

THE BARRIERS CREATED BY COMPLEXITY

A State-by-State Analysis of Local Sales Tax Laws in Light of
the *Wayfair* Ruling

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South Dakota v. Wayfair

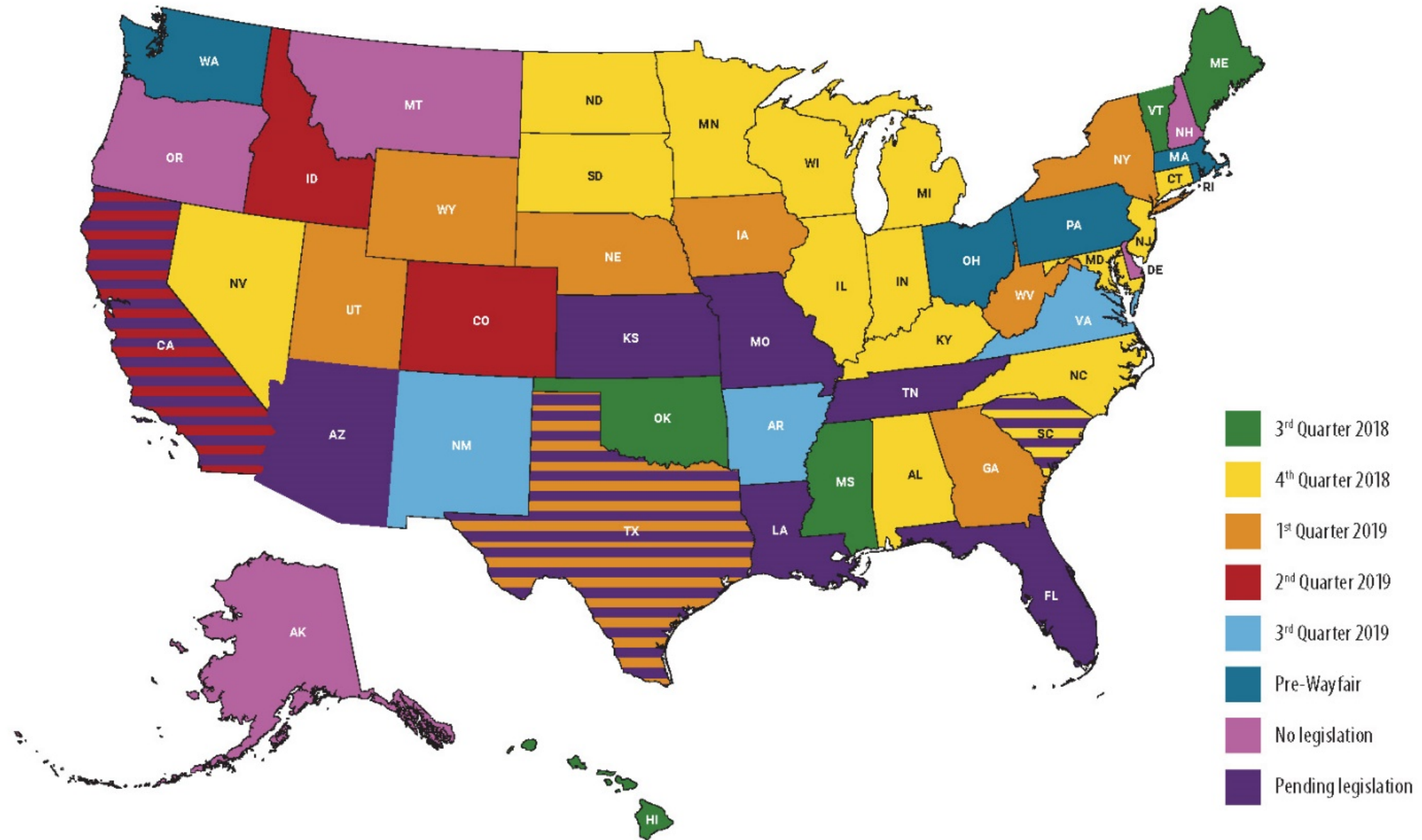
The Quill majority expressed concern that without the physical presence rule 'a state tax might unduly burden interstate commerce' by subjecting retailers to tax-collection obligations in thousands of different taxing jurisdictions... But the administrative costs of compliance, especially in the modern economy with its Internet technology, are largely unrelated to whether a company happens to have a physical presence in a State.

