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DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

TESTIMONY ON BILL 53 (2026), CD1
RELATING TO SHOPPING CARTS

November 5, 2026

Chair Waters and Members of the Honolulu City Council:

The Department of the Prosecuting Attorney of the City and County of Honolulu submits the following comments regarding Bill 53 (2026), CD1, Relating to Shopping Carts.

The Department recognizes the City's legitimate interest in addressing abandoned shopping carts that obstruct sidewalks, create public safety hazards, and interfere with the public's use of shared spaces. However, the Department has concerns regarding the proposed criminal penalties.

The CD1 no longer specifies a $2,000 fine or a 30-day jail term. However, it expressly classifies a violation as a petty misdemeanor. Under Hawaiʻi law, that classification continues to expose a person to imprisonment for up to 30 days. Accordingly, the Department's concern regarding the possibility of incarceration remains.

The Department is concerned that imposing a potential jail sentence for simple possession of a shopping cart outside an authorized location raises questions regarding the proportionality of the punishment. In *State v. Davia*, 87 Hawaiʻi 249, 258, 953 P.2d 1347, 1356 (1998), the Hawaiʻi Supreme Court identified three factors for evaluating whether a punishment is cruel and unusual under the Hawaiʻi Constitution: (1) the nature of the offense and the danger posed to society; (2) the severity of the penalty compared to punishments for more serious offenses in Hawaiʻi; and (3) the penalty compared to punishments for the same offense in other jurisdictions.

Other jurisdictions have addressed shopping cart violations through civil penalties rather than incarceration. For example, Virginia authorizes a civil penalty of up to $500 for unauthorized

possession of a shopping cart outside the premises of a retail establishment.[1] Similarly, Missouri provides for civil liability, including a $100 civil penalty, when a person takes a shopping cart with the intent to convert it.[2] These approaches demonstrate that jurisdictions have adopted non-jailable penalties to address shopping cart violations.

The Department respectfully requests that the Council reconsider the petty-misdemeanor classification and evaluate whether a non-jailable violation, with an appropriate monetary penalty, would adequately accomplish the bill's public safety objectives while avoiding potential constitutional challenges.

Thank you for the opportunity to provide these comments.

[1] Va. Code Ann. § 15.2-985(D).

[2] Mo. Rev. Stat. § 537.127(4).