

# The Gottlieb-Tartaro Report

## THE INSIDERS GUIDE FOR GUN OWNERS

Issue 104

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Dear Subscriber,

**The U.S. Supreme Court** is being asked to **overturn a ruling** by the Ninth Circuit Court of Appeals that said *the Constitution does not guarantee people a personal right to own a gun.*

The petition said **the high court's rulings on Second Amendment gun rights - many in the 1800s - are a mess that should be straightened out** when the justices return from their summer break.

The appeal covers two closely watched cases from the **liberal-leaning 9th U.S. Circuit Court of Appeals in San Francisco.**

One of the cases involved an unlikely group of challengers who **sued the state of California over laws banning high-powered weapons.** The group included a police SWAT officer, a former Marine sniper, a parole officer, a stockbroker and others with varied political views.

**They lost their appeal to the 9th Circuit Court,** which ruled that the Second Amendment's intent was to protect gun rights of militias, not individuals. Their attorney and rugby teammate, GARY GORKSI of Fair Oaks, California, wrote in their appeal to the Supreme Court, **“Citizens need the Second Amendment for protection of their families, homes and businesses.”**

The group was encouraged by a **5th U.S. Circuit Court of Appeals ruling that individuals have a constitutional right to guns.** So now **two federal appeals courts have conflicting rulings** on the same question: gun rights - who has them?

However, legal scholars feel it unlikely that the Supreme Court will accept the case. EUGENE VOLOKH, a constitutional law professor at the University of California, Los Angeles, said **the high court hasn't jumped into the gun rights issue since 1939.**

Some advocates on both sides, however, are **reluctant to have the justices review the 9th Circuit ruling for fear of an unfavorable decision,** said gun rights attorney STEPHEN HALBROOK. “You can't read where they'll go. It's a wild card.”

### JUDGE DENIES NRA MOTION TO CONSOLIDATE PRO-GUN LAWSUITS

Federal Judge EMMET G. SULLIVAN in the U.S. District Court for the District of Columbia **has ruled against the NRA's motion to consolidate two lawsuits** against D.C.'s virtual **ban on civilian ownership and possession of firearms.**

The NRA filed a lawsuit on behalf of five citizens claiming the D.C. gun ban violates the Second Amendment, **but it named four additional non-Second Amendment causes of action** for the court to consider.

Six other D.C. residents filed a **separate lawsuit** claiming **only** that the District of Columbia and D.C. Mayor ANTHONY WILLIAMS **violated their constitutional right to firearms** by enforcing a de facto ban on private ownership of guns.

The six single-issue plaintiffs did not want their case blended with the NRA case because it brought in four other issues, and petitioned the court to block the proposed consolidation. **They wanted a straight-up Second Amendment case.**

SULLIVAN denied the NRA's motion for consolidation for numerous procedural reasons, and to avoid undermining the substantive issues.

**Also in this issue:** ● *NAACP lawsuit dismissed* ● *New Hampshire has new anti-lawsuit law* ● *CCRKBA fighting semi ban extension* ● *Tribute to hunting defender Ron Marlenee* ● *Bob Barr at the UN Arms Conference* ● *Britain's shame in our Page Eight* *“Parting Shot”*

**ON THE LEGAL FRONT**

### JUDGE DISMISSES NAACP SUIT AGAINST GUN MAKERS

U.S. District Judge JACK WEINSTEIN has **dismissed the NAACP's unfounded case against gun makers**, ruling that the civil rights organization *failed to prove at a recent trial that the industry's allegedly negligent marketing practices have caused unique harm to its members.*

The NAACP's lawsuit claimed **the firearms industry knew corrupt dealers supplied guns to criminals in minority communities and did nothing to stop it.**

Judge WEINSTEIN's decision came after a trial that ended in May. **An advisory jury cleared 45 gun manufacturers and distributors** of allegations their marketing practices stoke violence **in black and Hispanic neighborhoods.**

Pro-gun observers were alarmed earlier when Judge WEINSTEIN put the jury **on advisory status**, worrying that he had given himself a license to ignore them. **But the case was so bogus the facts overcame his own anti-gun leanings.**

However, Judge WEINSTEIN wrote that manufacturers don't take enough steps to eliminate what he called the "public nuisance they individually and collectively have created," along with other rants that have no legal standing.

