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**SUBSTITUTE HOUSE BILL 2813**

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**State of Washington                      59th Legislature                      2006 Regular Session**

**By** House Committee on Judiciary (originally sponsored by  
Representatives O'Brien, Williams, Strow and Kirby)

READ FIRST TIME 02/03/06.

1            AN ACT Relating to shopping carts; amending RCW 4.24.220, 4.24.230,  
2 and 9A.56.270; adding a new section to chapter 9A.56 RCW; and  
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 4.24.220 and 1967 c 76 s 3 are each amended to read as  
6 follows:

7            In any civil action brought by reason of any person having been  
8 detained on or in the immediate vicinity of the premises of a  
9 mercantile establishment for the purpose of investigation or  
10 questioning as to the ownership of any merchandise or shopping cart, it  
11 shall be a defense of such action that the person was detained in a  
12 reasonable manner and for not more than a reasonable time to permit  
13 such investigation or questioning by a peace officer or by the owner of  
14 the mercantile establishment, his authorized employee or agent, and  
15 that such peace officer, owner, employee or agent had reasonable  
16 grounds to believe that the person so detained was committing or  
17 attempting to commit larceny or shoplifting on such premises of such  
18 merchandise or a violation of RCW 9A.56.270. As used in this section,  
19 "reasonable grounds" shall include, but not be limited to, knowledge

1 that a person has concealed possession of unpurchased merchandise of a  
2 mercantile establishment, and a "reasonable time" shall mean the time  
3 necessary to permit the person detained to make a statement or to  
4 refuse to make a statement, and the time necessary to examine employees  
5 and records of the mercantile establishment relative to the ownership  
6 of the merchandise.

7 **Sec. 2.** RCW 4.24.230 and 1994 c 9 s 1 are each amended to read as  
8 follows:

9 (1) An adult or emancipated minor who takes possession of any  
10 goods, wares, or merchandise displayed or offered for sale by any  
11 wholesale or retail store or other mercantile establishment without the  
12 consent of the owner or seller, and with the intention of converting  
13 such goods, wares, or merchandise to his own use without having paid  
14 the purchase price thereof shall be liable in addition to actual  
15 damages, for a penalty to the owner or seller in the amount of the  
16 retail value thereof not to exceed one thousand dollars, plus an  
17 additional penalty of not less than one hundred dollars nor more than  
18 two hundred dollars, plus all reasonable attorney's fees and court  
19 costs expended by the owner or seller. A customer who orders a meal in  
20 a restaurant or other eating establishment, receives at least a portion  
21 thereof, and then leaves without paying, is subject to liability under  
22 this section. A person who shall receive any food, money, credit,  
23 lodging, or accommodation at any hotel, motel, boarding house, or  
24 lodging house, and then leaves without paying the proprietor, manager,  
25 or authorized employee thereof, is subject to liability under this  
26 section. A person who intentionally removes a shopping cart from the  
27 parking area of a retail establishment without the permission of the  
28 owner of the cart, is subject to liability under this section.

29 (2) The parent or legal guardian having the custody of an  
30 unemancipated minor who takes possession of any goods, wares, or  
31 merchandise displayed or offered for sale by any wholesale or retail  
32 store or other mercantile establishment without the consent of the  
33 owner or seller and with the intention of converting such goods, wares,  
34 or merchandise to his own use without having paid the purchase price  
35 thereof, shall be liable as a penalty to the owner or seller for the  
36 retail value of such goods, wares, or merchandise not to exceed five  
37 hundred dollars plus an additional penalty of not less than one hundred

1 dollars nor more than two hundred dollars, plus all reasonable  
2 attorney's fees and court costs expended by the owner or seller. The  
3 parent or legal guardian having the custody of an unemancipated minor,  
4 who orders a meal in a restaurant or other eating establishment,  
5 receives at least a portion thereof, and then leaves without paying, is  
6 subject to liability under this section. The parent or legal guardian  
7 having the custody of an unemancipated minor, who receives any food,  
8 money, credit, lodging, or accommodation at any hotel, motel, boarding  
9 house, or lodging house, and then leaves without paying the proprietor,  
10 manager, or authorized employee thereof, is subject to liability under  
11 this section. For the purposes of this subsection, liability shall not  
12 be imposed upon any governmental entity, private agency, or foster  
13 parent assigned responsibility for the minor child pursuant to court  
14 order or action of the department of social and health services.

