

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of SB 2670 HD1
Relating to Behavior Analysts**

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: 4/1/2016

Room Number: 308

1 **Fiscal Implications:** None.

2 **Department Testimony:** The purpose of this measure is to decrease the behavior analyst
3 licensing surcharge from \$100 to \$50 and to add a licensing exemption for behavior
4 paraprofessionals who directly implement behavior plans under the Intellectual and
5 Developmental Disabilities Medicaid §1915(c) waiver.

6 The Department strongly supports the licensing exemption in the HD1, and respectfully
7 requests an amendment for the defective effective date.

8 **Justification:** Act 199, Session Laws of Hawaii (2015), codified as Hawaii Revised Statutes
9 (HRS) chapter 465D, requires the licensing of behavior analysts. HRS § 465D-2 broadly defines
10 the term “practice of behavior analysis” to include the implementation of behavior plans. HRS §
11 465D-7(a)(3) currently provides a licensing exemption to registered behavior technicians (RBT)
12 who are credentialed by the Behavior Analysis Certification Board (BACB) and acting under the
13 direction of a licensed behavior analyst.

14 The behavior analyst or other licensed professional is usually responsible for the design
15 and development of the behavior plan, which is usually implemented by paraprofessional staff.

16 Based on concerns from provider agencies and behavior analysts who are reluctant or
17 will not train paraprofessional staff who are not credentialed as an RBT, the Department
18 conducted a survey to measure current workforce capacity and the number of participants in the
19 Intellectual and Developmental Disabilities Medicaid §1915(c) waiver who may be impacted.
20 Of the 33 provider agencies serving 343 Medicaid waiver participants who currently have a

1 formal behavior plan developed by a behavior specialist, only five agencies have staff who are
2 licensed as a behavior analyst or credentialed as an RBT.

3 In addition to these critical services, the Department is very concerned about any service
4 disruptions that may occur to Medicaid waiver participants who need behavioral interventions
5 and the likelihood of regression of any gains that have been made.

6 As noted in section 1 of this measure, there is an insufficient workforce to provide
7 necessary behavioral interventions for hundreds of waiver participants, including those with
8 serious behavioral challenges that place them at risk for self-harm or harm to others.

9 The Department appreciates the work of behavior analysts, behavior paraprofessionals,
10 and others who provide Medicaid waiver services to those with challenging behaviors.

11 The Department is committed to ensuring that quality services are provided by trained
12 staff, but there are insufficient number of paraprofessional staff in the State today who have
13 obtained the RBT credential from the BACB. It will take time to build a sufficient workforce of
14 paraprofessionals to implement behavior plans.

15 The Department has collaborated with the Hawaii Association of Behavior Analysis
16 (HABA) and the State Council on Developmental Disabilities in drafting the language contained
17 in the HD 1 that is intended to address the above situation. The Department is committed to
18 developing an adequate workforce and is willing to work with HABA and other stakeholders to
19 ensure that quality services are provided to Medicaid waiver participants.

20 **Offered Amendments:** The Department respectfully requests an effective date of “upon
21 approval”, rather than 2112.

22 Thank you for the opportunity to testify on this measure.



DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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P.O. Box 541
HONOLULU, HAWAII 96809
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CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Friday, April 1, 2016
11:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2670, H.D. 1, RELATING TO BEHAVIOR
ANALYSTS.**

TO THE HONORABLE SYLVIA LUKE, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Constance Cabral, Executive Officer of the Behavior Analyst Program within the Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs ("Department"). The Department appreciates the opportunity to testify on this measure. We are in support of SECTION 2 and take no position on the recently added provisions in SECTION 3 of the bill.

On February 3, 2016, this measure was heard by the Senate Committee on Commerce, Consumer Protection, and Health and was passed unamended. On February 21, 2016, it was heard by the Senate Committee on Ways and Means and

Testimony on Senate Bill No. 2670, H.D. 1
Friday, April 1, 2016
Page 2

again was passed unamended. This measure was then heard on March 21, 2016, by the House Committees on Health and Consumer Protection and Commerce. Each Committee passed this measure with amendments which temporarily exempts certain workers from the licensing requirements for behavior analysts.

