



Plain Dealing

A policy and administrative bulletin for licensed dealers from the Dealer Section of the WisDOT Division of Motor Vehicles.

Vol. 10

2000 Collector's Edition

“Nothing astonishes men so much as common sense and plain dealing.”

R. W. Emerson

There's a new feature in this issue of *Plain Dealing* called "You be the DOT." Read about a real-life consumer complaint situation and think about how you would resolve it. Then, turn to the answer to learn the real outcome.

Congratulations to Rawhide Boys Ranch of New London and Ballweg Chevrolet of Sauk City, winners of Dealer Section's "Right Way" dealer award for the first and second quarter of 2000. See page 3 for the details.

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Plain Dealing is published quarterly by the Wisconsin Department of Transportation, Division of Motor Vehicles, Bureau of Vehicle Services, Dealer Section.

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New laws affect dealers

Now that the 1999–2000 legislative session is over, there are several new laws on the books that affect dealers.

- Act 91, effective May 9, 2000, allows the use of dealer plates on consigned vehicles. In the past, dealer plates could only be used on vehicles owned *and* offered for sale by the dealership. When an individual consigned a vehicle to a dealership, he or she had to leave license plates on it in order to allow for test drives.
- Act 138, effective May 24, 2000, eliminates the provision that a dealer license would be revoked if the dealer received two misuse of dealer plate citations in one year. This was a case of the penalty not fitting the crime. Paying the citation is punishment enough without losing the dealer license, too.
- Act 137, effective May 24, 2000, makes it an option, rather than a requirement, that salvage pools buy dealer plates. In many cases salvage pools never acquire ownership of vehicles, they are wholesale auctions for damaged vehicles. As such, they weren't allowed to use the plates they were required to buy.
- Act 141, effective May 24, 2000, removes the word "retail" from the penalty section pertaining to wholesale auctions because they do not make retail sales.
- Act 31, effective April 19, 2000, is a revisor's bill which renumbers sections of Chapter 218 making it easier to follow.
- Act 90, effective September 1, 2000, requires vehicle color to be listed on the application for title/registration and on the certificate of registration.
- Act 110, effective December 1, 2000, requires the owner(s)' birth date to be listed on the application for title/registration.
- Act 92 provides for a special group plate for Ducks Unlimited. Plates will be available in early 2001.
- Act 167 provides for special Green Bay Packer license plates as part of the Lambeau Field renovation bill. Plates will be available in early 2001.
- Act 80, effective May 16, 2000, eliminates the requirement that applications for personalized plates be mailed in. Application can now be made in person.

For the complete text of these laws, go to the state legislature's web site: www.legis.state.wi.us.

The Right Way

Internet car sales regulated

Regulation of Internet vehicle sales is a hot topic nationwide. WisDOT applies current law to the regulation of Internet vehicle sales.

The act of selling a vehicle is not a single, distinct event; it is made up of several parts requiring varying amounts of regulation in order to protect consumers. Dealer Section has identified those parts of a sale as:

1. Displaying, describing, or advertising a vehicle.
2. Contacting or connecting with specific consumers.
3. Negotiating terms of a sale.
4. Taking a deposit or consideration.
5. Contracting or making an agreement.
6. Delivering the vehicle — transporting or handing the vehicle over to the consumer.

Advertising and contacting a consumer (1 and 2 above), when it does not result in a commission, does not require a license. All other parts of the sale are licensed activity.

Our contact with dot.com companies involves determining what parts of a sale they are participating in. If the dot.com company is participating in parts of a sale that are licensed activity, we inform them that they must obtain a license to do business in Wisconsin. If the dot.com company is participating in the sale of new vehicles, they must have a franchise for those vehicles. CarsDirect.com voluntarily stopped taking orders from Wisconsin consumers in February. So far, no dot.com company has applied for a license in Wisconsin.

WisDOT recognizes that applying laws that were written 40 years ago to today's marketplace may not be possible in the long term. We are reviewing current policy, rules and laws affecting the sale of vehicles in Wisconsin.

Sales to minors

In Wisconsin, a vehicle cannot be sold or leased to someone under 18 years old unless he or she submits to the seller a signed consent to purchase statement. A consent to purchase form can be found on the back of the first ply of the MV11 Application for Title/Registration.

