

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3693/1dn  
JEO:wlj:km

October 19, 1999

Louis:

I reviewed the drafting file for the 1977 act that created s. 943.55, stats. While I cannot be certain of the intent behind the proposal from my review of the drafting file, it is possible that the original bill was intended to create an alternative to charging theft of a shopping cart under s. 943.20, stats. I think that was the possible intent because the original bill imposed a \$50 fine (as opposed to a forfeiture) and did not require proof that the cart was taken with the intent to deprive the owner of the property, which is one of the essential elements of theft. The bill was then amended to make the fine into a forfeiture and to add the "intent to deprive" language.

However, regardless of the intent of the 1977 act, making s. 943.55, stats., a Class A misdemeanor makes the statute almost entirely duplicative of s. 943.20, stats. Unless there are shopping carts worth more than \$1,000, the only difference between s. 943.20, stats., and s. 943.55, stats., as amended by this draft, is that the former has the element of "takes and carries away, uses, transfers, conceals, or retains possession of movable property" while the latter has the element of "removes a shopping cart or stroller from either the shopping area or a parking area adjacent to the shopping area to another place". It seems to me that this is a difference without a legal distinction. Given the apparent duplication, do you want to consider changing the penalty in s. 943.55, stats., to something that would keep it as a real alternative charge to theft under s. 943.20, stats.? For example, the draft could provide for a lower misdemeanor classification (either a Class B or Class C misdemeanor), could raise the forfeiture amount, or could make the forfeiture into a fine of \$50 (or some higher amount).

Let me know if you have any questions or changes.

Jefren E. Olsen  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: Jefren.Olsen@legis.state.wi.us