



A BILL FOR AN ORDINANCE

RELATING TO SHOPPING CARTS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to improve public health and safety by reducing the number of abandoned shopping carts on public and private property.

SECTION 2. Chapter 41, Revised Ordinances of Honolulu 1990 ("Regulated Activities Within the City"), is amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

"Article __. Shopping Cart Containment

Sec. 41-__. 1 Definitions.

For the purposes of this article, unless otherwise expressly stated, the following terms have the following meanings:

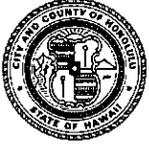
"Business" means any commercial enterprise or establishment operating in the City and County of Honolulu, including an individual proprietorship, joint venture, partnership, cooperative, corporation, limited liability company, or other legal entity, whether for profit or not for profit, and includes all employees of the business or any independent contractors associated with the business.

"Patron" means a person who is utilizing a business, but excludes employees of and vendors to the business when acting in those capacities.

"Director" means the director of the department designated by the mayor or the director's designee.

Sec. 41-__.2 Mitigation requirements.

Beginning _____, all retail and wholesale businesses must implement a removal mitigation system for all shopping carts provided to their patrons, for the purpose of preventing shopping carts from being illegally removed from the premises of any business establishment, including any parking area maintained for the customer of the business establishment, or any sidewalk or passageway adjacent to the business establishment. The removal mitigation system must require, among other things, that the business' shopping carts:



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- (a) Include a wheel-locking mechanism that prevents the shopping carts from being removed from the premises of the business, including any parking area maintained for the customer of the business, or any sidewalk or passageway adjacent to the business; and
- (b) Be marked in a conspicuous and permanent manner with the name, address, and telephone number of the business; provided that the markings are consistent with HRS Chapter 445, Part IV.

Sec. 41-__3 Violations—Penalties.

- (a) If the director determines that any business is this article or any rule adopted thereunder, the director may have the business served, by mail or delivery, with a notice of violation and order pursuant to this section.
- (b) Contents of the Notice of Violation. The notice in subsection (a) must include at least the following information:
 - (1) Date of the notice;
 - (2) The name and address of the business noticed;
 - (3) The section number of the provision or rule;
 - (4) The nature of the violation; and
 - (5) The location and time of the violation.
- (c) Contents of Order.
 - (1) The order in subsection (a) may require the business to do any or all of the following:
 - (A) Cease and desist from the violation;
 - (B) Correct the violation at the business' own expense before a date specified in the order;
 - (C) Pay an administrative fine of no less than \$500 and no more than \$2000 in the manner, at the place and before the date specified in the order; or



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- (D) Pay an administrative fine of no less than \$500 per day and no more than \$2000 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.
- (2) The order must advise the business that the order will become final 30 days after the date of its mailing or delivery. The order must also advise that the director's action may be appealed to the department as designated by the mayor.
- (d) Effect of Order--Right to Appeal. The provisions of the order issued by the director under this section will become final 30 days after the date of the mailing or delivery of the order. The business may appeal the order to the department. Upon receipt of an appeal, the department must refer the appeal to a hearing officer. The hearing officer shall:
- (1) Hold an agency hearing in accordance with the contested case procedures of HRS Chapter 91; and
- (2) Issue a decision and order confirming, modifying, or disapproving the department's action and notify the parties of the decision.
- However, an appeal to the department will not stay any provision of the order.
- (e) Judicial Enforcement of Order. The director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where a civil action has been instituted to enforce the administrative fine imposed by such order, the director need only show that the notice of violation and order were served, that an administrative fine was imposed, the amount of the fine imposed, and that the fine imposed has not been paid.
- (f) Remedies Cumulative. Unless otherwise expressly provided, the remedies or penalties provided by this article are cumulative to each other and to all other remedies or penalties provided by law.

Sec. 41-__4 Rules.

The director may, pursuant to HRS Chapter 91, adopt rules having the force and effect of law, regarding the implementation, administration and enforcement of this article."



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 33 (2016)

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SECTION 3. This ordinance takes effect on _____.

INTRODUCED BY:



DATE OF INTRODUCTION:

APR 14 2016

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

KIRK CALDWELL, Mayor
City and County of Honolulu