Thank you for the opportunity to provide testimony on Senate Bill No. 2670, H.D. 1, Relating to Behavior Analysts.



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
919 ALA MOANA BOULEVARD, ROOM 113
HONOLULU, HAWAII 96814
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
April 1, 2016

The Honorable Sylvia Luke, Chair
House Committee on Finance
Twenty-Eighth Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Representative Luke and Members of the Committee:

SUBJECT: SB 2670 HD1 - Relating to Behavior Analysts

The State Council on Developmental Disabilities (DD) **strongly supports SB 2670 HD1**. The purpose of the bill reduces the surcharge on the license and renewal fee for behavior analysts from \$100 to \$50, and temporarily exempts from the licensing requirements for the practice of behavior analysis direct support workers who provide Medicaid home and community-based services pursuant to the Social Security Act through January 1, 2019.

The Council emphasizes the importance of SECTION 3 of the bill that exempts a direct support worker who provides Medicaid Home and Community-Based Services pursuant to Section 1915(c) of the Social Security Act on or before January 1, 2019. We feel that individuals who receive applied behavior analysis should receive them from qualified providers who are licensed and trained. However, we are aware that the Department of Health (DOH) DD Division does not have an adequate workforce to provide necessary behavioral interventions for hundreds of individuals in the Medicaid Home and Community Based Section 1915(c) waiver program.

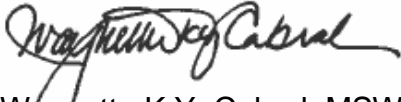
With Act 199, Session Laws of Hawaii 2015, taking effect on January 1, 2016, DOH DD Division is not able to meet the requirements of licensing of behavior analysts. The Council is concerned that a disruption in services for individuals who are currently receiving and benefiting from services to address their behavioral intervention plans by unlicensed providers would result in regression of any progress made.

The passage of this bill would enable DOH DD Division to build capacity of its current workforce to meet the requirements of Act 199/2015.

The Honorable Sylvia Luke
Page 2
April 1, 2016

Thank you for the opportunity to submit testimony in strong support of SB 2670
HD1.

Sincerely,

A handwritten signature in black ink, appearing to read "Waynette K.Y. Cabral". The signature is fluid and cursive, with the first name being the most prominent.

Waynette K.Y. Cabral, MSW
Executive Administrator

A handwritten signature in black ink, appearing to read "Josephine C. Woll". The signature is cursive, with the first name being the most prominent.

Josephine C. Woll
Chair

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 30, 2016 12:36 PM
To: FINTestimony
Cc: louis@hawaiidisabilityrights.org
Subject: Submitted testimony for SB2670 on Apr 1, 2016 11:00AM

SB2670

Submitted on: 3/30/2016

Testimony for FIN on Apr 1, 2016 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Hawaii Disability Rights Center	Comments Only	No

Comments: We are comfortable with the limited exemption being proposed by the Department of Health, DD Division, and developed in collaboration with HABA.

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Monday, April 1, 2016

COMMITTEE ON FINANCE

Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair

11:00 am
Conference Room 308
State Capitol
415 South Beretania Street

Testimony in SUPPORT of SB2670-related to behavior analysts

Honorable Chair Luke, Vice Chair Nishimoto, and members of the committee,

Thank you for the opportunity to submit testimony today in **SUPPPORT of SB2670**. HABA is willing to support any state department that acts in good faith to support the needs of individuals in their department receiving behavior analysis services and recognizes that departments may need assistance to improve services. As such, HABA has been collaborating with the Department of Health-Developmental Disabilities Division (DDD) to ensure Developmental Disabilities Medicaid §1915(c) waiver participants have access to needed services.