The statement must be signed by the custodial parent or guardian of the minor and either notarized or witnessed by a DMV employee or licensed dealer. A parent or guardian can also choose to write up their own consent for a minor to purchase a specific vehicle (including year, make and VIN), and have it notarized. The separate consent should then be submitted with the rest of the application documents.

Beyond knowing how to comply with the laws on selling

vehicles to minors, dealers may want to think about the larger question of whether or not they want to sell vehicles to minors. Minors can't be legally bound to a motor vehicle purchase contract and can void a contract any time before they turn 18. This is true even if the minor misrepresents his or her age to the dealer.

Because of the risk involved in selling vehicles to minors, dealers may prefer to have a parent or guardian sign all the documents related to the purchase. The parent or guardian signs everything as purchaser and then transfers ownership to the minor. There is no sales tax due in the transfer from parent to child (though a transfer from another adult to a minor would be subject to sales tax).

You be the DOT!

In this new feature, you'll compare how you would handle a real-life complaint situation with the actual resolution made by Dealer Section.

Bait and Switch?

A man called a dealership about their newspaper advertisement for a 1991 Nissan at \$3,995. He confirmed with a salesperson that the vehicle was still available at that price then scheduled an appointment for a test drive. When he arrived, the same salesperson told him the advertised price was a "typo," and the actual price was \$6,995. The customer did not buy the vehicle, but filed a DOT complaint alleging "bait and switch" tactics.

How would you handle this complaint? Turn to page 5 to learn the rest of the story.

Investigator Rastall commended

Ken Vance of Ken Vance Motors, Inc., in Eau Claire found that Dealer Section employees also strive to do business the right way. He paid the following compliment to Investigator Tom Rastall in a letter to DMV Administrator, Roger Cross:

"... each and every time that we've called upon him for help or one of our customers has contacted him because of our shortcoming, his knowledge, experience, patient persistence, and calm demeanor have facilitated an amicable resolution without fail . . ."

And the winners are . . .

The Right Way Dealer Award was presented to Rawhide Boys Ranch of New London for the first quarter of 2000, and to Ballweg Chevrolet of Sauk City for the second quarter of 2000.

Rawhide Boys Ranch a winner

The staff of Rawhide Boys Ranch is pictured below with consumer specialist, Linda Mabie, field investigator, Tom Harrison, DMV Administrator, Roger Cross, and Dealer Section Chief, Chuck Supple.

Rawhide was nominated by Tom Harrison for excellent customer service, for maintaining a well-organized automotive facility, and for outstanding community service programs. The programs give court-referred young men the opportunity to change their lives by providing them with a full range of academic and vocational instruction, counseling and transitional services. DMV also cited the agency for promptly responding to its questions, and for frequently contacting DMV when it has questions, to ensure doing business the right way.

The staff of Rawhide Boys Ranch receive the Right Way Award.

Photo Not Available



Cross presented the Right Way award to Darlene Ballweg at her dealership. Also on hand were Supple, Mabie and Field Investigator, Mike Falk.

The Right Way Award is presented quarterly to recognize dealers who set an example for other dealers of the right way to do business in Wisconsin. The winners are selected by a team of Dealer Section staff members from nominations made by their co-workers. Any new or used auto/truck or motorcycle dealer, wholesaler or salvage dealer can be nominated based on criteria such as:

- Good record-keeping
- Few consumer complaints
- Rapid complaint settlement
- Good attitude
- Partnership involvement with DMV
- Community volunteer work.

See the next issue of *Plain Dealing* for the third and fourth quarter winners.

Rawhide relies on its vehicle donation program for much of its funding. Individuals can donate vehicles for a tax deduction, and Rawhide prepares and auctions the vehicles to licensed dealers.

Ballweg Inc. picked

The second quarter winner for 2000, Ballweg Chevrolet Olds Pontiac Buick Inc. of Sauk City, was nominated by Consumer Specialist, Linda Mabie, for outstanding customer service, displaying a positive attitude with customers, and its strong community dedication.

DMV Administrator, Roger Cross, presents the Right Way Award to Darlene Ballweg.

Ballweg's award is exceptional in more ways than one; it is one of the few dealerships owned by a woman, Darlene Ballweg.

