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## A BILL FOR AN ACT

RELATING TO FISHING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1           SECTION 1. Section 188-40.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           " ~~[+] §188-40.5 [+] [Sharks,]~~ Shark fins; prohibitions;  
4 administrative penalties. (a) No person shall knowingly  
5 [harvest] :

6           (1) Harvest shark fins from the territorial waters of the  
7           State ~~[, or land] ;~~

8           (2) Land shark fins in the State ~~[,]~~ ; or

9           (3) Have custody, control, or possession of any shark fin;  
10 unless the fins were taken from a shark landed whole in the  
11 State.

12           (b) Any person violating this section or any rule adopted  
13 pursuant to this section shall be guilty of a misdemeanor and  
14 shall be fined:

15           (1) \$500 for a first offense;

16           (2) \$2,000 for a second offense; and

17           (3) \$10,000 for a third or subsequent offense.

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1        ~~[(b)]~~ (c) Any person violating this section or any rule  
2 adopted thereunder shall be subject to:

3            (1) Seizure and forfeiture of shark fins, commercial  
4            marine license, vessel, and fishing equipment; ~~[and]~~

5            (2) An administrative fine of not less than \$5,000 and not  
6            more than \$15,000 ~~[-. In addition, the violator may be~~  
7            ~~assessed]~~; and

8            (3) