

HB

309

SENATE COMMITTEE REPORT

DATE: 5/2/04

FURTHER:

DATE TURNED
IN TO OFFICE: 5-7-04

Resources Committee considered CS FOR HOUSE BILL NO. 309(JUD) am

HB 309 PROHIBIT RELEASE OF PREDATORY FISH

"An Act relating to nonindigenous fish."

and recommends:

- be replaced with S CS CS#B 309 (RES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
PUR.SAF	3/19/04			✓	2
F&G	3/19/04			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 309(FSH)
 (H) Publish Date: 3/24/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title Prohibit Release of Predatory Fish RDU Sport Fisheries
 Component Sport Fisheries
 Sponsor Representative Wolf
 Requester House Fisheries Component No. 464

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation would have no fiscal impact.

Prepared by: Sarah Gilbertson, Legislative Liaison
 Division: Alaska Department of Fish & Game
 Approved by: Commissioner Kevin Duffy
 Agency: Alaska Department of Fish & Game

Phone 465-6137
 Date/Time 3/19/04 5:42 PM
 Date 3/19/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 309(FSH)
 (H) Publish Date: 3/24/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Act Relating to Non-Indigenous Fish Release RDU Alaska State Troopers
 Component Alaska Bureau of Wildlife Enforcement
 Sponsor Rep. Wolf
 Requester (H) Fisheries Component No. 2746

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
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Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Section 1 amends AS 16.35 by adding a new section that makes it illegal to transport, possess, import, export, or release into the water of the state live non-indigenous fish or live fertilized eggs of non-indigenous fish, unless the person holds a permit issued by the commissioner or the commissioner's designee to transport, possess, import, export, or release the fish or live eggs. This section does not apply to catch and release situations or ornamental fish. It does, however, make it illegal to rear live ornamental fish in or release them into the water of the state or to dump ornamental fish wastewater directly into the water of the state.

The bill provides a definition of non-indigenous fish, ornamental fish, and water of the state. Violations of this statute would be a class C felony.

It is not anticipated that the provisions of this bill will have a fiscal impact on the Alaska State Troopers.

Prepared by: Lt. Al Storey Phone 269-4532
 Division: Alaska State Troopers Date/Time 3/19/04 10:29 AM
 Approved by: Commissioner William Tandeske Date 3/19/2004
 Agency: Department of Public Safety

*adopted
u.c.*

AMENDMENT

#1

OFFERED IN THE SENATE

BY SENATOR WAGONER

TO: CSHB 309(JUD) am

1 Page 1, line 6:

2 Delete "(1)"

3 Delete "generally accepted practices associated with"

4

5 Page 1, lines 8 - 9:

6 Delete "; and

7 (2) the state enforce this Act with due regard for private property"

8 Insert "and do not cause significant harm to the continued perpetuation of native, wild,
9 or hatchery stocks of fish"

10

11 Page 2, following line 7:

12 Insert a new subsection to read:

13 "(d) In addition to the penalty imposed under (c) of this section, a person who
14 is convicted of violating this section may be ordered by the court to pay restitution, ~~up~~
15 ~~to a maximum of \$10,000;~~ to the state to cover the costs of damages to fishery
16 resources of the state and of removing the introduced fish species from the water of
17 the state."

18

19 Reletter the following subsection accordingly.

*Concept amend to amend #1
u.c.*

Alaska State Legislature

Session:
State Capitol Building, Room 418
Juneau, Alaska 99801-1182
Phone: (907) 465-2993
Fax: (907) 465-3835
Toll Free: 1-800-463-2693



Interim:
145 Main Street Loop Road
Suite 221
Kenai, AK 99611
Phone: (907) 283-2690
Fax: (907) 283-2763

Representative Kelly Wolf *House District 33*

Sponsor Statement HB 309

Transportation of nonindigenous predatory game fish has become a problem in some parts of Alaska. Currently it is a misdemeanor to transport live game fish in Alaska. By passing this bill Alaska will be able to send a message that bucket biology will not be tolerated in Alaska by unauthorized individuals who for their own desires wish to alter the ecosystems in Alaska.

When a person or group makes their mind up to take management of Alaska's fishery resources in to there own hand's. They put at risk the local economy's and place the burden of the expense of controlling the spread of these nonindigenous predatory fish which costs Alaska hundreds of thousands or even millions dollars for there self interests.

According to Lance Nelson, Assistant AG:

Intent Language

The legislative intent language Section 1 in CSHB 309 may cause some problems in prosecuting offenses of the legislation. The language in (1): "generally accepted practices" will be broadly construed against the state in a criminal prosecution, and could conceivably cause difficulties in successfully prosecuting some violations, although the qualifying language referencing artificial ponds should limit the range of potential problems.

