

**1999 DRAFTING REQUEST**

**Bill**

Received: 10/02/1999

Received By: **olsenje**

Wanted: **As time permits**

Identical to LRB:

For: **Gary Drzewiecki (608) 266-5670**

By/Representing: **Louie**

This file may be shown to any legislator: **NO**

Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies: **MGD**

**Pre Topic:**

No specific pre topic given

**Topic:**

Theft of shopping cart

**Instructions:**

See Attached

**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>        | <u>Reviewed</u>        | <u>Typed</u>          | <u>Proofed</u> | <u>Submitted</u>           | <u>Jacketed</u>            | <u>Required</u> |
|--------------|-----------------------|------------------------|-----------------------|----------------|----------------------------|----------------------------|-----------------|
| /1           | olsenje<br>10/18/1999 | wjackson<br>10/19/1999 | martykr<br>10/19/1999 | _____          | lrb_docadmin<br>10/19/1999 | lrb_docadmin<br>10/19/1999 |                 |

FE Sent For:

<END>

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|--------------|----------------|-----------------|----------------|----------------|------------------|-----------------|-----------------|
| 1?           | olsenje        | 11 Wlj          | 10/19 km 12/19 | JF 10/19 km 19 |                  |                 |                 |

FE Sent For:

<END>

3693

Drzewiecki

by Louie

943.55

→ treat like retail theft.  
ie, A misd



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-3693/1

JEO:/:....

Wlj

D-Note

1999 BILL

Gen Cat

1 AN ACT ...; relating to: removal of a shopping cart and providing a penalty.

*Analysis by the Legislative Reference Bureau*

Under current law, no person may intentionally remove a shopping cart or stroller from either the shopping area or a parking area adjacent to the shopping area to another place without authorization of the owner or person in charge and with the intent to deprive the owner permanently of possession of the cart or stroller. A person who violates this prohibition is subject to a forfeiture (a civil monetary penalty) of not more than \$50. This bill provides that a person who violates the prohibition is guilty of a Class A misdemeanor, which is punishable by a fine of not more than \$10,000 or imprisonment for not more than nine months or both.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

2 SECTION 1. 943.55<sup>✓</sup> of the statutes is amended to read:

3 **943.55 Removal of shopping cart.** Whoever intentionally removes a  
4 shopping cart or stroller from either the shopping area or a parking area adjacent to  
5 the shopping area to another place without authorization of the owner or person in

**BILL**

**SECTION 1**

1 charge and with the intent to deprive the owner permanently of possession of such  
2 property ~~shall forfeit an amount not to exceed \$50~~ is guilty of a Class A misdemeanor.

3 History: 1977 c. 99.

**SECTION 2. Initial applicability.**

4 (1) This act first applies to offenses committed on the effective date of this  
5 subsection.

6 (END)

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

LRB-3693/1dn

JEO: f....

WLj

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, <sup>stats.</sup> 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

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

LRB-3693/1dn  
JEO:wlj:km

October 19, 1999

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E-mail: Jefren.Olsen@legis.state.wi.us



**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU**  
**Legal Section Telephone: 266-3561**  
**5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

**Date:** 10/19/1999

**To:** Senator Drzewiecki

**Relating to LRB drafting number:** LRB-3693

**Topic**

Theft of shopping cart

**Subject(s)**

Criminal Law - miscellaneous

1. **JACKET** the draft for introduction

*Mary F. Drzewiecki*

in the **Senate**  or the **Assembly** \_\_\_\_\_ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Jefren E. Olsen, Senior Attorney  
Telephone: (608) 266-8906