Justification: Our discussions with the Department (DOH-DD) have been cooperative and productive. The Department has demonstrated through their actions that they are committed to ensuring quality services are provided by trained staff and are working to develop an adequate workforce. At this time, the Department does not have an adequate workforce and therefore needs time to build capacity. HABA supports their intentions to improve services and build capacity and will continue to work with the Department to ensure that quality services are provided to Medicaid waiver participants. In collaboration, HABA and DOH-DDD have come to agreement on requested possible amendments to allow the Department time to build capacity for direct support workers to become registered behavior technicians (RBT) with a sunset date

of January 1, 2019. HABA respectfully offers the below possible amendments for further refinement:

Possible Amendments

SECTION 3. Section 465D-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This chapter is not intended to restrict the practice of other licensed or credentialed ~~healthcare~~ practitioners, practicing within their own recognized scopes of practice and shall not apply to:

- (1) An individual working within the scope of practice of another licensed profession that overlaps with the practice of behavior analysis; provided that the person does not purport to be a behavior analyst;
- (2) An individual who implements or designs applied behavior analysis services and possesses board certification as an assistant behavior analyst by the Behavior Analyst Certification Board and who practices in accordance with the most recent supervisory and ethical requirements adopted by the Behavior Analyst Certification Board under the direction of a behavior analyst licensed in this State;
- (3) An individual who directly implements applied behavior analysis services, and:
 - i. ~~[is]~~ Is credentialed as a registered behavior technician by the Behavior Analyst Certification Board, and is under the direction of a behavior analyst licensed in this State; or

ii. Is a direct support worker who provides medicaid home and community-based services pursuant to §1915(c) of the Social Security Act on or before January 1, 2019, who acts under the direction of a behavior analyst licensed in this State.

For the purposes of this paragraph, "direct support worker" means a paraprofessional who directly implements intervention or assessment plans, under supervision and does not design intervention or assessment plans."

- (4) A family member or legal guardian implementing an applied behavior analysis plan, ~~within the home~~ who acts under the direction of a behavior analyst licensed in this State;
- (5) An individual who engages in the practice of behavior analysis with nonhuman or nonpatient clients or consumers including but not limited to applied animal behaviorists and practitioners of organizational behavior management;
- (6) A matriculated graduate student or postdoctoral fellow whose activities are part of a defined behavior analysis program of study, practicum, or intensive practicum; provided that the student's or fellow's activities or practice is directly supervised by a behavior analyst licensed in this State or an instructor in a Behavior Analyst Certification Board-approved course sequence; or
- (7) An individual pursuing experience in behavior analysis consistent with the Behavior Analyst Certification Board's

experience requirements; provided that the experience is supervised by a behavior analyst licensed in this State."

SECTION 5. This Act shall take effect on approval; provided that section 3 of this Act shall take effect on January 1, 2016, and shall be repealed on [January 1, 2019](#), and section 465D-7, Hawaii Revised Statutes, shall be reenacted in the form in which it read prior to the effective date of this Act.

Respectfully submitted,



Kristen Koba-Burdt, M.S., BCBA, LBA
President
president@hawaiiaba.org



Amanda N. Kelly, PhD, BCBA-D, LBA
Past-President
pastpresident@hawaiiaba.org

The Hawaii Association for Behavior Analysis (HABA) is a professional organization dedicated to the practice, research, and dissemination of Applied Behavior Analysis (ABA). HABA's mission is to expand behavioral knowledge, support service providers implementing behavioral interventions, and promote board certification in behavior analysis. HABA also sponsors an annual conference, workshops, and various trainings for professional development in behavior analysis.



Achieve with us.

March 30, 2016

The Honorable Sylvia Luke, Chair
House Committee on Finance
Twenty-Eighth Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Representative Luke and Members of the Committee:

SUBJECT: SB 2670 HD1 - Relating to Behavior Analysts

The Arc in Hawaii **strongly supports SB 2670 HD1**. The purpose of the bill reduces the surcharge on the license and renewal fee for behavior analysts from \$100 to \$50, and temporarily exempts from the licensing requirements for the practice of behavior analysis direct support workers who provide Medicaid home and community-based services pursuant to the Social Security Act through January 1, 2019.