The language in (2) may be more problematic because of its vagueness. The state is already required to follow state and federal constitutional guidelines on investigating crimes on private property. The meaning and effect of the language in (2) is unclear and could well lead to an increase in legal arguments and become an obstacle to successful prosecutions should this bill become law.

Penalties

It is currently illegal to release live fish in the waters of the state without a permit from the ADF&G commissioner. 5 AAC 41.005. It is also generally illegal to release imported fish at all. 5 AAC 41.070. Offenses of these regulations are punishable under AS 16.05.925(a) as class A misdemeanors, with fines up to \$10,000 and jail time of one year for individuals. These offenses are also made strict liability offenses under 5 AAC 39.002. If offenders are charged with a strict liability violation, the maximum fine is \$500. The decision to charge as a strict liability violation is made by either the state troopers or the District Attorney's office.

HB 309 would make it a Class A misdemeanor to violate the bill's provisions. There is currently no regulation or statute that would authorize reduction of such a violation to the strict liability violation level. An exception would occur if the state troopers and the court system listed the offense on the bail schedule. In that case, the resulting fine would be up to \$500, depending on what the court system listed on the bail schedule.

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Representative Kelly Wolf
House District 33

MEMORANDUM

May 1, 2004

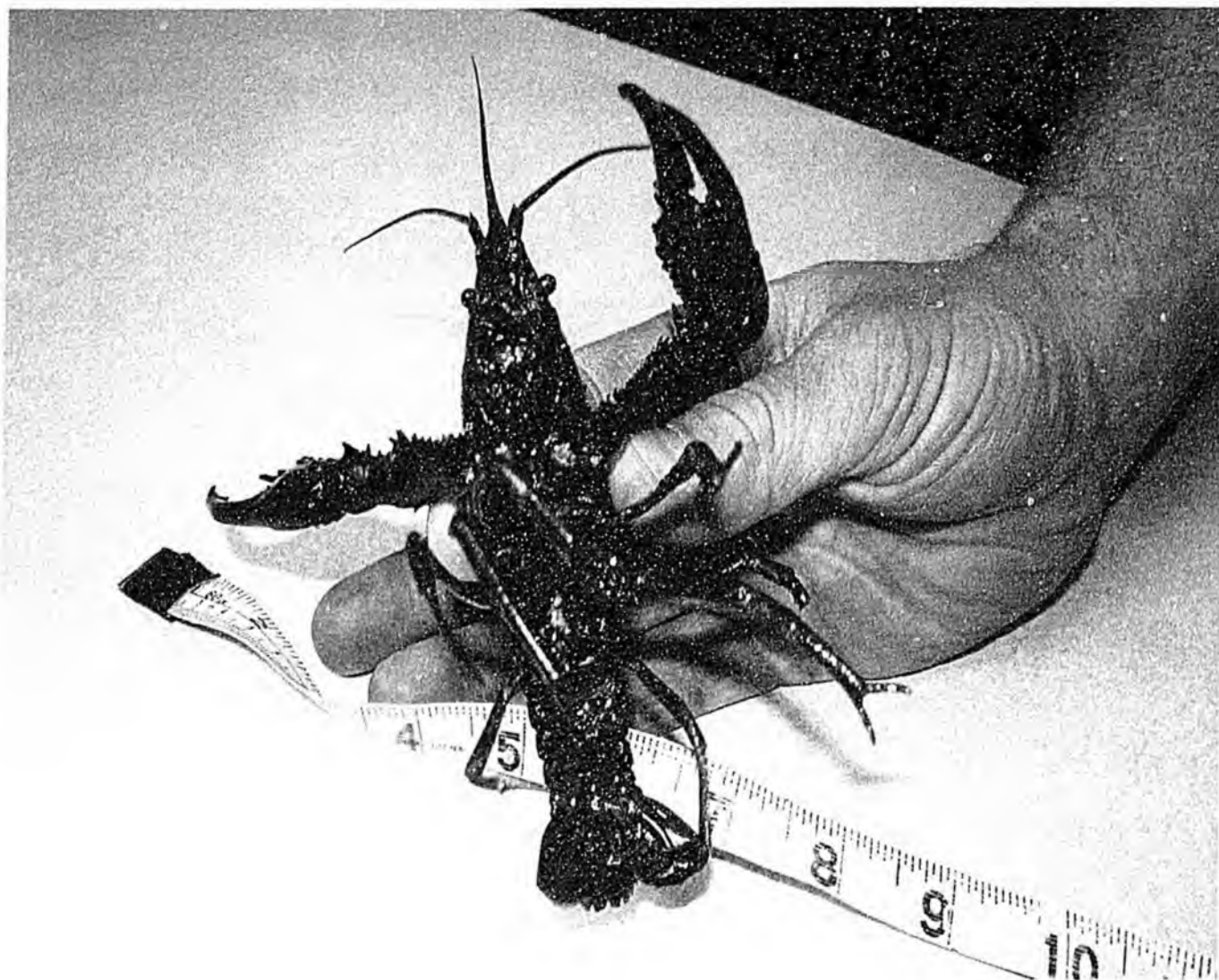
To: Senator Scott Ogan, Chair
Senate Resources Committee