-Kennedy, 2018

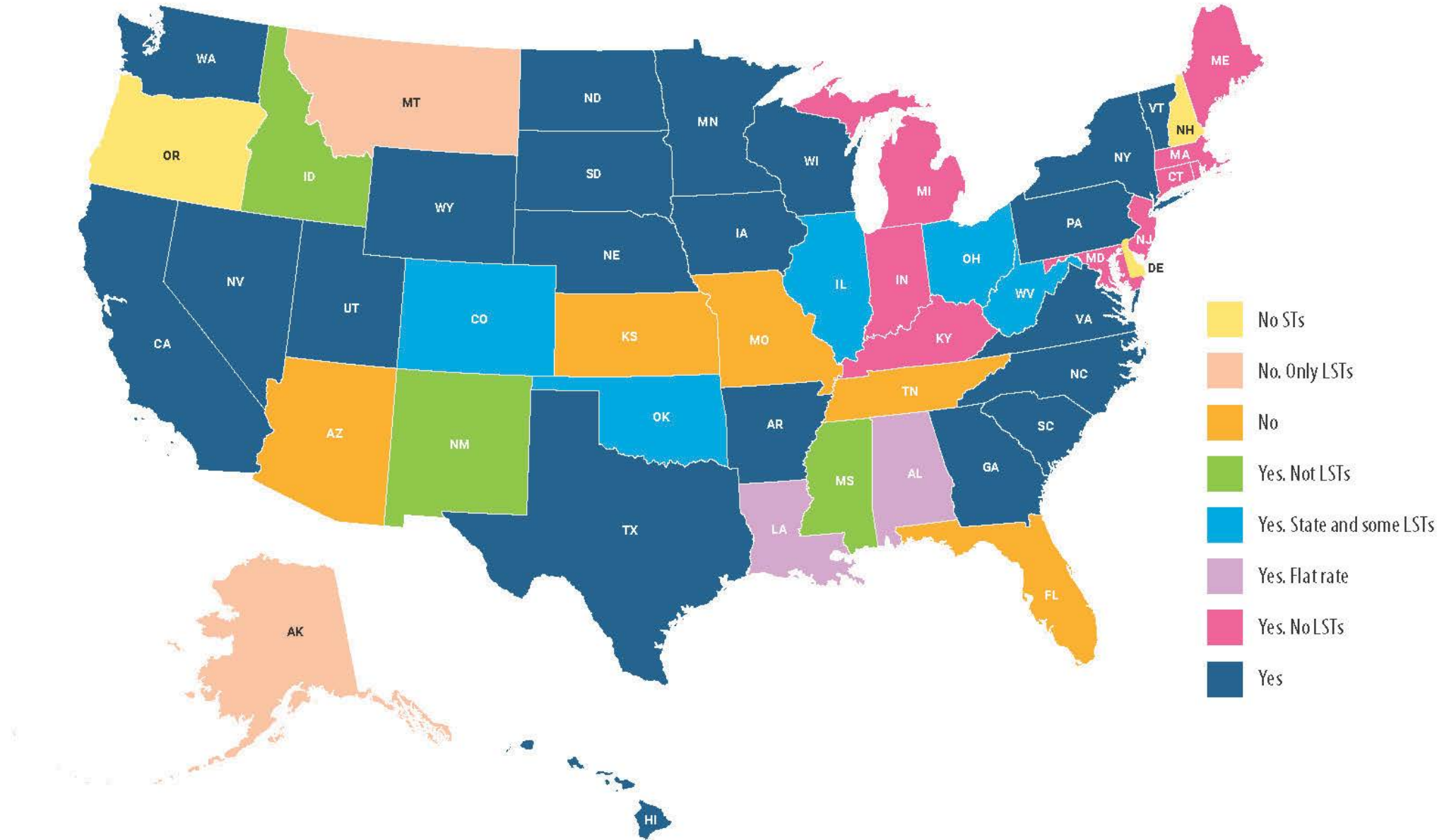
Specifics of SD highlighted:

- Safe Harbor
- No retroactive collection
- **SSUTA**
- Sales tax administration software

States Respond: Economic Nexus



Current Economic Nexus Laws



*LOCAL SALES TAX
COMPLEXITY*



Rate Discretion

- Variation of tax rates across the state
- Low: Fixed rates or low autonomy over LSTs
 - Wisconsin: Counties have a 0.5% rate and a 0.1% rate for stadiums
- Medium: Fixed rate increments or rate limits
 - California: Bradley-Burns Uniform LST (1%) and other instruments like a LOST-T
- High: No (or high) rate limits and high rate setting autonomy
 - Alabama: Local rates range from 1-7%