The Arc in Hawaii would like to emphasize the importance of SECTION 3 of the bill that exempts a direct support worker who provides Medicaid Home and Community-Based Services pursuant to Section 1915(c) of the Social Security Act on or before January 1, 2019.

The passage of this bill would enable providers time to provide training and certification opportunities to their current workforce to meet the requirements of Act 199/2015.

Thank you for the opportunity to submit testimony in strong support of SB 2670 HD1.

Sincerely,

Lei Fountain
Executive Director

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2016 8:52 AM
To: FINTestimony
Cc: janeth@thearcinhawaii.org
Subject: Submitted testimony for SB2670 on Apr 1, 2016 11:00AM

SB2670

Submitted on: 3/31/2016

Testimony for FIN on Apr 1, 2016 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Janet Hanamoto	The Arc in Hawaii	Support	No

Comments: Please pass bill SB2670. Care givers & non-profits are strapped for funds and would help greatly if they could be exempt from the new certification requirements until 2019. Thank you.

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2016 8:42 AM
To: FINTestimony
Cc: eakenny8@gmail.com
Subject: *Submitted testimony for SB2670 on Apr 1, 2016 11:00AM*

SB2670

Submitted on: 3/31/2016

Testimony for FIN on Apr 1, 2016 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
eric kenny	The Arc in Hawaii	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2016 8:36 AM
To: FINTestimony
Cc: cathy.kioi@gmail.com
Subject: Submitted testimony for SB2670 on Apr 1, 2016 11:00AM

SB2670

Submitted on: 3/31/2016

Testimony for FIN on Apr 1, 2016 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Catherine Kioi	The Arc in Hawaii	Support	No

Comments: I support the passage of this bill because it would give The Arc in Hawaii time to provide training and certification opportunities to all the current employees who already work so hard to care for our clients with disabilities. Thank you.

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Easter Seals Hawaii

Administrative Offices
710 Green Street
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Toll Free: 888.241.7450
Fax: 808.536.3765

March 31, 2016

TO: Committee on Finance
Representative Sylvia S. Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair

FROM: Jennifer La'a
Director of Youth and Adult Services

RE: **Support for SB 2670/HD1 Relating to Behavior Analysts**
Hearing Scheduled for Friday, April 1, 2016 (11:00 am)

Thank you for the opportunity to submit this testimony in support of SB 2670/HD1. I am Jennifer La'a, the Director of Youth and Adult Services at Easter Seals Hawaii.

For 70 years Easter Seals Hawaii (ESH) has been providing exceptional individualized family or person-centered services to infants and toddlers with disabilities and their families and to youth and adults with disabilities or special needs to achieve their goals and live independent fulfilling lives. Easter Seals Hawaii is a statewide CARF accredited organization with facilities and program activities from Waimea, Kauai to Hilo, Hawaii. Services include Early Intervention for infants and toddlers, after-school, enrichment, and pre-vocational services to youth with disabilities, employment services for adults with disabilities, Applied Behavior Analysis (ABA) services or therapy primarily to children. ESH is also one of the State's largest providers of Medicaid Waiver Home and Community Based Services (HCBS) with seven service centers focused on adult services (adult day health programs as well as one-to-one supports to achieve community integration).

ESH Autism Center currently has four (4) BCBA's and three (3) BCaBA's supervising fourteen (14) Registered Behavior Technicians (4 fully certified and 10 pending approval) directly implementing treatment plans. We are actively in the process of negotiating contracts with health insurers to provide medically necessary ABA services consistent with Act 199, Session Laws of Hawaii 2015 and our Autism Center team is focused on building that capacity.