**ON THE LEGAL FRONT**

### ANTI-GUN BRADY CENTER CLAIMS VICTORY IN NAACP SUIT DISMISSAL

Trying to put a brave face on the gloom of defeat, the Brady Center to Prevent Gun Violence issued a news release after Judge WEINSTEIN dismissed the NAACP's attack lawsuit, saying **the decision offers a clear and compelling indictment of the gun industry,** referring to the judge's rants.

DENNIS HENIGAN, Director of the Center's Legal Action Project, said in the statement that Judge WEINSTEIN's anti-gun rhetoric in the written opinion **will bolster other lawsuits against the gun industry.** *It's clear that the Brady Center will try to use them that way.*

HENIGAN's real purpose was evidently **a fund-raising call for anti-gunners** to defeat S. 659, a bill **outlawing frivolous junk lawsuits against law-abiding firearms makers and distributors.**

Brady Center supporters, said HENIGAN, "must not permit Congress to give this industry protection from legal accountability." In other words, Congress, don't stop us from costing the firearms industry a lot of money with phony lawsuits.

### ANOTHER MUNICIPAL LAWSUIT DISMISSED

**The City of Camden, New Jersey's case against the firearms industry was dismissed** without prejudice as a result of bankruptcy filings by defendants Bryco and B.L. Jennings.

The case could be reinstated by the Bankruptcy Court.

### GUN DISTRIBUTOR SUES TEACHER'S WIDOW FOR LEGAL FEES

**The Valor Corp. is suing PAM GRUNOW** as a representative of her husband's estate to recover legal costs because GRUNOW lost her lawsuit accusing Valor of being responsible for her husband's death.

Valor sold the .25-caliber handgun that Lake Worth (Florida) Middle School student NATHANIEL BRAZILL used to kill BARRY GRUNOW in 2000.

### KMART RULING IS TOSSED

U.S. District Judge TED STEWART **ordered a new trial** in the case of a Utah man who committed suicide with a shotgun bought at Kmart. A juror had outside knowledge and didn't tell the court, which was cause to **throw out the \$3 million jury award** to the man's parents. The new trial has not been scheduled.

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### MISSOURI GOVERNOR VETOES CONCEALED CARRY BILL

Governor BOB HOLDER (D) ignored hisses and derisive shouts from pro-gun protesters as he vetoed HB 349, the Right to Carry bill, despite the fact that it passed both the Senate and House by overwhelming majorities.

The Legislature will hold a special session in September when an override vote will take place. Proponents of the bill are confident they have the numbers to override the Governor's veto.

**IN THE STATES**

### MASSACHUSETTS FIREARMS ID CARD PRICE HIKED OVER 300 PERCENT

The cost of being a law-abiding gun owner in Massachusetts went up recently from \$25 to \$100. The price of licenses to carry firearms went up the same amount.

Lee, MA Police Chief RONALD C. GLIDDEN, who is chairman of the state's Gun Control Advisory Board, said, "We want people to know it's the state, not the towns, making these changes."

MARGARET BECKWORTH, a Great Barrington selectwoman, said the fee hike will be a deterrent to hunters, and appears to reflect Gov. MITT ROMNEY's attitude that "only cops should have guns."

### NEW HAMPSHIRE GOVERNOR SIGNS INDUSTRY PROTECTION BILL

Gov. CRAIG BENSON has signed a bill into law joining more than 30 states in protecting firearm manufacturers.

The new law limits the liability of manufacturers, distributors, dealers and importers of guns and ammunition from harm caused by misuse of their products by others.

It also protects access to guns and ammunition for lawful uses. The law goes into effect January 1, 2004.

Since 1998, more than two dozen cities, counties and states have sued gun manufacturers, many claiming the manufacturers allowed firearms to reach criminals because of irresponsible marketing.

Many suits have been dismissed or dropped, but Congress is considering legislation to protect gun makers and sellers from lawsuits.

### CALIFORNIA ANTI-GUN BILL DIES IN COMMITTEE

The California Senate's Public Safety Committee refused to pass along to the full Senate AB50, the bill which passed in the state's Assembly, to restrict ownership of .50-caliber firearms.