Overlapping Jurisdictions

- Occurs when there are a combination of county, municipal, and special district LSTs available
 - For example, Oklahoma City
 - Spread out over 4 counties: Canadian (0.35%), Pottawatomie (1.495%), Cleveland (0.25%), and Oklahoma (0%)
 - Zip code: 73170 spans to municipalities and two counties
-



Differences in Tax Bases

- Type One: State and local tax base are the same
- Type Two: State and local differ, but local is uniform
 - Georgia: food is taxed by all LSTs
- Type Three: State and local differ, local differs by instrument
 - North Carolina: food is taxed by 3 of 5 LSTs
- Type Four: State and local differ, local chooses base
 - Alaska: LST base set by jurisdictions

Local Sales Tax Rate Complexity & Tax Base Complexity

Rate Complexity

High

Alabama
Arkansas
 California
Kansas
Minnesota
 Missouri
Nebraska
Nevada
 New Mexico
North Dakota
Ohio
Oklahoma
Tennessee
 Texas
Utah
Washington
West Virginia
Wyoming

Alaska
 Arizona
 Colorado
 Florida
Georgia
 Idaho
 Illinois
 Louisiana
 Montana
 New York
North Carolina
 South Carolina

Low

Hawaii
Iowa
 Pennsylvania
South Dakota
Vermont
 Virginia
Wisconsin

Mississippi

Low

High

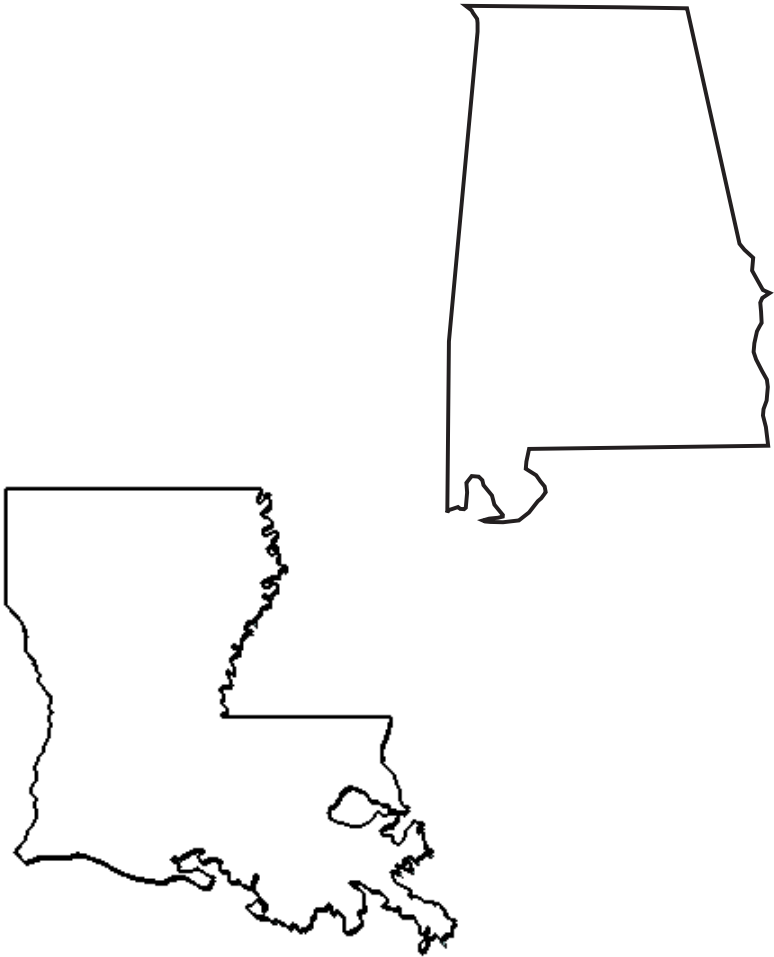
Base Complexity

Alabama & Louisiana

- High degree of local autonomy in rate setting
- Louisiana local governments can choose exemptions
- Decentralized collection
- Refunds based on population, **not rate**

- Remote vendors: flat rate collected state wide
 - Alabama 8%
 - Actual range 5-11%
 - Louisiana 8.45%
 - 4.45-11.45%

* Proposed legislation



Louisiana's Potential Reform

“They can find me, or if they can't find me, they can call my mother because I'm accountable.”

