

2010

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Ms Caroline Le Couteur)

# **Litter (Shopping Trolleys) Amendment Bill 2010**

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## **A Bill for**

An Act to amend the *Litter Act 2004*, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

**1 Name of Act**

This Act is the *Litter (Shopping Trolleys) Amendment Act 2010*.

**2 Commencement**

This Act commences on a day fixed by the Minister by written notice.

*Note 1* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

*Note 3* If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

**3 Legislation amended**

This Act amends the *Litter Act 2004*.

*Note* This Act also amends the *Magistrates Court (Litter Infringement Notices) Regulation 2004* (see s 5).

**4 New part 4A**

*insert*

**Part 4A Shopping trolleys**

**24C Definitions—pt 4A**

In this part:

***collection notice*** means a notice under section 24J (2).

***removal notice*** means a notice under section 24G (3) (a).

- 1            ***removal notice location***, of a shopping trolley, means—
- 2            (a) the public place where the trolley was found by an authorised
- 3            person or police officer; and
- 4            (b) any public place that can be clearly seen from the public place
- 5            mentioned in paragraph (a).
- 6            ***retailer*** means a person who provides shopping trolleys for use in
- 7            the retailer's premises.
- 8            ***retention area***—see the *Uncollected Goods Act 1996*, dictionary.
- 9            ***shopping trolley*** means a trolley or other kind of handcart.

10        **24D        Shopping trolleys left in public places**

- 11            (1) A person commits an offence if the person leaves a shopping trolley
- 12            in a public place.
- 13            Maximum penalty: 10 penalty units.
- 14            (2) An offence against this section is a strict liability offence.
- 15            (3) Subsection (1) does not apply to a person if—
- 16            (a) a written direction has been given to the person under
- 17            section 24E; and
- 18            (b) the person has complied with the direction.

19        **24E        Direction to return shopping trolley**

- 20            (1) This section applies if an authorised person or police officer
- 21            believes on reasonable grounds that a person has left or intends to
- 22            leave a shopping trolley in a public place.
- 23            (2) The authorised person or police officer must give the person a
- 24            written direction to return the shopping trolley to the retailer's
- 25            address identified on the trolley.

- 1           (3) A direction must—
- 2               (a) state that it is an offence under section 24D (1) to leave a
- 3               shopping trolley in a public place; and
- 4               (b) state a reasonable time within which the direction must be
- 5               complied with; and
- 6               (c) include a statement that the person may be served with an
- 7               infringement notice or prosecuted under section 24D (1) if the
- 8               person fails or refuses to comply with the direction.
- 9           (4) In this section:
- 10           *infringement notice*—see the *Magistrates Court Act 1930*,
- 11           section 117.
- 12   **24F       Identification of ownership of shopping trolleys**
- 13           (1) A retailer must display on each of the retailer's shopping trolleys the
- 14           following information:
- 15               (a) a unique identification number;
- 16               (b) the retailer's name;
- 17               (c) the address at which the retailer keeps the trolley;
- 18               (d) the contact telephone number of—
- 19                   (i) the retailer; or
- 20                   (ii) a person authorised by the retailer to collect the trolley;
- 21               (e) the telephone number for the shopping trolley hotline;
- 22               (f) anything else prescribed by regulation.
- 23           (2) The information mentioned in subsection (1)—
- 24               (a) must be legible and conspicuously displayed on the shopping
- 25               trolley; and
- 26               (b) must not be easily removed from the trolley or made illegible.