Committee Chairman BRUCE McPHERSON (R-15) and Committee Vice-Chair JOHN VASCONCELLOS (D-13) cast votes that allowed the bill to die in committee. Although it's dead for this year, it will be back next year.

### DELAWARE GOVERNOR SIGNS RECIPROCITY BILL

Gov. RUTH ANN MINNER (D) has signed HB 178, a bill opening the door to concealed carry reciprocity with the First State.

The bill contains a "similar standard" requirement, meaning that reciprocity may be given to other states even if they have different requirements as long as they provide a "reasonably similar degree of protection" for citizens of Delaware.

The new law provides that if there is evidence of a pattern of other states issuing licenses or permits to convicted felon, Delaware's Attorney General shall not include that state in reciprocity agreements.

### TEXAS REPORT SHOWS CONCEALED CARRY LICENSE HOLDERS MORE LAW-ABIDING

The Texas Department of Public Safety recently released a report titled, "2001 Conviction Rates of Concealed Handgun License Holders."

It showed the conviction rates for various crimes comparing licensed and non-licensed individuals. Just one licensed individual was convicted of murder compared to 157 non-licensed. 1,359 non-licensed individuals were convicted of sexual assault compared to only 9 licensed. While 129 non-licensed individuals were convicted of kidnapping, there were no convictions of a licensed person.

### SENATOR HATCH PROPOSES TO REPEAL D.C. GUN BAN

Senate Judiciary Chairman ORRIN HATCH (R-UT) has introduced S. 1414, a bill that would **repeal the ban on privately owned handguns in the nation's capital**, a city that has just regained its loathsome title as "Murder Capital of the Nation."

**AT THE  
NATIONAL LEVEL**

Sen HATCH's **idistrict of Columbia Personal Protection Act** would repeal the city's long-standing requirement that firearms and ammunition be registered.

It would also eliminate criminal penalties for possession and carrying firearms within citizens' own homes and businesses.

If nothing else, says NEAL KNOX of FIREARMS COALITION, this bill will force all those tepid "supporters of the Second Amendment" to fish or cut bait.

### HOUSE OKAYS FIREARMS DEALERS PRIVACY PROTECTIONS

The U.S. House of Representatives has passed the Commerce-Justice-State appropriations bill including an amendment by **Rep. TODD TIAHART (R-KS)**, which **reverses many of the licensed firearms dealer requirements and restrictions imposed in the Clinton era.**

The amendment, approved on a 31-30 vote in the House Appropriations Committee, contains several provisions to protect the privacy of gun owners.

Most significantly, the TIAHART amendment requires **the immediate destruction of records of approved National Instant Check firearms purchases**, as the Brady Act specifically provided.

It also **prohibits release of multiple handgun sales reports and firearms trace data**, which had been treated as confidential law enforcement data until a court decision last year.

Gun control advocates are expected to stage an all-out campaign to kill these provisions in the Senate.

### CCRKBA ATTACKING SEMI BAN EXTENSION

**The Bellevue, Washington-based Citizens Committee for the Right to Keep and Bear Arms** is battling in the halls of Congress **against a plan to extend the ban on certain semiautomatic firearms** beyond its scheduled expiration date of September 13, 2004, roughly 15 months from now.

In May, when gun control supporters in Congress filed their legislative proposals to extend the ban, JOHN MICHAEL SNYDER, CCRKBA Public Affairs Director, said that the ban, enacted during the years of the Clinton Administration, "has been virtually useless as a crime prevention measure, as we predicted it would be. It has amounted to no more than a federal infringement on the individual Second Amendment civil right of law-abiding citizens to keep and bear arms. We intend to fight the proposed extension."

The current law, signed by President BILL CLINTON in 1994, bans the manufacture and importation specifically of **19 models of semiautomatic firearms**, others that meet certain criteria, and ammunition feeding devices capable of accepting more than 10 rounds.

**A Senate proposal would reenact the ban.** The bill, S. 1034, was introduced by Sen. DIANNE FEINSTEIN of California and referred to the House Judiciary Committee. President BUSH has said he supports the extension.

Although Rep. TOM DeLAY of Texas, the House Majority Leader, said that the House of Representatives would let the ban expire next year, Rep. J. DENNIS HASTERT of Illinois, the Speaker of the House, said, "I am not ready to make that decision."

