

01hr_AC-CC_ab0681_pt01



Note: The attached information on AB 681 was included with the 2001 AC-CC hearing records but it does not appear that the committee held a hearing on the bill.

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2001-02

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Corrections and Courts (AC-CC)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (May/2012)



WISCONSIN LEGISLATURE

P. O. Box 7882 Madison, WI 53707-7882

To: All Legislators

From: Senator Brian Burke
Representative Scott Walker

Date: November 8, 2001

Re: Co-sponsorship of LRB 2523/2 and LRB 4008/1
Theft of a Shopping Cart

AB 681
folder

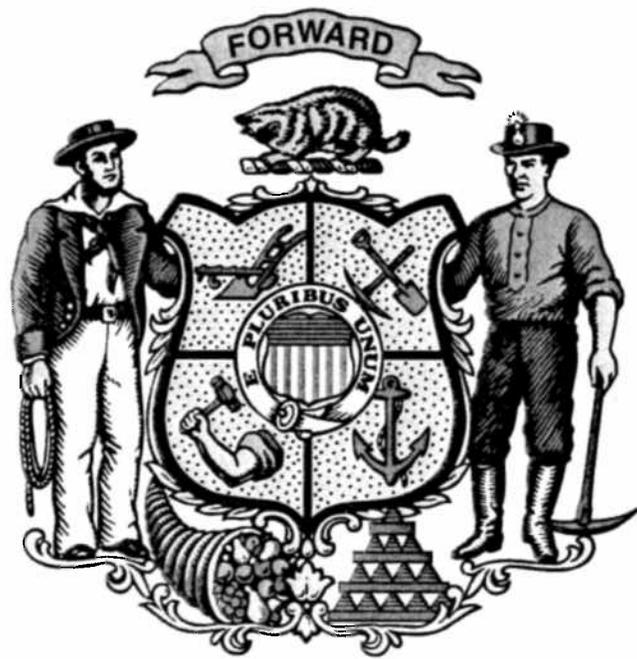
Attached is a draft of a bill which addresses the problem of shopping cart theft.

You may already be aware that shopping cart theft is a significant problem for retailers in Wisconsin. The cost of a shopping cart ranges from \$70 to \$200, and some retailers in Wisconsin report losses of \$35,000 per year in replacement costs.

Of course, these losses are ultimately passed on to consumers through higher pricing at the checkout counter. Additionally, abandonment of unwanted carts often poses a hazard to pedestrians and automobiles.

Under current law, theft of a shopping cart carries a \$50 fine and no other penalties. This bill makes theft of a shopping cart a Class A misdemeanor, punishable by a fine and possible imprisonment.

If you wish to sign on to this legislation, please call either Julie in Senator Burke's office at 6-8535, or Missy in Representative Walker's office at 6-9180, by November 21. Your name will be added to both bills, unless you specify otherwise.



LRB 408/1

Shopping Cart Theft

① Walker

- Jostewitz
- Musser
- Starzyk
- Gundrum
- Sykora
- Ladwig
- LIPPERT
- ~~OTT~~ OTT
- Leibham
- Loeffelholz

2nd Plate

- Petrowski
- Huebsch
- Gronemus
- Petts
- Rhoades
- Suder
- KESTELL
- VRAKAS
- Stone
- M. Lehman?
- Urban
- McCormick
- Grothman
- Ryba
- M. ...
- Freese

② Burke

- ...
- HUELSMAN
- Ulrich
- Breske
- Meyer
- Kanavos
- Roester
- Shultz

AB 68T
folder

Date ?

new



SHOPPING CART THEFT TALKING POINTS

SB 681
folder
Date ?

