27 of community, trade, and economic development, through the director of
28 fire protection, full and complete records showing all production,
29 imports, exports, purchases, and sales(~~(, and consumption))~~ of
30 fireworks items by (~~kind and~~) class.

31 (2) All records obtained and all reports produced, as required by
32 this chapter, are not subject to disclosure through the public
33 disclosure act under chapter 42.17 RCW.

34 **Sec. 26.** RCW 70.77.555 and 1982 c 230 s 44 are each amended to
35 read as follows:

36 A local public agency may provide by ordinance for a ~~((permit))~~ fee
37 in an amount sufficient to cover all legitimate ~~((administrative))~~

1 costs for ((permit)) all needed permits and local licenses from
2 application to and through processing, issuance, and inspection, but in
3 no case to exceed one hundred dollars for any one year.

4 NEW SECTION. Sec. 27. (1) Every wholesaler shall carry liability
5 insurance for each wholesale and retail fireworks outlet it operates in
6 the amount of not less than fifty thousand dollars and five hundred
7 thousand dollars for bodily injury liability for each person and
8 occurrence, respectively, and not less than fifty thousand dollars for
9 property damage liability for each occurrence, unless such insurance is
10 not available from at least three approved insurance companies. If
11 insurance in this amount is not offered, each wholesale and retail
12 outlet shall be covered by a liability insurance policy in the maximum
13 amount offered by at least three different approved insurance
14 companies.

15 (2) No wholesaler may knowingly sell or supply fireworks to any
16 retail outlet unless the wholesaler determines that the retail outlet
17 carries liability insurance in the same amount as provided in
18 subsection (1) of this section.

19 NEW SECTION. Sec. 28. Retail fireworks licensees shall purchase
20 all fireworks from wholesalers possessing a valid wholesale license
21 issued by the state of Washington.

22 NEW SECTION. Sec. 29. Sections 1, 6, 7, 27, and 28 of this act
23 are each added to chapter 70.77 RCW.

24 NEW SECTION. Sec. 30. A new section is added to chapter 42.17 RCW
25 to read as follows:

26 All records obtained and all reports produced, as required under
27 chapter 70.77 RCW, are not subject to the disclosure requirements under
28 this chapter.

29 NEW SECTION. Sec. 31. RCW 70.77.465 and 1986 c 266 s 116 & 1961
30 c 228 s 70 are each repealed.

31 NEW SECTION. Sec. 32. If any provision of this act or its
32 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 33.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of the
5 state government and its existing public institutions, and shall take
6 effect immediately.

Passed the Senate March 9, 1995.

Passed the House April 4, 1995.

Approved by the Governor April 17, 1995.

Filed in Office of Secretary of State April 17, 1995.

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