BOB BARR, a former U.S. Representative from Georgia and CCRKBA Gun Rights Defender of the Year Awardee, said he is concerned the ban could be renewed. He said a White House endorsement always increases a bill's chances to become law. "I worry about all this," he said. "The White House sending any signal that it supports the (bill) sends a signal to Members of Congress. It gives cover to Republicans who might be predisposed to be on the fence to vote for the ban."

**GUN RIGHTS TRIBUTE: RON MARLENEE TO RETIRE AS HUNTING LOBBYIST**

It's not often the GT Report singles out a gun rights defender for a special tribute. We do it this issue because of RON MARLENEE's decades-long record of defending gun rights in a way that deserves greater appreciation: defending the right to hunt.

**AT THE NATIONAL LEVEL**

Safari Club International, a leader in protecting the freedom to hunt and in promoting wildlife conservation worldwide, recently announced that RON MARLENEE, its highly effective lobbyist, will retire in December of this year but work on retainer through January 2004.

Gun owners everywhere owe MARLENEE a lot.

MARLENEE served 16 terms as a U.S. Congressman prior to becoming SCI's lobbyist in 1992. While in office, MARLENEE was one of the ranking members of both the House Resources and Agriculture Committees, was the ranking member on the Parks and Public Lands Committee, and was one of the cofounders of the Congressional Sportsman's Caucus, which for many years has been the nation's largest bipartisan caucus.

His tenacity and long history of working for sportsmen and women prompted SCI to recognize him as Legislator of the Year in 1982, and he championed the hunter harassment legislation that makes it illegal for any protestor to interfere with the hunt.

"As a legislator and as SCI lobbyist, RON's many contributions in the public policy arena have made the future brighter for wildlife and for the millions of Americans who enjoy hunting," said GARY F. BOGNER, SCI President. "We are pleased that RON delayed his well deserved retirement from SCI for several years, and that his bride and lobbying colleague CINDY will continue to help represent SCI on legislative issues for at least two years."

"When we started 12 years ago, SCI was virtually unknown on the Hill," said MARLENEE. "Working for SCI has been a labor of love. Love of the cause. Love of the camaraderie and love of the multitude of friends. Because of all those friends in Congress and in SCI, CINDY and I have never lost an issue. That's called gratification. Of course the final reward is that these friends know all the best hunting and fishing spots in the world. Protecting our right to go to those spots has made it worthwhile."

MERLE SHEPARD, Chairman of the SCI Government Affairs Committee, said, "When it comes to protecting the freedom to hunt, the successes that Ron has helped SCI members achieve for sportsmen are literally too numerous to count. He helped make hunting the legislative priority it needs to be, and did Herculean work on issues including the wildlife refuge system, bear hunting, and water guzzlers for California big horn sheep."

"Nothing will diminish the absolute priority SCI places on lobbying at federal, state and local levels," added BOGNER. "We have an energetic and skilled team of government relations professionals working in our office on Capitol Hill, and we've already established an ad-hoc committee to evaluate options to make future lobbying efforts even more effective for the hunting families SCI represents. Thankfully, RON MARLENEE has agreed to serve as an advisor to this five-member committee."

SCI has a long tradition of spurring on grass-roots advocacy efforts by sportsmen and women to protect the freedom to hunt. During MARLENEE's tenure as SCI lobbyist, the nonprofit organization has enhanced the involvement of SCI Chapters and members on legislative, administrative and judicial issues year-round.

Every May hundreds of SCI members meet with more than 150 elected officials. Every August, many key staff members for elected officials are educated about the role hunting plays in effective wildlife management at the SCI Foundation's American Wilderness Leadership School near Jackson, Wyoming.

Even though RON MARLENEE is leaving his key role as SCI lobbyist, he'll be there defending gun rights by defending the right to hunt.

### BARR CONCLUDES WEEK-LONG STINT AT UN ARMS CONFERENCE

Former Congressman Bob Barr deserves hazardous duty pay. He recently spent a week at the United Nations Small Arms Conference trying to fend off world gun control efforts by domestic and foreign anti-gun activists.

As a representative of the U.S. State Department's delegation to the conference, Barr helped ensure the UN effort remained focused on ending illegal arms trafficking, and not get sidetracked by countries and NGOs that seek to ban private ownership of firearms globally.