- Under current law, there is a \$50 fine and no jail time for removal of a shopping cart. Shopping Carts were originally included under Wisconsin's retail theft laws until 1977 when shopping cart removal became its own section in Wisconsin statutes with a substantially lessened penalty.
- SB 283 would subject persons who remove shopping carts from a shopping area or a parking area to a Class A misdemeanor. The penalties are: up to \$10,000 fine and/or up to 9 months in jail. This is in line with the retail theft laws for all items under \$1,000.
- Increasing the fines may give law enforcement more incentive to prosecute such thefts.
- Shopping cart theft is nearly non-existent in rural Wisconsin, but very prevalent in the urban areas.
- Retail price of a shopping cart is \$70-\$200.
- Retailers can spend between \$35,000 and \$65,000 per year replacing carts. One retailer estimates loss at 2 carts per day.
- There are security systems available that will lock the wheels of carts when removed from parking lot. Many retailers have resorted to this expensive alternative.
- California, Florida, New York and other states have enacted strict penalties for the theft of shopping carts and many states have implemented cart coralling programs.
- Loss resulting from retail theft is ultimately passed on to consumers through higher food prices.
- Stolen shopping carts can pose a physical problem to pedestrians and automobiles when they are abandoned in parking lots, streets and sidewalks
- In addition to increasing the fines and encouraging enforcement of shopping carts thefts, SB 283 will bring general awareness to the high costs of shopping carts and the retail problems.



SHOPPING CART THEFT TALKING POINTS

AB 681
folder

Date ?

- Under current law, there is a \$50 fine and no jail time for removal of a shopping cart. Shopping Carts were originally included under Wisconsin's retail theft laws until 1977 when shopping cart removal became its own section in Wisconsin statutes with a substantially lessened penalty.
- Legislation would subject persons who remove shopping carts from a shopping area or a parking area to a Class A misdemeanor. The penalties are: up to \$10,000 fine and/or up to 9 months in jail. This is in line with the retail theft laws for all items under \$1,000.
- Increasing the fines may give law enforcement more incentive to prosecute such thefts.
- Shopping cart theft is nearly non-existent in rural Wisconsin, but very prevalent in the urban areas.
- Retail price of a shopping cart is \$70-\$200.
- Retailers can spend between \$35,000 and \$65,000 per year replacing carts. One retailer estimates loss at 2 carts per day.
- There are security systems available that will lock the wheels of carts when removed from parking lot. Many retailers have resorted to this expensive alternative.
- California, Florida, New York and other states have enacted strict penalties for the theft of shopping carts and many states have implemented cart coralling programs.
- Loss resulting from retail theft is ultimately passed on to consumers through higher food prices.
- Stolen shopping carts can pose a physical problem to pedestrians and automobiles when they are abandoned in parking lots, streets and sidewalks
- In addition to increasing the fines and encouraging enforcement of shopping carts thefts, legislation will bring general awareness to the high costs of shopping carts and the retail problems.

AB 681
folder

(5) (a) In addition to the other penalties provided for violation of this section, a judge may order a violator to pay restitution under s. 973.20.

(b) In actions concerning violations of ordinances in conformity with this section, a judge may order a violator to make restitution under s. 800.093.

(c) If the court orders restitution under pars. (a) and (b), any amount of restitution paid to the victim under one of those paragraphs reduces the amount the violator must pay in restitution to that victim under the other paragraph.

History: 1977 c. 173; 1981 c. 270; 1983 a. 189 s. 329 (24); 1985 a. 179; 1987 a. 398; 1991 a. 39, 40; 1993 a. 71; 1997 a. 262.

A merchant acted reasonably in detaining an innocent shopper for 20 minutes and releasing her without summoning police. *Johnson v. K-Mart Enterprises, Inc.* 98 Wis. 2d 533, 297 N.W.2d 74 (Ct. App. 1980).

Sub. (3) requires only that the merchant's employee have probable cause to believe that the person violated this section in the employee's presence: actual theft need not be committed in the employee's presence. *State v. Lee*, 157 Wis. 2d 126, 458 N.W.2d 562 (Ct. App. 1990).

Reasonableness under sub. (3) requires: (1) reasonable cause to believe that the person violated this section, (2) the manner of the detention and the actions taken in an attempt to detain must be reasonable, and (3) the length of time of the detention and the actions taken in an attempt to detain must be reasonable. An attempt to detain may include pursuit, including reasonable pursuit off the merchant's premises. *Peters v. Menard, Inc.* 224 Wis. 2d 174, 589 N.W.2d 395 (1999).