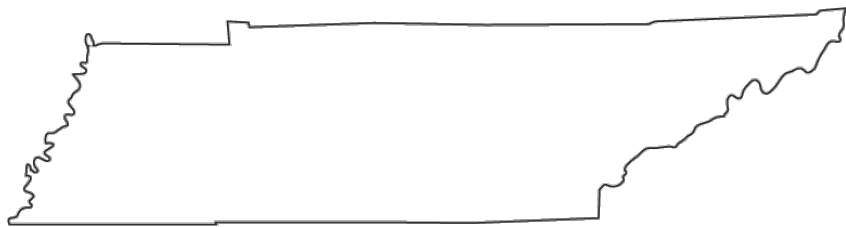
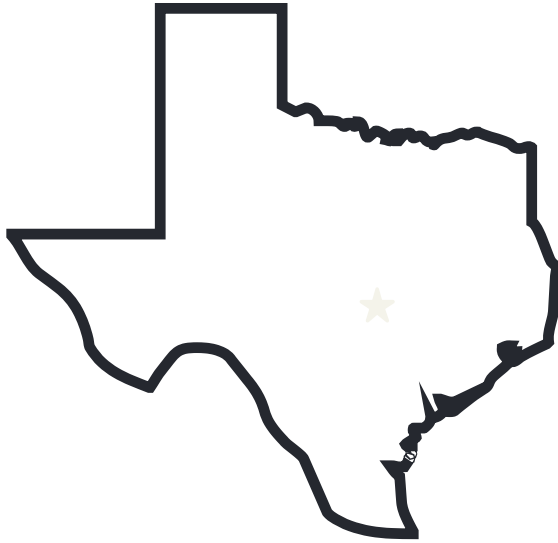
- Mike Curtis, Livingston Parish School Board's sales tax division

“Why on Earth does Louisiana need to do it differently when every other state has a single point of collection. Why do we have to be different?”

-Jim Patterson, LABI's taxation and finance director



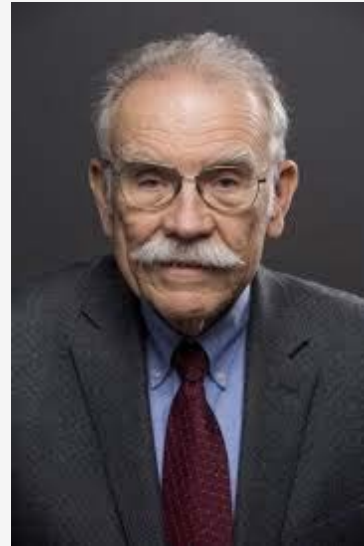
Tennessee & Texas



- Proposed legislation for flat local rate
 - Tennessee 9.25%
 - 8.5-9.75%
 - Texas 8.25%
 - 6.25-8.25%
-

States Without Economic Nexus

- Alaska (and Montana)
- Florida
- Tennessee
- Missouri
- Kansas
- Arizona



On Montana's local resort tax:

"That is so different from what you would find for any actual local sales tax that a rat is not only smelled but also dancing to the Hokey Pokey!" –John Mikesell



States With Economic Nexus: At Risk

- Comprehensive nexus:
 - New York
 - Self-administered local consumption taxes
 - South Carolina
 - Local governments set aspects of their tax base and not members of SSUTA
- Evolving policy to become more inclusive:
 - New Mexico (2021), Mississippi, & Idaho
 - West Virginia, Ohio, Illinois, Oklahoma, & Colorado
 - Louisiana & Alabama



Colorado

- Substantial nexus=\$100,000 in gross sales
 - 12/1/2018, but grace period until 6/1/2019
- Home-rule
 - Greater LST autonomy
 - Self-collected vs. State-collected
- State-collected: special districts, 50 counties, & ~150 municipalities (24 home-rule)
 - Must conform to state tax base
- Self-collected: 2 counties & 72 municipalities
- Has CSPs for state-collected

Policy

- LST policies are likely to evolve & grow
 - For example, Virginia poised to begin allowing local *option* sales taxes
 - States may broaden jurisdictional eligibility
- Challenges may cause greater simplification and/or broader CSP adoption

Research

- Tax policy
- Financial Management

Concluding Thoughts

Thank you



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