The UN conference is trying to impose a system of firearms registration and regulation administered by the UN - you can just see the Blue Helmets banging on your door one midnight confiscating all your guns.

## **AROUND THE WORLD**

Barr thinks that's just what some of the attendees have in mind. He said, "The presence of several anti-gun groups at this conference underscores the threat they pose to the constitutional rights of American citizens if we fail to closely monitor their activities. In fact, many of these groups receive substantial funding from anti-firearms governments to move their agenda."

Barr, a former Member of Congress, has served with the U.S. Department of Justice and Central Intelligence Agency. He serves on the Board of Directors of the National Rifle Association and works with the American Conservative Union and the ACLU on privacy and national security issues.

### RIO DESTROYS THOUSANDS OF FIREARMS

Authorities in Rio de Janeiro bulldozed and burned thousands of firearms in a recent symbolic gesture as officials prepare to reach a compromise on gun control.

The gun destruction event was organized by Rio de Janeiro's state government at the anti-gun group Viva Rio. A bulldozer in Rio's Flamengo Park flattened more than 4,000 handguns and about 150 guns and rifles were lit in a symbolic bonfire.

The firearms were all from police seizures in crimes. Brazilian law forbids the destruction of arms before a 5-year waiting period. Rio's police confiscate about 12,000 firearms each year.

The compromise effort hinges on cooperation between Justice Minister Marcio Thomaz Bastos, who favors gun registration and rigid ownership requirements, and a joint Senate and Lower House commission.

Members of the commission themselves are in strong disagreement. Senator Edison Lobao from the opposition Liberal Front Party want easy self-defense gun sales as a way to reduce violence. Lower House member Eduardo Greenhalgh from President Luiz Inacio Lula da Silva's Workers Party favors a total ban on arms sales.

Observers doubt that a compromise will be reached.

### CANADIAN GUN REGISTRY DEFIED BY 1.6 MILLION GUN OWNERS

The grace period to register rifles and other long firearms in Canada has passed with one of every five such firearms still unregistered.

Canadian Alliance Member of Parliament Garry Breitkreuz said the huge number of unregistered weapons and unlicensed gun owners is a sign of the system's failure. He urged Ottawa to scrap the costly registry, which requires all gun owners to get a license and register their firearms.

### AUSTRALIAN GUN CRACKDOWN COSTS A BUNDLE

Australia's federal government will pay gun owners up to \$7,350 for turning in illegal firearms under the national handgun buyback scheme recently begun.

The \$118 million program is to buy back forbidden weapons: handguns over .38-caliber, capacity over 10 shots, and barrel length shorter than 120mm for semi-automatics and 100mm for single-shot pistols and revolvers.

The government put out a price list for more than 4500 handguns with payments based on whether the firearm is new, used in very good condition or used in fair condition. As Australian gun rights suffer, only criminals have guns.

**GUN NEWS TICKER - QUICK TAKES ON THE NEWS**

● **Castro Valley, California:** The National Shooting Sports Foundation recently held a day-long "get-to-know-guns" event for media people - reporters, authors and commentators - who tend to be anti-gun or totally ignorant on the subject. Law enforcement officers were available to teach gun safety and history, with firing range experts working with attendees.

● **Germany:** German firearms manufacturer Heckler & Koch has been selected by the Transportation Security Administration to supply the .40-caliber semiautomatic handguns the agency will use to train and arm commercial airline pilots. A series of missteps in the bidding process brought protests from gunmakers who said TSA was bowing to congressional pressure to favor some bidders over others. TSA finally opened the bidding to all manufacturers, but objections still linger even though the final bid has been accepted from Heckler & Koch.

● **Philadelphia:** Rapper Beanie Sigel (real name: Dwight Grant), headliner for Roc-a-Fella Records' Rock the Mic Tour was booked recently by a judge to an open-ended engagement in federal custody on a firearms charge. U.S. Magistrate Judge M. Faith Angell denied bail because Sigel's previous arrests - four involving assaults and five involving illegal drugs - included a felony conviction, and possession of a firearm by a convicted felon made bail impossible.

