



1           (3) Require business owners who provide these devices for  
2           customer use to take certain specified actions to  
3           deter, prevent, or mitigate the removal of these  
4           devices from their business premises, and to retrieve  
5           any devices that may be removed despite having  
6           undertaken these actions; and

7           (4) Prevent the continued possession of unlawfully removed  
8           shopping carts, shopping baskets, and similar devices,  
9           and the accumulation of these devices on publicly or  
10          privately owned property.

11          § -2 **Definitions.** As used in this chapter:

12          "Business establishment" means any business that provides  
13 shopping carts, shopping baskets, or similar devices for  
14 customer use, regardless of whether the business:

15          (1) Is advertised or operated as a retail or wholesale  
16          business; and

17          (2) Is open to the general public, is a private club or  
18          business, or is a membership store.

19          "Owner" means:



1           (1) The owner or retailer identified by an identification  
2           sign on a shopping cart, shopping basket, or similar  
3           device; or

4           (2) With respect to a cart, basket, or device having no  
5           identification sign, the business establishment that  
6           provides the cart, basket, or device for customer use.

7           "Security measures" means methods designed to prevent the  
8           unauthorized removal of a shopping cart, shopping basket, or  
9           similar device from the premises of a business establishment or  
10          to facilitate its return, including:

11          (1) Electronically activated self-braking wheels on a  
12          shopping cart, shopping basket, or similar device;

13          (2) A pole or other physical barrier mounted to a shopping  
14          cart, shopping basket, or similar device that prevents  
15          the removal of the cart, basket, or device from the  
16          interior of the business establishment;

17          (3) Utilization of a patrol and retrieval company that  
18          recovers shopping carts, shopping baskets, or similar  
19          devices on behalf of the business establishment,  
20          within a two-mile radius of the contracting business  
21          establishment, no fewer than two times per week; and



1           (4) Security personnel whose duties include control and  
2                   retention of shopping carts, shopping baskets, or  
3                   similar devices.

4           §   -3 **Unauthorized removal of shopping carts, shopping**  
5 **baskets, or similar devices; required signage; exceptions.** (a)

6 A person shall not remove, without proper authorization, a  
7 shopping cart, shopping basket, or similar device from the  
8 premises of any business establishment, including any parking  
9 area maintained for the customer of the business establishment,  
10 or any sidewalk or passageway adjacent to the business  
11 establishment, for any purpose whatsoever.

12           (b) This section shall not apply unless:

13           (1) The shopping cart, shopping basket, or similar device  
14                   has permanently affixed to it a conspicuous sign that:

15                   (A) Identifies the owner of the cart, basket, or  
16                           device or the retailer associated therewith, or  
17                           both;

18                   (B) Notifies customers and the public that the  
19                           unauthorized removal of the cart, basket, or  
20                           device from the premises or parking area of the  
21                           business establishment, or the unauthorized



1                   possession of the cart, basket, or device, is  
2                   unlawful; and  
3           (C)   Lists a telephone number and address for  
4                   returning to the owner or retailer any carts,  
5                   baskets, or devices removed from the premises or  
6                   parking area; and  
7           (2)   There is posted at the place or places where the  
8                   shopping carts, shopping baskets, or similar devices  
9                   are stored for customer use, signage conspicuously  
10                  positioned that would be seen by an ordinarily  
11                  observant person, to notify customers and the general  
12                  public that unauthorized removal of the cart, basket,  
13                  or device from the premises or parking area of the  
14                  business establishment, or the unauthorized possession  
15                  of the cart, basket, or device, is unlawful.  
16           (c)   The following persons shall not be subject to this  
17   section:  
18           (1)   The owner of the shopping cart, shopping basket, or  
19                  similar device;  
20           (2)   Any agent of the owner;  
21           (3)   Any employee of the business establishment; or



1           (4) Any person possessing the written consent of the owner  
2                   or manager of the business establishment.

3           §   -4   **Impoundment; notification; fees; fee deferral.**   (a)

4   A county may impound a shopping cart, shopping basket, or  
5   similar device as follows:

6           (1) After three business days, if the cart, basket, or  
7                   device is located beyond the premises or parking area  
8                   of the business establishment to which it belongs and  
9                   is not retrieved within three business days of the  
10                  owner's receipt of notice from the county regarding  
11                  the discovery of the cart, basket, or device and its  
12                  location;

13          (2) Immediately, if the location of the cart, basket, or  
14                  device on public or private property impedes emergency  
15                  services; or

16          (3) Immediately, if the cart, basket, or device has been  
17                  abandoned on private land within the county and the  
18                  owner or occupant of the land consents to the  
19                  impoundment.

20          (b) The applicable county shall notify in writing the  
21   owner of each shopping cart, shopping basket, or similar device



1 that is subject to prospective impoundment under subsection  
2 (a) (1) or that has been impounded under subsection (a) (2) or  
3 (a) (3), as applicable, if the cart, basket, or device has  
4 affixed to it the signage required by section -3(b) (1). The  
5 county clerk may establish by rule a process for owners to  
6 register a preferred method of notification. If delivered by  
7 United States mail, the notice shall be deemed to have been  
8 received three business days after mailing.