- 1 (3) A retailer commits an offence if the retailer fails to comply with this  
2 section.
- 3 Maximum penalty: 10 penalty units.
- 4 (4) Subsection (3) does not apply if the information mentioned in  
5 subsection (1) is—
- 6 (a) removed from the shopping trolley by a person other than the  
7 retailer; or
- 8 (b) made illegible by a person other than the retailer.
- 9 (5) An offence against this section is a strict liability offence.
- 10 (6) In this section:
- 11 *shopping trolley hotline* means a telephone contact service operated  
12 by the territory to receive information about shopping trolleys left in  
13 public places.
- 14 **24G Removal of shopping trolleys from public places**
- 15 (1) This section applies if an authorised person or police officer  
16 believes on reasonable grounds that a shopping trolley has been left  
17 in a public place.
- 18 (2) An authorised person or police officer may remove the shopping  
19 trolley to a retention area.
- 20 (3) However, the shopping trolley may be removed to the retention area  
21 only if—
- 22 (a) an authorised officer or police officer has given the retailer  
23 identified on the trolley a notice (a *removal notice*); and
- 24 (b) the trolley has not been removed from the removal notice  
25 location within 24 hours after the time the notice was given.

(4) Subsection (3) does not apply if an authorised person or police officer believes on reasonable grounds that—

(a) prompt removal of the shopping trolley from the public place is necessary because it may cause injury to a person or animal or damage to property or a public place; or

(b) it is impractical for the retailer to remove the trolley.

**Example—par (a)**

A shopping trolley is left next to a main road. Prompt removal is necessary because the trolley could roll or be pushed onto the road.

**Example—par (b)**

A shopping trolley is dumped in a waterway. Removal by the retailer is impractical because it requires specialised equipment to remove it.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

## **24H Notice to remove shopping trolley from public place**

(1) A removal notice must state the following:

(a) the time and date the notice is given;

(b) the identification number (if legible) on the shopping trolley;

(c) the place where the trolley was found;

(d) that the trolley must be removed from the removal notice location within 24 hours after the time the notice is given;

(e) that it is an offence not to remove a trolley in accordance with the notice;

(f) the maximum penalty for the offence;

(g) that, if the trolley is not removed from the removal notice location within 24 hours after the time the notice is given—

(i) the trolley may be removed to a retention area; and



- 1 (ii) the trolley may only be collected by the retailer from the  
2 retention area if the retailer pays—
- 3 (A) all costs of removing and storing the trolley and any  
4 other costs payable under the *Uncollected Goods*  
5 *Act 1996*, part 3 (Disposal of uncollected goods);  
6 and
- 7 (B) any penalty under this part; and
- 8 (iii) the trolley may be disposed of under the *Uncollected*  
9 *Goods Act 1996*, part 3 (Disposal of uncollected goods);
- 10 (h) how the retailer may contact an authorised person, including,  
11 for example, by giving a telephone number.
- 12 *Note* An example is part of the Act is not exhaustive and may extend,  
13 but does not limit, the meaning of the provision in which it  
14 appears (see Legislation Act, s 126 and s 132).
- 15 (2) The removal notice must be given by—
- 16 (a) securely placing or attaching the notice, addressed to the  
17 retailer, on or to the shopping trolley in a conspicuous position;  
18 and
- 19 (b) calling the contact telephone number stated on the trolley and  
20 giving the information in the notice to the retailer.
- 21 (3) In subsection (2) (b), information in the removal notice is taken to  
22 have been given to the retailer if—
- 23 (a) the information is given to—
- 24 (i) a person who answers the telephone call; or
- 25 (ii) a telephone answering or recording device; or
- 26 (b) a reasonable attempt was made to give the information to the  
27 retailer.

1           (4) A removal notice given in the way mentioned in subsection (2) is  
2           taken to have been given to the retailer at the time and date the  
3           telephone call is made.

4           (5) A retailer commits an offence if the retailer—

5                 (a) is given a removal notice; and

6                 (b) fails to comply with the notice.

7           Maximum penalty: 10 penalty units.

8           (6) An offence against this section is a strict liability offence.

9   **24I       Small retailers and trolley containment systems**

10          (1) Section 24H (5) does not apply—

11                 (a) to a small retailer; or

12                 (b) to a retailer who operates a trolley containment system at the  
13                 premises where the trolley identified in a removal notice came  
14                 from.