● **Edinburgh, Scotland:** Banning boys from playing with toy guns is futile and may even damage their development, a leading British child psychology has warned. Confirming what many parents long suspected, Penny Holland, senior lecturer at London Metropolitan University, says boys will indulge in gunplay regardless of attempts by schools, nurseries and guardians to stop them. Gun control groups went ballistic over Holland's new book, "We Don't Play With Guns Here," which says the ban on violent games has failed and should be reconsidered.

● **Taunton, Massachusetts:** The Taunton City Council has directed Police Chief Raymond L. O'Berg to resume issuing gun permits immediately. He had imposed a moratorium on new gun licenses because of budget cuts and lack of office staff. Councillor Charles Crowley said the problem is not a lack of funding, but a union dispute over who should do the work.

● **Buffalo, New York:** The Empire State Games got its shooting competition this year - barely. Parks Commissioner Bernadette Castro had abruptly announced plans to save \$200,000 by scrapping shooting and three other sports, because the budget wouldn't cover it and these sports didn't draw enough competitors and spectators. The New York State Rifle and Pistol Association fought back, convincing a small but bipartisan clutch of state legislators to push for restoring the gun events. Members of the Senate and Assembly both finally convinced Castro to reinstate the gun events.

● **Washington, D.C.:** More than 800 firearms assigned to federal law enforcement officials are still missing more than two years after the Justice Department brought the problem to light. The General Accounting Office, the congressional watchdog, reported the missing firearms situation and spurred the House Judiciary Committee to begin an oversight review of practices and policies used to inventory and secure firearms for law enforcement authorities and personnel.

● **St. Paul, Minnesota:** University of Minnesota President Bob Bruininks has asked the Board of Regents to ban guns from all University campuses and sporting events. Rep. Lynda Boudreau (R-Faribault), chief sponsor of the state law that provides for uniform standards for granting gun permits, said the University is disregarding state law and possibly subjecting itself to potential lawsuits.

● **Albany, New York:** Attorney General Eliot Spitzer recently lost a state appeals court ruling 3-1 that sustained a lower court's dismissal of his lawsuit attempting to obtain gun control by hauling into court the companies that manufacture guns. Spitzer based his lawsuit on the novel theory that legal guns were a legal "nuisance." The courts didn't agree, and now he's back to square one.

# Parting Shot

## UNITED KINGDOM INJUSTICE IS SHAMEFUL

One of Britain's most controversial killers has been released. Tony Martin, a 58-year-old Norfolk farmer, had served more than three years in prison for killing a burglar who was attempting to rob his isolated farmhouse. His story is enough to outrage decent citizens against a government gone back to dungeons and despotism.

Martin had been repeatedly burglarized, and told the courts at his trial that he acted out of self-defense and "blind panic." Police already told him they wouldn't respond speedily to crimes, so he kept a shotgun to protect himself.

Farmer Martin was originally given a life sentence, but a public outcry and an appeal reduced the sentence to five years for manslaughter - still outrageous.

Although his "victim" Fred Barras, was only 16, he already had a record 29-offenses to his name, and during the robbery was on bail for theft.

But while Martin was being sentenced to life in prison, the accomplice of the burglar he shot, Brendon Fearon, was only given three years for conspiracy to burgle, and only served 18 months.

To make matters worse, the British courts also ruled that based on the European Convention on Human Rights, Fearon has the right to use British taxpayer's money to sue Martin for the injuries he caused during the robbery. Since his release (before Martin's) this "victim" was returned to jail for selling heroin.

Although Martin should have been due for early release in January, the parole board refused his request, stating that he hadn't shown sufficient remorse and was likely to re-offend. This country that used to believe "an Englishman's home is his castle," now punishes home-owners for defending their lives and homes.

Britain's home secretary's most recent brilliant idea is that criminals can apologize to victims instead of facing jail. This is designed to reduce Britain's problem of overcrowded prisons. All it will really do is to encourage a lot of "Gee, sorry" meetings, and more burglaries of the sort Tony Martin faced.

Britain could look across the Atlantic and see that the reason why crime in the U.S. continues to fall, while in Britain and the rest of Europe it continues to rise: a far less tolerant attitude toward crime and a strong feeling for self-defense. A government's first priority should be to protect honest citizens rather than criminals and recognize the right to self-defense.

And then realize that gun rights are the first line of self-defense.

*Alan M. Gottlieb*

*Joseph D. Vukobratovic*

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