

SHB 2813 - H AMD 801

By Representative O'Brien

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 4.24.220 and 1967 c 76 s 3 are each amended to read
4 as follows:

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

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

26 (1) An adult or emancipated minor who takes possession of any
27 goods, wares, or merchandise displayed or offered for sale by any
28 wholesale or retail store or other mercantile establishment without the
29 consent of the owner or seller, and with the intention of converting

1 such goods, wares, or merchandise to his own use without having paid
2 the purchase price thereof shall be liable in addition to actual
3 damages, for a penalty to the owner or seller in the amount of the
4 retail value thereof not to exceed one thousand dollars, plus an
5 additional penalty of not less than one hundred dollars nor more than
6 two hundred dollars, plus all reasonable attorney's fees and court
7 costs expended by the owner or seller. A customer who orders a meal in
8 a restaurant or other eating establishment, receives at least a portion
9 thereof, and then leaves without paying, is subject to liability under
10 this section. A person who shall receive any food, money, credit,
11 lodging, or accommodation at any hotel, motel, boarding house, or
12 lodging house, and then leaves without paying the proprietor, manager,
13 or authorized employee thereof, is subject to liability under this
14 section. A person who intentionally removes a shopping cart from the
15 parking area of a retail establishment without the permission of the
16 owner of the cart, is subject to liability under this section.

17 (2) The parent or legal guardian having the custody of an
18 unemancipated minor who takes possession of any goods, wares, or
19 merchandise displayed or offered for sale by any wholesale or retail
20 store or other mercantile establishment without the consent of the
21 owner or seller and with the intention of converting such goods, wares,
22 or merchandise to his own use without having paid the purchase price
23 thereof, shall be liable as a penalty to the owner or seller for the
24 retail value of such goods, wares, or merchandise not to exceed five
25 hundred dollars plus an additional penalty of not less than one hundred
26 dollars nor more than two hundred dollars, plus all reasonable
27 attorney's fees and court costs expended by the owner or seller. The
28 parent or legal guardian having the custody of an unemancipated minor,
29 who orders a meal in a restaurant or other eating establishment,
30 receives at least a portion thereof, and then leaves without paying, is
31 subject to liability under this section. The parent or legal guardian
32 having the custody of an unemancipated minor, who receives any food,
33 money, credit, lodging, or accommodation at any hotel, motel, boarding
34 house, or lodging house, and then leaves without paying the proprietor,
35 manager, or authorized employee thereof, is subject to liability under
36 this section. For the purposes of this subsection, liability shall not
37 be imposed upon any governmental entity, private agency, or foster

1 parent assigned responsibility for the minor child pursuant to court
2 order or action of the department of social and health services.

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

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

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

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

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

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

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

23 (a) To intentionally remove a shopping cart from the parking area
24 of a retail establishment (~~(with the intent to deprive the owner of the~~
25 ~~shopping cart the use of the cart)) without the permission of the owner~~
26 of the shopping cart; or

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

31 (2) This section shall apply only when a shopping cart: (a) Has a
32 sign permanently affixed to it that identifies the owner of the cart or
33 the retailer, or both; (b) notifies the public of the procedure to be
34 utilized for authorized removal of the cart from the premises; (c)
35 notifies the public that the unauthorized removal of the cart from the
36 premises or parking area of the retail establishment, or the

1 unauthorized possession of the cart, is unlawful; and (d) lists a
2 telephone number or address for returning carts removed from the
3 premises or parking area to the owner or retailer.

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

6 NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.56 RCW
7 to read as follows:

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

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

14 (i) The retail establishment has been given notice of the cart's
15 location and has not retrieved the cart within three business days of
16 the notice;

17 (ii) The cart is in a location that is likely to impede emergency
18 services. If a cart in a location that is likely to impede emergency
19 services is impounded, the retail establishment must be given notice
20 that the cart has been impounded; or

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

22 (b) A retail establishment whose cart has been impounded may be
23 charged a fee for impoundment costs not to exceed fifty dollars per
24 cart. If the cart was impounded under (a)(ii) of this subsection, the
25 fee may not be charged if the retail establishment retrieves the cart
26 within three business days of receiving notice that the cart has been
27 impounded.

28 (c) A retail establishment whose cart has been impounded may be
29 charged a storage fee not to exceed twenty-five dollars for each seven-
30 day period that the cart remains unretrieved after receipt of the
31 impound notice, up to a maximum of one hundred dollars.

32 (d) An impounded cart may not be disposed of within at least thirty
33 days of impoundment. A retail establishment whose cart has been
34 disposed of may be charged a fee for disposal costs not to exceed fifty
35 dollars per cart.

36 (e) Any notice provided to a retail establishment under this
37 section must be documented.

1 (f) The notice requirements of this section may be satisfied
2 utilizing a statewide telephone number designated for that purpose.

3 (2) The requirements of this section supersede and preempt any
4 inconsistent ordinance or rule enacted by a political subdivision of
5 the state before, on, or after the effective date of this act. A
6 political subdivision of the state may not impose additional fees or
7 requirements with respect to shopping carts except as allowed under
8 this section."

9 Correct the title.

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