Shoplifting: protection for merchants in Wisconsin. 57 MLR 141.

943.51 Retail theft; civil liability. (1) Any person who incurs injury to his or her business or property as a result of a violation of s. 943.50 may bring a civil action against any individual who caused the loss for all of the following:

(a) The retail value of the merchandise unless it is returned undamaged and unused. A person may recover under this paragraph only if he or she exercises due diligence in demanding the return of the merchandise immediately after he or she discovers the loss and the identity of the person who has the merchandise.

(b) Any actual damages not covered under par. (a).

(2) In addition to sub. (1), if the person who incurs the loss prevails, the judgment in the action may grant any of the following:

(a) 1. Except as provided in subd. 1m., exemplary damages of not more than 3 times the amount under sub. (1).

1m. If the action is brought against a minor or against the parent who has custody of their minor child for the loss caused by the minor, the exemplary damages may not exceed 2 times the amount under sub. (1).

2. No additional proof is required for an award of exemplary damages under this paragraph.

(b) Notwithstanding the limitations of s. 799.25 or 814.04, all actual costs of the action, including reasonable attorney fees.

(3) Notwithstanding sub. (2) and except as provided in sub. (3m), the total amount awarded for exemplary damages and reasonable attorney fees may not exceed \$500.

(3m) Notwithstanding sub. (2), the total amount awarded for exemplary damages and reasonable attorney fees may not exceed \$300 if the action is brought against a minor or against the parent who has custody of their minor child for the loss caused by the minor.

(3r) Any recovery under this section shall be reduced by the amount recovered as restitution for the same act under ss. 800.093 and 973.20.

(4) The plaintiff has the burden of proving by a preponderance of the evidence that a violation occurred under s. 943.50. A conviction under s. 943.50 is not a condition precedent to bringing an action, obtaining a judgment or collecting that judgment under this section.

(5) A person is not criminally liable under s. 943.30 for any civil action brought in good faith under this section.

(6) Nothing in this section precludes a plaintiff from bringing the action under ch. 799 if the amount claimed is within the jurisdictional limits of s. 799.01 (1) (d).

History: 1985 a. 179; 1989 a. 31; 1993 a. 71; 1995 a. 77.

Employee salary for time spent processing retail theft is compensable as "actual damages" under sub. (1) (b). *Shopko Stores, Inc. v. Kujak*, 147 Wis. 2d 589, 433 N.W.2d 618 (Ct. App. 1988).

943.55 Removal of shopping cart. Whoever intentionally removes 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 such property shall forfeit an amount not to exceed \$50.

History: 1977 c. 99.

943.60 Criminal slander of title. (1) Any person who submits for filing, entering or recording any lien, claim of lien, lis pendens, writ of attachment, financing statement or any other instrument relating to a security interest in or title to real or personal property, and who knows or should have known that the contents or any part of the contents of the instrument are false, a sham or frivolous, is guilty of a Class D felony.

(2) This section applies to any person who causes another person to act in the manner specified in sub. (1).

(3) This section does not apply to a register of deeds or other government employee who acts in the course of his or her official duties and files, enters or records any instrument relating to title on behalf of another person.

History: 1979 c. 221; 1995 a. 224; 1997 a. 27.

Whether a document is frivolous was for the jury to answer. *State v. Leist*, 141 Wis. 2d 34, 414 N.W.2d 45 (Ct. App. 1987).

943.61 Theft of library material. (1) In this section:

(a) "Archives" means a place in which public or institutional records are systematically preserved.

(b) "Library" means any public library; library of an educational, historical or eleemosynary institution, organization or society; archives; or museum.

(c) "Library material" includes any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, artifacts or other documentary, written or printed materials, regardless of physical form or characteristics, belonging to, on loan to or otherwise in the custody of a library.

(2) Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be penalized as provided in sub. (5).

(3) The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of the person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.