News

Supple NAMVBC president

Dealer Section Chief Chuck Supple served as president of the National Association of Motor Vehicle Boards and Commissions for 2000.

NAMVBC was founded in 1976 to promote uniformity among state agencies who are responsible for licensing, enforcing and regulating the motor vehicle industry. The organization also encourages understanding between government agencies and the motor vehicle industry, and maintains a clearinghouse of information on various state laws regarding regulation of motor vehicle dealers.

Chuck served as Vice President of NAMVBC in 1999 and has been a member of its Internet Committee since its inception.

"I believe our role will be to create cooperation, not barriers. The NAMVBC will provide a national forum to discuss challenging issues and to hear the latest news from industry and states."

— *Chuck Supple*

The organization recently introduced its website (www.namvbc.org). The site will provide a place to share ideas and a wealth of information including dealer licensing data from all 50 states.

Brown County enacts sales tax

A ½% football stadium tax became effective in Brown County on November 1. The tax was created in order to help pay for maintenance and operating costs of the Lambeau Field renovations.

The tax applies to vehicles delivered to the customer on or after November 1, where the vehicle is customarily kept in Brown County. For a complete list of counties that collect local taxes and the effective dates, call Dealer Section's Customer Service Unit at 608.266.1425.

New formats for window label

WisDOT's Dealer Section has given final approval to an inventor to produce a clear polyester version of the used car window label, the Wisconsin Buyers Guide. The clear label, called Safe-View, was invented by Steve Stepniewski, a former used car salesman. He did so after a customer test drive resulted in a crash; the driver's view of oncoming traffic was blocked by the paper window label. Stepniewski also received approval from the Federal Trade Commission to develop a clear version of the new car Monroney Label.

DMV reviewed the Safe-View form and negotiated

modifications to ensure it conforms with standards. WisDOT prescribes content and print specifications for the Wisconsin Buyers Guide but does not produce or distribute the form. Dealers may purchase the Safe-View form from:

R.B. Cotton & Associates Consulting
Dealer Division (Forms)
P.O. Box 1347
Milwaukee, WI 53201-1347
Phone: 414.975.5905
Fax: 414.462.5905
www.FindMyRide.com

or

Metro Milwaukee Auto Auction
561 South Highway 41
Caledonia, WI 53108
Phone: 800.662.2947 or 262.835-4436

Another technological advance for the Wisconsin Buyers Guide is IDI Products, a software package that allows dealers to print Buyers Guides from their laser or ink jet printers. It also has Vehicle Identification Number (VIN) search capability that will automatically incorporate information into a Buyers Guide. IDI Products are available through:

WATDASI Forms
PO Box 5345
Madison, WI 53705
Phone: 800.236-7672
Fax: 608.251.5557
www.watda.org

Beware of refrigerant sales claims

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is alerting vehicle dealerships, repair shops, auctions and auto parts businesses to be on the lookout for refrigerant substitutes marketed for use in automotive air conditioning systems.

DATCP licenses and inspects businesses which service automotive air conditioning systems to ensure certified technicians do the work using approved refrigerant recovery and recycling equipment. Sale of refrigerants in Wisconsin is limited to licensed businesses and is prohibited in small containers.

Now that commercial production of the refrigerant R-12, an ozone-depleting gas, has ceased in the U.S., it can be tempting to look for an inexpensive alternative. Use of two illegal refrigerant substitutes resulted in enforcement actions against several Wisconsin automotive businesses.

One product, "McCool Chill-It," was sold at vehicle auctions throughout the state. Two dealerships paid large federal fines for improperly using the product. A second

product, "Enviro-Safe," was banned in 1996 by DATCP because of safety concerns for both technicians and motorists. Enviro-Safe is a highly flammable refrigerant, made up mostly of propane and butane. DATCP seized 45 cases containing small cans of this illegal product from a distributor in Waukesha County.

DATCP is urging car dealers to use caution when approached by refrigerant salespeople. Contact DATCP at 608.224-4944 for information about specific refrigerants before buying them.