15          (2) In this section:

16                 *small retailer* means a retailer prescribed by regulation.

17                 *trolley containment system* means a system approved by the chief  
18                 executive which is designed to reduce the number of shopping  
19                 trolleys left in public places.

20                 **Examples—trolley containment system**

21                 1   A system which requires the deposit of money by customers to use a  
22                 shopping trolley which is refundable on the return of the trolley.

23                 2   A system which makes the trolley inoperable, including by locking the  
24                 wheels, if the trolley is removed from, or within a certain distance from, the  
25                 retailer's premises.

26                 *Note*     An example is part of the Act, is not exhaustive and may extend, but  
27                 does not limit, the meaning of the provision in which it appears (see  
28                 Legislation Act, s 126 and s 132).

1     **24J         Retention of shopping trolleys left in public places**

2             (1) This section applies if a shopping trolley is removed to a retention  
3                 area under section 24G (2).

4             (2) The chief executive must give written notice (a *collection notice*)  
5                 that the shopping trolley is in the retention area to the retailer  
6                 identified on the trolley.

7                 *Note*         For how documents may be served, see the Legislation Act, pt 19.5.

8             (3) The collection notice must state the following:

9                 (a) the date of the notice;

10                (b) the identification number (if legible) of the shopping trolley  
11                   available for collection;

12                (c) the address of the retention area where the trolley may be  
13                   collected;

14                (d) when the trolley may be collected;

15                (e) any costs the retailer must pay before the trolley may be  
16                   collected;

17                 *Note*         Costs for removing the trolley to a retention area are reasonable  
18                                 costs that can be claimed under the *Uncollected Goods Act 1996*  
19                                 (see s 24K).

20                (f) any penalty the retailer must pay before the trolley may be  
21                   collected;

22                (g) that the trolley may be disposed of under the *Uncollected*  
23                   *Goods Act 1996*, part 3 if the trolley is not collected within  
24                   7 days after the day the notice is given to the retailer.

1     **24K       Disposal of retained shopping trolleys**

2             If a shopping trolley is removed to a retention area under  
3             section 24G (2)—

- 4             (a) the trolley is taken to be uncollected goods for the *Uncollected*  
5                 *Goods Act 1996*; and
- 6             (b) the trolley is taken to have become uncollected goods for that  
7                 Act on the day the collection notice is given; and
- 8             (c) the chief executive is taken to be the possessor of the trolley  
9                 for that Act; and
- 10            (d) the chief executive may dispose of the trolley under that Act,  
11                part 3 after 7 days after the day the collection notice is given;  
12                and
- 13            (e) if a trolley is to be destroyed under that Act, part 3—to the  
14                extent reasonably practicable, the component materials of the  
15                trolley must be recycled; and
- 16            (f) for that Act, section 26 (2) (a) and section 30 (1) (a), the  
17                reasonable costs incurred by the chief executive in complying  
18                with that Act are taken to include the cost of removing the  
19                trolley from the public place to the retention area.

20     **24L       Removing, defacing or interfering with removal notices**

- 21            (1) A person commits an offence if—
- 22               (a) a removal notice is placed on, or attached to, a shopping  
23                  trolley; and
- 24               (b) the person is not—
- 25                    (i) an authorised person or police officer; or
- 26                    (ii) the retailer; or
- 27                    (iii) a person authorised by the retailer to collect the trolley;  
28                    and

1 (c) the person removes, defaces or interferes with the notice.

2 Maximum penalty: 5 penalty units.

3 (2) An offence against this section is a strict liability offence.

4 **5 Magistrates Court (Litter Infringement Notices)**  
5 **Regulation 2004, schedule 1, new items 12 to 15**

6 *insert*

12	24D (1)	10	60
13	24F (3)	10	20
14	24H (5)	10	100
15	24L (1)	5	60

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2010.

**2 Notification**

Notified under the Legislation Act on 2010.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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