

ACT 279

H.B. NO. 866

A Bill for an Act Relating to the Unauthorized Removal of Shopping Devices.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 633, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§633- Unauthorized removal of shopping carts, etc.; notice; exceptions. (a) A person shall not remove, without proper authorization, a shopping cart, shopping basket, or similar device from the premises of any business establishment, including any parking area maintained for the customer of the business establishment, or any sidewalk or passageway adjacent to the business establishment, for any purpose whatsoever.

(b) This section shall not apply unless:

- (1) The shopping cart, shopping basket, or other similar device has securely affixed to it a conspicuous sign identifying it as belonging to the business establishment; and
- (2) There is posted at the place or places where the shopping carts, shopping baskets, or other similar devices are stored for customer use, a sign or signs conspicuously positioned in order to be seen by an

ordinarily observant person, to notify customers and the general public that the carts, baskets, or devices shall not be removed from the premises, parking areas, sidewalks, or passageways adjacent thereto.

- (c) The following shall not be subject to this section:
 - (1) The owner of the shopping cart, shopping basket, or similar device;
 - (2) Any agent of the owner;
 - (3) Any employee of the business establishment;
 - (4) Any person possessing the written consent of the owner or manager of the business establishment.
- (d) Any business establishment which is damaged in its business or property by reason of a violation of subsection (a):
 - (1) May sue in the small claims division of the district court in the circuit where the business establishment is situated for damages sustained, and if the judgment is for the business establishment, it may be awarded a sum equal to the replacement value of the shopping cart, shopping basket, or similar device together with the costs of the suit; and
 - (2) May bring proceedings to enjoin further unauthorized removal of shopping carts, shopping baskets, or similar devices.
- (e) In the case of repossession proceedings, the business establishment entitled to the possession of the shopping cart, shopping basket, or other similar device, shall bring and prosecute its action in the small claims division of the district court in the circuit where the business establishment is situated.
- (f) The court in the small claims division shall grant judgment in favor of the business establishment if:
 - (1) The plaintiff is the lawful owner of the shopping cart, shopping basket, or similar device which has been adequately identified;
 - (2) The plaintiff has given notice as provided in subsection (b)(2) that the unauthorized removal of shopping carts, shopping baskets, or similar devices is prohibited;
 - (3) The shopping device has been removed from the premises of the business establishment without proper authorization; and
 - (4) The defendant is in possession or has control of the shopping devices.
- (g) A person who has been found by court to have removed, without proper authorization, a shopping cart, shopping basket, or similar device may be liable for payment of an award under this section or a criminal fine under section 706-640, but not both."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon approval.

(Approved June 14, 1983.)

Note

- 1. Edited pursuant to HRS §23G-16.5.