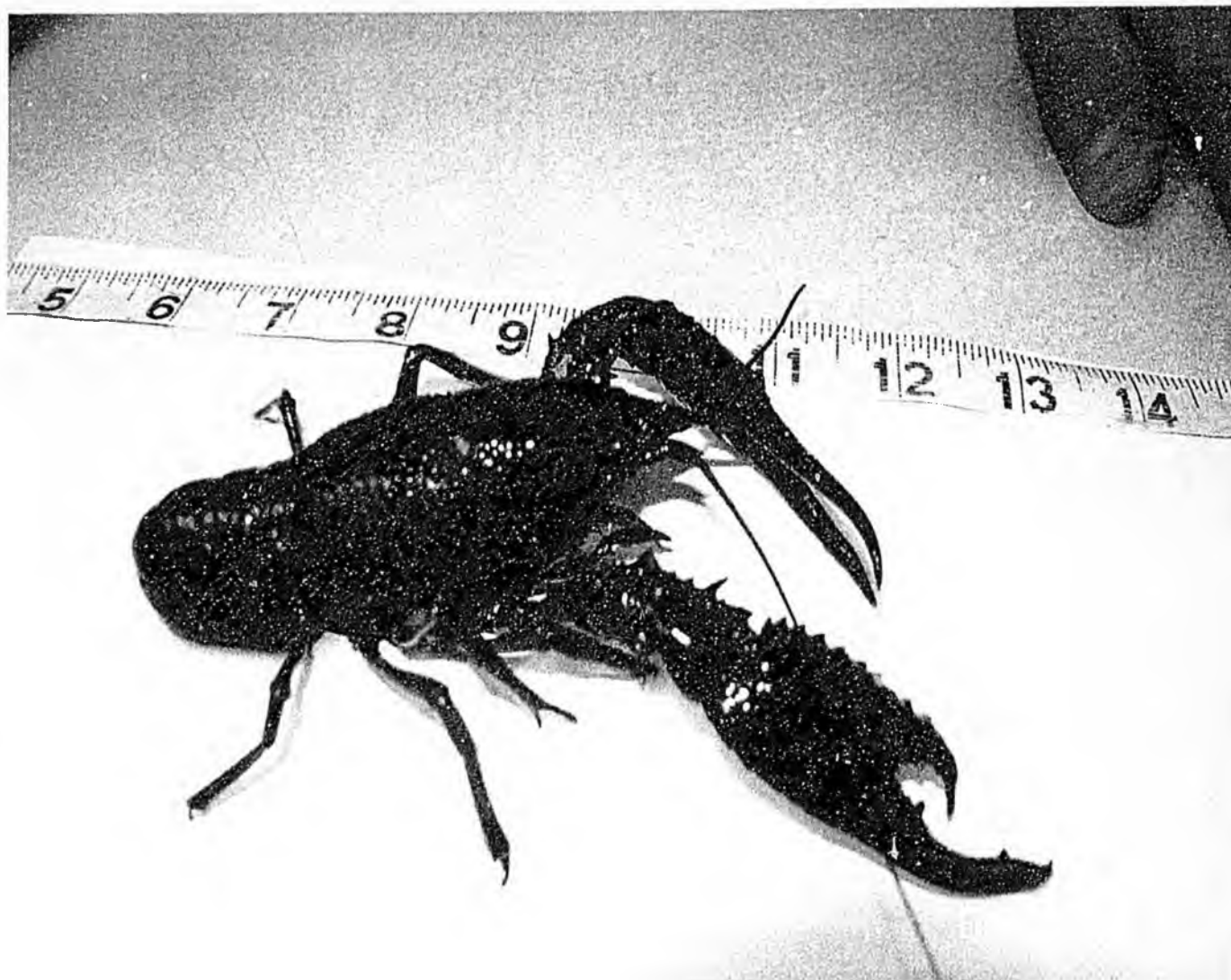
From: Representative Kelly Wolf

Re: Hearing request for CS HB 309

Please Schedule a hearing for CS HB 309 "An act relating to nonindigenous fish" at your earliest convenience. If you have any questions, please call my staff Neal DuPerron @ ext. 2693.

Thank You.







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Web posted Thursday, May 6, 2004

Kenai man discovers crawfish in unlikely place

By **MATT TUNSETH**
Peninsula Clarion

On Wednesday afternoon, a group of Alaska Department of Fish and Game employees waded into a swamp between Fourth and Fifth avenues in Kenai. Armed with fine mesh nets and chest waders, the four state workers scoured the area in search of crawfish, a lobster-like crustacean most people associate more with gumbo than tundra.