At the same time, ESH served over four hundred (400) individuals with developmental or intellectual disabilities through our HCBS services and Youth program in 2015. Our team includes approximately two hundred fifty (250) Direct Service Workers (DSWs) who are responsible for the direct training and support of individuals with DD/ID including behavioral interventions authorized by the DOH Case Manager and designed by a BCBA. Positive Behavior Support Plans have been developed and are being implemented for approximately fifteen (15) of our participants. And through implementation of those plans, we regularly observe positive behavioral changes. We see positive behavioral change as particularly important for some of our adult participants – it can open the door to more opportunities for community integration and employment options.

At present, DSWs have not been certified as RBTs and none are directly supervised by a BCBA. Easter Seals Hawaii wants to build our internal capacity and take steps to enhance the training of our DSWs to become RBTs under supervision of a BCBA. But this will take time. Absent passage of SB 2670/HD1 we will be required to end behavioral support and interventions to waiver eligible individuals due to the lack of staff. This will not help the individuals with DD/ID we serve and will not assure quality behavioral interventions.

Easter Seals Hawaii urges your passage of SB 2670/HD 1.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2016 9:31 AM
To: FINTestimony
Cc: lizs@thearcinhawaii.org
Subject: *Submitted testimony for SB2670 on Apr 1, 2016 11:00AM*

SB2670

Submitted on: 3/31/2016

Testimony for FIN on Apr 1, 2016 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Liz Sappington	Individual	Support	No

Comments:

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Sent: Thursday, March 31, 2016 8:46 AM
To: FINTestimony
Cc: kauip@thearcinhawaii.org
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SB2670

Submitted on: 3/31/2016

Testimony for FIN on Apr 1, 2016 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Verdallie K. Puni	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2016 8:38 AM
To: FINTestimony
Cc: michaelo@thearcinhawaii.org
Subject: *Submitted testimony for SB2670 on Apr 1, 2016 11:00AM*

SB2670

Submitted on: 3/31/2016

Testimony for FIN on Apr 1, 2016 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Michael A Owen	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2016 8:32 AM
To: FINTestimony
Cc: cwaki1@gmail.com
Subject: *Submitted testimony for SB2670 on Apr 1, 2016 11:00AM*

SB2670

Submitted on: 3/31/2016

Testimony for FIN on Apr 1, 2016 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Claretta Wakita	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2016 8:31 AM
To: FINTestimony
Cc: sonjap@thearcinhawaii.org
Subject: *Submitted testimony for SB2670 on Apr 1, 2016 11:00AM*

SB2670

Submitted on: 3/31/2016

Testimony for FIN on Apr 1, 2016 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Sonja Punsalan	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2016 8:30 AM
To: FINTestimony
Cc: janea@thearcinhawaii.org
Subject: Submitted testimony for SB2670 on Apr 1, 2016 11:00AM

SB2670

Submitted on: 3/31/2016

Testimony for FIN on Apr 1, 2016 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Lola Jean Amorin	Individual	Support	No

Comments: I support bill SB 2670

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2016 8:30 AM
To: FINTestimony
Cc: christinem@thearcinhawaii.org
Subject: Submitted testimony for SB2670 on Apr 1, 2016 11:00AM

SB2670

Submitted on: 3/31/2016

Testimony for FIN on Apr 1, 2016 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
christine menezes	Individual	Support	No

Comments: I strongly support this bill in order for organizations to develop and implement a plan that will make this transition process effortless.

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2016 8:22 AM
To: FINTestimony
Cc: bradleyt@thearcinhawaii.org
Subject: *Submitted testimony for SB2670 on Apr 1, 2016 11:00AM*

SB2670

Submitted on: 3/31/2016

Testimony for FIN on Apr 1, 2016 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Bradley Toyama	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2016 11:18 AM
To: FINTestimony
Cc: beekyt@thearcinhawaii.org
Subject: Submitted testimony for SB2670 on Apr 1, 2016 11:00AM

SB2670

Submitted on: 3/31/2016

Testimony for FIN on Apr 1, 2016 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Becky Tyksinski	Individual	Support	No

Comments: I strongly support this bill, which allows providers sufficient time to identify and offer training and certification opportunities to their current workforce to meet the requirements of Act 199/2015.

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