New special plates available in 2001

Four new special license plates will be available in early 2001:

- Ducks Unlimited plates will be available in early February. Their cost (in addition to the regular registration fee) is a \$15 issuance fee and a \$25 tax-deductible annual contribution to conservation programs sponsored by Ducks Unlimited, Inc. Use application form number MV2916.
- Packer license plates will be available in mid-February. Their cost is a \$15 issuance fee and a \$25 tax-deductible annual contribution for Lambeau Field operation and maintenance costs, in addition to the regular registration fee. Use application form number MV2917.
- Lao Veteran and Free Mason license plates will be the first two multi-group plates issued under a Wisconsin law that allows groups to apply directly to WisDOT for a special license plate design. These plates cost \$15 issuance fee in addition to the regular registration fee. Lao Veteran plates will be restricted to members of Lao Veterans of America, Inc., but Free Mason plates are available to the general public. Both plates will be available mid-January. Use application form MV2918 for the Free Mason plate and application form MV2919 for the Lao Veteran plate.

Any of these special plates may be personalized with one to six characters. An annual \$15 fee is charged for personalized plates instead of the one-time \$15 issuance fee that is charged for non-personalized plates. Application forms for the four new special plates can be ordered from WisDOT Maps and Publications Sales, 3617 Pierstorff St., PO Box 7713, Madison, WI 53707-7713; or downloaded from www.dot.state.wi.us.

For more information about special plates contact the Special Plates Unit, phone 608.267.1857, fax 608.266-9905, or e-mail special-plates.dmv@dot.state.wi.us.

Dealer partnerships recognized

Six Wisconsin dealerships and the Wisconsin Automobile and Truck Dealers Association received Pioneer Awards for their early commitment to the department's Automated Processing Partnership System (APPS). Under the system, more than 500 dealerships, financial institutions, fleets and other approved businesses issue license plates, stickers and registration certificates to customers on the spot and then send title/registration information electronically to DMV.

Computerized Vehicle Registrations (CVR) and WisDOT presented Pioneer Awards to Wilde Toyota and Gordie Boucher Lincoln Mercury in West Allis, Ernie Von Schledorn in Menomonee Falls, Russ Darrow Honda in Mequon, and Kayser Ford, Zimbrick Buick and the Wisconsin Automobile and Truck Dealers Association in Madison. The pilot dealers who were honored completed nearly 52,700 transactions since the program began in 1996 and an average of 1,653 transactions a month last year.

Dealer Section services live on the Web

Dealer Section is now offering expanded dealer and consumer services on the WisDOT Web site. Application materials for retail dealer, wholesaler, salvage dealer and many other industry licenses can now be completed on-screen at the site, printed and mailed to WisDOT. The site also includes the complete text of the Motor Vehicle Salesperson Manual – a resource for prospective salespeople preparing for the written exam. Dealers can also visit the site to notify WisDOT by e-mail of an upcoming off-premise sale. New consumer information at the site includes a dealer complaint form users can complete on-screen and mail to WisDOT.

Answer – You be the DOT

(from page 2)

Bait and Switch?

WisDOT determined that the advertising error was the dealership's responsibility. The dealership had had similar complaints at its other stores. Had the consumer wished to buy the Nissan, WisDOT would have required the dealership to deliver it at the advertised price. However, he chose to buy elsewhere. WisDOT issued a warning letter to the dealership.

Tune in next issue for another real-life complaint situation!

Advertising Advice

☞ **Wisconsin law prohibits the use of pre-recorded telephone solicitations.** Section 134.72 (2)(a) of the Wisconsin statutes provides that “No person may use an electronically prerecorded message in telephone solicitation without the consent of the person called.” “Telephone solicitation” is defined as the “unsolicited initiation of a telephone conversation for the purpose of encouraging a person to purchase property, goods or services.” Even if your message isn’t a direct sales pitch, if the ultimate goal is to encourage a purchase, you’d be violating this law and subject to a \$500 forfeiture.

☞ **Don’t compare trade-in values to Blue Book** or other pricing guides. Trans 139 states that “No specific price shall be stated in an advertisement as an offer for a trade-in, if the price so stated is contingent upon the condition, model or age of the prospective purchaser’s vehicle to be traded.” Prices stated in guides like the Blue Book are always contingent on condition, model and age; therefore they are not permitted as advertised trade-in amounts.