Bob Pugh displays the crawfish he found in a drainage on the north side of the airport in Kenai Monday night.
Photo by M. Scott Moon

You could almost hear zydeco music playing the the background.

The state workers ended up in the swamp after a neighborhood resident reported Tuesday that he'd come across a live crawfish hiding there. Bob Pugh, who lives near the swamp, said Wednesday that he was out walking his dog when he noticed the unusual creature.

"We were just messing around, me and my dog, and that's when we found him," Pugh said.

After grabbing the somewhat lethargic < but very alive > crawfish, Pugh took the animal home and immediately reported his find to Fish and Game. Since crawfish are not native to Alaska, the department was a big skeptical at first.

"At first they didn't believe me," he said.

Once Pugh stopped by Fish and Game's offices between Kenai and Soldotna with his new pet, the biologists' skepticism turned to concern.

According to Tim McKinley, a sportfish biologist with the department, the state is very concerned with the chance that

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there could be more crawfish crawling around town.

"It's our mission to help preserve, maintain and enhance the fisheries around here, and this definitely doesn't fit with that," he said.

McKinley said after Pugh brought the critter in, biologists immediately went to work trying to figure out what they had on their hands.

"We sent a picture of it to experts in Louisiana and Florida to try and identify it for us," McKinley said.

Pugh, who is originally from Texas, said he's seen plenty of crawfish in his day. But the one he found is not only alive and well, it's also obviously well-fed.



Sandee Simons of the Alaska Department of Fish and Game uses a net to search for additional crawfish in the area where the one above was found.
Photo by M. Scott Moon

"It looks like a miniature lobster," Pugh said of the 6- to 7-inch crawfish, which Pugh is keeping in an aquarium at his home.

McKinley said he's certain the animal is a crawfish, and the department is now trying to figure out how it got there, and more importantly, if there's more.

"What we're trying to do is see if there's more and kill the ones we find," he said.

If there are more, he said, it could be a potentially serious situation. Since crawfish would have few natural predators in Alaska and are adaptable to a number of environments, it's possible they could establish a foothold in the area.

"Crawfish are really tough critters," McKinley said.

Bob Piorkowski heads the state's invasive species program in Juneau. He said Wednesday that the danger of crawfish moving into Kenai is that they're known to eat just about anything, and could pose a major threat to native wildlife in the area.

"They're incredible vacuum cleaners," Piorkowski said. "They eat everything."

Although crawfish are normally found far south of Alaska, Piorkowski said it's entirely possible that certain types of the

animal easily could find the peninsula a comfortable home.

"Some of them can live fairly far north," he said, pointing out that crawfish are known to live as far north as Vermont and Ontario < places with climates similar to the Kenai Peninsula's.

Once crawfish do establish themselves in a system, Piorkowski said they can essentially take over the entire area.

"The biomass of a system can get to as high as 70 to 90 percent (crawfish)," he said.

This is not the first instance of invasive species coming to the peninsula. Fish and Game already maintains an extensive northern pike eradication program to curb the spread of the nonnative predators. So the area is no stranger to unwanted visitors, and in an area like Kenai < which depends on its native salmon populations for tourism, commercial fishing and subsistence < that could mean big trouble.

"It won't be the Kenai we know and love anymore," Piorkowski said.

He said this is not the first time crawfish have been reported in Alaska. Dead crawfish have been spotted in both Kodiak and Anchorage, but this is the first time a live specimen has been captured and brought to the state's attention. Until more are located, however, no one has any idea how widespread the problem is.

Piorkowski said he'd like anyone with any information on crawfish < or any other invasive species in Alaska < to call his toll-free hot line at (877) INVASIVE, or 468-2748.

McKinley said there is a chance that someone simply released a single crawfish into the swamp. If that's the case, he said he hopes whoever is responsible will come forward. Although it's illegal to bring nonnative species into Alaska waters, he said the department isn't so concerned about prosecuting any possible offenders.

"We're way more concerned with finding out what the deal is here," he said.

As of Wednesday afternoon, the four Fish and Game employees who scoured the swamp had yet to find any signs of additional crawfish. Although the area is home to a beaver, some sticklebacks and even a few salmon smolt, no crawfish were found during the hunt < which is exactly what everyone was hoping for.

As for the little guy who caused all the commotion, Bob Pugh's pet crawfish is getting comfortable in his new home: an

aquarium Pugh set up in his classroom at Kenai Montessori School, where he teaches kids ages 2 to 12.

He's using the new find as a learning opportunity and is having his students do research as part of a class project.

Although Fish and Game would prefer to see any Alaska crawfish killed as soon as possible, this particular crawfish won't end up on anyone's dinner plate. In fact, Pugh said his students already have given the critter a name.

It's Crusty.

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