15 (3) Judgments and claims arising under this section may be  
16 assigned.

17 (4) A conviction for violation of chapter 9A.56 RCW shall not be a  
18 condition precedent to maintenance of a civil action authorized by this  
19 section.

20 (5) An owner or seller demanding payment of a penalty under  
21 subsection (1) or (2) of this section shall give written notice to the  
22 person or persons from whom the penalty is sought. The notice shall  
23 state:

24 "IMPORTANT NOTICE: The payment of any penalty demanded of you does  
25 not prevent criminal prosecution under a related criminal provision."

26 This notice shall be boldly and conspicuously displayed, in at  
27 least the same size type as is used in the demand, and shall be sent  
28 with the demand for payment of a penalty described in subsection (1) or  
29 (2) of this section.

30 **Sec. 3.** RCW 9A.56.270 and 1985 c 382 s 2 are each amended to read  
31 as follows:

32 (1) It is unlawful to do any of the following acts, if a shopping  
33 cart has a permanently affixed sign as provided in subsection (2) of  
34 this section:

35 (a) To intentionally remove a shopping cart from the parking area  
36 of a retail establishment (~~with the intent to deprive the owner of the~~

1 ~~shopping cart the use of the cart))~~ without the permission of the owner  
2 of the shopping cart; or

3 (b) To be in possession of any shopping cart that has been removed  
4 from the parking area of a retail establishment when such possession is  
5 with the intent to deprive the owner of the shopping cart the use of  
6 the cart.

7 (2) This section shall apply only when a shopping cart: (a) Has a  
8 sign permanently affixed to it that identifies the owner of the cart or  
9 the retailer, or both; (b) notifies the public of the procedure to be  
10 utilized for authorized removal of the cart from the premises; (c)  
11 notifies the public that the unauthorized removal of the cart from the  
12 premises or parking area of the retail establishment, or the  
13 unauthorized possession of the cart, is unlawful; and (d) lists a  
14 telephone number or address for returning carts removed from the  
15 premises or parking area to the owner or retailer.

16 (3) Any person who violates any provision of this section is guilty  
17 of a misdemeanor.

18 NEW SECTION. Sec. 4. A new section is added to chapter 9A.56 RCW  
19 to read as follows:

20 (1) Any statute, ordinance, or rule enacted by a political  
21 subdivision of the state dealing with shopping carts that have been  
22 removed from the parking area of a retail establishment must meet the  
23 following criteria:

24 (a) Impoundment of a shopping cart may be allowed only if the cart  
25 is located off the premises of the retail establishment, and:

26 (i) The retail establishment has been given notice of the cart's  
27 location and has not retrieved the cart within five days of the notice;

28 (ii) The cart is in a location that is likely to impede emergency  
29 services. If a cart in a location that is likely to impede emergency  
30 services is impounded, the retail establishment must be given notice  
31 that the cart has been impounded; or

32 (iii) The cart does not meet the requirements of RCW 9A.56.270(2).

33 (b) A retail establishment whose cart has been impounded may be  
34 charged a fee for impoundment costs not to exceed fifty dollars per  
35 cart. If the cart was impounded under (a)(ii) of this subsection, the  
36 fee may not be charged if the retail establishment retrieves the cart  
37 within five days of receiving notice that the cart has been impounded.

1 (c) An impounded cart may not be disposed of within at least thirty  
2 days of impoundment. A retail establishment whose cart has been  
3 disposed of may be charged a fee for disposal costs not to exceed fifty  
4 dollars per cart.

5 (d) Any notice provided to a retail establishment under this  
6 section must be documented.

7 (e) The notice requirements of this section may be satisfied  
8 utilizing a statewide telephone number designated for that purpose, if  
9 and when such a telephone number is ever established.

10 (2) The requirements of this section supersede and preempt any  
11 inconsistent ordinance or rule enacted by a political subdivision of  
12 the state before, on, or after the effective date of this act. A  
13 political subdivision of the state may not impose additional fees or  
14 requirements with respect to shopping carts except as allowed under  
15 this section.

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