(4) An official or adult employee or agent of a library who has probable cause for believing that a person has violated this section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to the person's parent or guardian in the case of a minor. The detained person shall be promptly informed of the purpose for the detention and be permitted to make phone calls, but shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitles the official, agent or employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.



Sub-repeal

2001 ASSEMBLY BILL 681

December 17, 2001 - Introduced by Representatives WALKER, PLALE, FREESE, GRONEMUS, GROTHMAN, GUNDRUM, HUEBSCH, JESKEWITZ, KESTELL, LADWIG, LEIBHAM, LIPPERT, LOEFFELHOLZ, M. LEHMAN, MCCORMICK, MONTGOMERY, MUSSER, OTT, PETROWSKI, PETTIS, RHOADES, RYBA, STARZYK, STONE, SUDER, SYKORA, URBAN and VRAKAS, cosponsored by Senators BURKE, BRESKE, DARLING, HUELSMAN, KANAVAS, M. MEYER, ROESSLER, SCHULTZ and WIRCH. Referred to Committee on Criminal Justice.

1 AN ACT *to amend* 943.55 of the statutes; **relating to:** removal of a shopping cart
2 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.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The pe
er.

3 SE

4 94

5 shoppir

- we need
a sub
to repeal
943.55

ted in senate and assembly, do

ed to read:

Whoever intentionally removes a

area or a parking area adjacent to



Bill ^{jacketed} ~~intended~~ yet?

Go ahead and have ours jacketed
Co-sponsorship memo written up
E-mail it to Missy

AB 681
folder

Contact for
shopping cart bill:
Sen. Burke's office
(Julie) - ~~6835~~
68535

Shell write co-sponsorship memo
Also: Michelle Kussow - ^{Grocers} Assoc.



AB 681
folder

STATE OF WISCONSIN

To MG

Date _____ Time 3:36 P

WHILE YOU WERE OUT

M MICHELLE

of GROCERS

Phone 244-7150

Telephoned	<input checked="" type="checkbox"/>	Please Call	<input checked="" type="checkbox"/>
Called to See You	<input type="checkbox"/>	Rush	<input checked="" type="checkbox"/>
Returned Your Call	<input type="checkbox"/>	Will Call Again	<input type="checkbox"/>

Message SHOPPING CART THEFT
BILL - WHEN IS
CO-SPONSORSHIP GOING
OUT?

 Party Receiving Call

- I let Michelle know on Friday (11-2) that we are waiting for Senator Burke to send out the co-sponsorship. We should call her back once the co-sponsorship has been sent out so she can drum up some support for it.
- Michelle will send position paper on shopping cart theft. (11-9-01)



History of Assembly Bill 681

ASSEMBLY BILL 681

An Act to amend 943.55 of the statutes; relating to: removal of a shopping cart and providing a penalty. (FE)

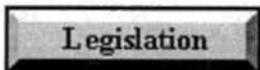
2001

- 12-17. A. Introduced by Representatives Walker, Plale, Freese, Gronemus, Grothman, Gundrum, Huebsch, Jeskewitz, Kestell, Ladwig, Leibham, Lippert, Loeffelholz, M. Lehman, McCormick, Montgomery, Musser, Ott, Petrowski, Pettis, Rhoades, Ryba, Starzyk, Stone, Suder, Sykora, Urban and Vrakas; cosponsored by Senators Burke, Breske, Darling, Huelsman, Kanavas, M. Meyer, Roessler, Schultz and Wirch.
- 12-17. A. Read first time and referred to committee on Criminal Justice 560
- 12-19. A. Fiscal estimate received.
- 12-19. A. Fiscal estimate received.
- 12-19. A. Fiscal estimate received.

2002

- 01-17. A. Fiscal estimate received.
- 01-17. A. Public hearing held.
- 01-23. A. Executive action taken.
- 01-28. A. Report passage recommended by committee on Criminal Justice, Ayes 10, Noes 4 607
- 01-28. A. Referred to committee on Rules 607
- 03-26. A. Failed to pass pursuant to Senate Joint Resolution 1 810

Search for another history



[Back to Legislation Page](#)



[Back to Legislature Home Page](#)