☞ We’re seeing problems with ads developed by **out-of-state advertising agencies** again. The most recent involve the sale of “hundreds of bank repossessions regardless of profit or loss.” The ads are typically run as “legal notices” in newspapers or as direct mail pieces. Remember that it’s the dealership that’s responsible for the ads it runs, not the advertising agency, and out-of-state agencies are usually not familiar with Wisconsin’s advertising laws.

Did you know . . .
Some 984 dealers now participate in the Wise Buys Program!

Dealer Alert

➤ **The Ford Explorer 2001 SportTrak** should be registered as a truck; it doesn’t qualify for auto plates. Each new vehicle that is a combination passenger/cargo vehicle is evaluated on its own design particulars to determine how it should be registered.

➤ Be sure to remove and file the **dealer copy of the Wisconsin Buyers Guide** as soon as it’s completed. Don’t leave both plys on the vehicle.

➤ **Service loaner vehicles** must be properly registered. Dealer plates can’t be used on them, nor can temporary plates.

➤ Only give a **second temporary plate** to a customer if the first plate was lost, destroyed or stolen. There is no charge for the replacement, and it should expire on the same date as the original. If the customer’s temporary plate expires before receiving the metal plates, refer them to the Research and Information Unit at 608.266.1466.

➤ Dealers report use tax based on a dollar amount per plate per month for the **use of dealer plates on vehicles assigned to certain employees and dealership owners.** That dollar amount increases from \$106 to \$110 effective January 1, 2001. The use tax itself is not \$110 per plate per month. Rather, \$110 is multiplied by the use tax rate (5%, 5.1%, 5.5% or 5.6% depending upon the county where the dealership is located) to arrive at the use tax due per plate per month. Wisconsin law requires the base amount to be adjusted annually based on the U.S. Consumer Price Index. Contact Vicki Gibbons at the Department of Revenue, 608.266.3873 with questions.

Citations Issued

Greg Baumgart, Hayward —Unlicensed dealer sales and failure to apply for title.

Genova Auto Sales, Kewaskum —Failure to submit title applications to WisDOT.

Frank Goodman, Eau Claire County – Giving false odometer statement.

John Kosmatka, Milwaukee – Unlicensed dealer sales.

John Lese, Milwaukee —Unlicensed dealer sales.

Steven Miller, Polk County – Unlicensed salvage dealer.

Allen A. Ray, Eleva – Unlicensed dealer sales.

Policy Briefing

Canadian vehicle disclosure requirements

Buying and selling vehicles which originally come from Canada is a complex process. Wisconsin dealers can't just go to Canada and buy vehicles. Canadian vehicles must be imported through a registered importer. Registered importers register with the federal DOT's National Highway Traffic Safety Administration (NHTSA). Registered importers post a bond valued at 150% of the value of each vehicle imported. To obtain a bond release, the importer submits a packet for each vehicle including photos and certifications that the vehicle meets U.S. safety standards. If everything is in order, NHTSA will issue a bond release letter.

When you buy a vehicle from a registered importer, make sure the importer provides you with three important items:

1. A sticker affixed to the driver's side door or pillar that shows the vehicle was modified to comply with U.S. safety standards. The sticker will also list the year, make and Vehicle Identification Number (VIN).
2. A copy of a recall warranty insurance policy.
3. A copy of the bond release letter.

If you don't have all three of these items, the vehicle can't be sold and is subject to seizure by U.S. Customs. Be sure to make a copy of the recall warranty insurance policy and bond release letter for your records. The originals of those documents must stay with the vehicle when it is sold.

A vehicle that has been properly imported from Canada will require the following disclosures to be offered for sale (assume the most common situation that the incoming odometer disclosure on the Canadian provincial or territorial registration is in kilometers and the odometer registers kilometers):

- Disclose the reading on the odometer statement as "actual" because DOT will record the reading as actual. For example, a vehicle with 70,000 kilometers will be recorded on the Wisconsin title as "70,000 actual" without mentioning miles or kilometers.
- Disclose that the vehicle was titled in Canada on the Wisconsin Buyers Guide or Wholesale Buyers Guide.
- If the odometer reads kilometers, disclose the odometer on the Wisconsin Buyers Guide as "not legal" since the odometer does not register miles. Also, make the following disclosure in writing on the purchase contract: "WARNING! This vehicle cannot be legally operated on Wisconsin highways and may not be safe."
- You can disclose the odometer reading as "actual" and the odometer as "legal" on the Wisconsin Buyers Guide if you replace the odometer with one that registers miles. Follow the guidelines on odometer replacement in the Wisconsin Administrative Code Trans 154.09(2). DMV will only title the vehicle as "actual" under this circumstance if you provide a

signed statement from the repair shop along with the other required title documents. The signed statement must verify that the repair shop recalibrated the kilometers to miles and show the current mileage reading.