9 (c) The notice shall include the following information:

10 (1) In the case of a prospective impoundment under  
11 subsection (a) (1), that the owner has three days from  
12 the date of receipt of the notice to retrieve the  
13 cart, basket, or device, and that the owner's failure  
14 to do so will result in impoundment of the cart,  
15 basket, or device and the assessment of impound fees;  
16 or

17 (2) In the case of an impoundment that has already  
18 occurred under subsection (a) (2) or (a) (3):

19 (A) The amount of the impound fee to be assessed on  
20 the owner for each impounded cart, basket, or  
21 device;



1           (B) That the owner has three business days from the  
2           date of receipt of the notice to retrieve the  
3           cart, basket, or device from the impound  
4           facility; and

5           (C) That the owner's failure to timely retrieve the  
6           cart, basket, or device from the impound facility  
7           may result in disposal of the cart, basket, or  
8           device and the assessment of storage and disposal  
9           fees.

10          (d) A county that has impounded a shopping cart, shopping  
11          basket, or similar device pursuant to this section shall assess  
12          the owner a fee for each impounded cart, basket, or device,  
13          unless the fee is eligible for deferral under subsection (e).  
14          The county may also assess the owner any applicable storage and  
15          disposal fees. The county clerk shall establish the amount of  
16          each type of fee assessed under this section and shall post the  
17          fee schedule on the county's website.

18          (e) A county that has impounded a shopping cart, shopping  
19          basket, or similar device pursuant to this section shall defer  
20          impound fees for the first three carts, baskets, or devices  
21          owned by the same business establishment that were impounded





1 within any calendar month if, prior to the impoundment, the  
 2 owner implemented one or more security measures as defined in  
 3 section -2. The county shall not defer impound fees for a  
 4 business establishment in a calendar month if four or more  
 5 carts, baskets, or devices owned by the business establishment  
 6 were impounded within that calendar month."

7 SECTION 2. Section 633-16, Hawaii Revised Statutes, is  
 8 amended to read as follows:

9 "~~{}~~§633-16~~{}~~ **Unauthorized removal of shopping carts,**  
 10 **etc. [~~;~~ ~~notice; exceptions~~]; action for damages; repossession.**

11 [~~(a) A person shall not remove, without proper authorization, a~~  
 12 ~~shopping cart, shopping basket, or similar device from the~~  
 13 ~~premises of any business establishment, including any parking~~  
 14 ~~area maintained for the customer of the business establishment,~~  
 15 ~~or any sidewalk or passageway adjacent to the business~~  
 16 ~~establishment, for any purpose whatsoever.~~

17 ~~(b) This section shall not apply unless:~~

18 ~~(1) The shopping cart, shopping basket, or similar device~~  
 19 ~~has securely affixed to it a conspicuous sign~~  
 20 ~~identifying it as belonging to the business~~  
 21 ~~establishment; and~~



~~(2) There is posted at the place or places where the shopping carts, shopping baskets, or similar devices are stored for customer use, a sign or signs conspicuously positioned in order to be seen by an ordinarily observant person, to notify customers and the general public that the carts, baskets, or devices shall not be removed from the premises, parking areas, sidewalks, or passageways adjacent thereto.~~

~~(c) The following shall not be subject to this section:~~

~~(1) The owner of the shopping cart, shopping basket, or similar device;~~

~~(2) Any agent of the owner;~~

~~(3) Any employee of the business establishment;~~

~~(4) Any person possessing the written consent of the owner or manager of the business establishment.~~

~~(d)]~~ (a) Any business establishment that is damaged in its business or property by reason of a violation of ~~[subsection (a)]~~ section         -3:

(1) May sue in the small claims division of the district court in the circuit where the business establishment is situated for damages sustained, and if the judgment



1 is for the business establishment, it may be awarded a  
2 sum equal to the replacement value of the shopping  
3 cart, shopping basket, or similar device together with  
4 the costs of the suit; and

5 (2) May bring proceedings to enjoin further unauthorized  
6 removal of shopping carts, shopping baskets, or  
7 similar devices.

8 [~~(e)~~] (b) In the case of repossession proceedings, the  
9 business establishment entitled to the possession of the  
10 shopping cart, shopping basket, or similar device, shall bring  
11 and prosecute its action in the small claims division of the  
12 district court in the circuit where the business establishment  
13 is situated.

14 [~~(f)~~] (c) The court in the small claims division shall  
15 grant judgment in favor of the business establishment if:

16 (1) The plaintiff is the lawful owner of the shopping  
17 cart, shopping basket, or similar device which has  
18 been adequately identified;

19 (2) The plaintiff has given notice as provided in  
20 [~~subsection (b) (2)~~] section -3 that the



1           unauthorized removal of shopping carts, shopping  
 2           baskets, or similar devices is prohibited;  
 3       (3)   The shopping device has been removed from the premises  
 4           of the business establishment without proper  
 5           authorization; and  
 6       (4)   The defendant is in possession or has control of the  
 7           shopping devices.

8       ~~[(g)]~~ (d) A person who has been found by the court to have  
 9 removed, without proper authorization, a shopping cart, shopping  
 10 basket, or similar device may be liable for payment of an award  
 11 under this section or a criminal fine under section 706-640, but  
 12 not both."

13       SECTION 3. Statutory material to be repealed is bracketed  
 14 and stricken. New statutory material is underscored.

15       SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: Do Het

JAN 23 2023



**Report Title:**

Business Establishments; Shopping Carts; Similar Devices;  
Regulation

**Description:**

Adds a new chapter to the HRS to establish a system of regulatory controls for shopping carts and similar devices to prevent unauthorized removal from business establishments; provide for prompt retrieval when lost, stolen, or abandoned; require business owners to take certain specified actions to deter, prevent, or mitigate the removal of these devices from their premises and to retrieve any removed devices; and to prevent the continued possession of unlawfully removed shopping carts and similar devices and the accumulation of these devices on publicly or privately owned property.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