If the incoming odometer disclosure on the Canadian provincial or territory registration document is in miles and the odometer registers miles, you may disclose the odometer reading as you would on any other vehicle, even if the disclosure language doesn't conform to Truth in Mileage Act requirements.

For details on how to handle other, more unusual situations, such as a blank incoming odometer disclosure or odometer disclosure made on an unacceptable document (an auction block ticket, for example), contact Dealer Section's Customer Service Unit at 608.266.1425 or e-mail dealers.dmv@dot.state.wi.us for a complete policy statement.

A final caution: DMV doesn't recognize Canadian registration documents as privately titled documents. Therefore, if you obtain new vehicles from Canada you must be franchised to sell that make, or the vehicle must qualify as used under Trans 137.03(9) in order to be legally sold.

Paperwork Pointers

 When listing **GMAC as a lienholder**, use secured party number 003023 and the mailing address: PO Box 8121, Cockeysville, MD 21030. The Brookfield, WI address should not be used.

 Applications for title/registration for leased vehicles should give the **lessee's name and address**, not the driver's name and address. This is a common mistake in fleets of leased vehicles and can mean registration renewals are sent to the wrong place.

 **Vehicle color** is now to be listed on the application for title/registration. New MV11 forms contain that field on the first line of section B, between "Type" and "Fleet Number." You may continue to use your current supply of MV11s, just write in the vehicle color in that area.

 The **owner's date of birth** is now to be listed on the MV11. New MV11 forms contain that field in the space immediately after the owner's name. If using an older version MV11, write the owner's date of birth in that area.

Dealer and Salesperson Actions

AB Auto Sales, Milwaukee — A Special Order was issued for writing non-sufficient funds checks to the Department of Transportation, failing to submit title applications within seven business days, failing to have a title for each vehicle offered for sale, failing to properly record VINs on purchase contracts, failing to disclose the correct model year of a vehicle, and failing to execute proper retail installment contracts.

Mohomad Govani, Milwaukee — A Special Order was issued granting a salesperson license on the condition that he agree to transfer his license in a timely manner in the future.

J. R. Motors, Milwaukee — A Special Order was issued for selling vehicles, retail, while licensed only as a wholesaler.

Mann Motors, Cudahy — A Special Order was issued for inappropriately issuing and using temporary plates, failing to maintain a record of temporary plates issued, failing to submit title applications within seven business days, failing to display buyers guides on vehicles offered for sale, and failing to separate its own vehicle

display lot from areas used by other licensees or businesses.

Noren Auto Salvage, Ettrick — A Special Order was issued for failing to keep a record of a vehicle purchased or acquired for salvage purposes and failing to send a title or bill of sale to DMV within 30 days.

Ruby Auto Recycling, Gilman — Salvage dealer license was suspended from October 1-30 for violating a previous Special Order prohibiting failing to send titles or bills of sale to DMV within 30 days and failing to enter junk vehicles in its log book.

Trucks, Inc., Janesville — A Special Order was issued for failing to have all persons involved in the sale of motor vehicles licensed as salespersons and failing to properly maintain a used vehicle log book. Six points were also assessed against the dealer license.

Turtle Lake Auto Salvage, Turtle Lake — A Special Order was issued for failing to keep a record of vehicles purchased for salvage purposes, failing to forward title or bill of sale to DMV within 30 days, and acting as a motor vehicle dealer without a license.

CRIMINAL ACTIONS

George Slaney, Dodgeville — Was ordered to pay \$65,000 in restitution, \$1,000 to Crime Stoppers, pay court costs, and forfeit three vehicles for removing VINs, acting as an unlicensed salvage dealer, receiving stolen property and failing to apply for title.

James Westphal, Tomah — Owner of Down Town Auto was placed on probation for one year and sentenced to 100 hours community service for one count of misdemeanor theft by fraud.

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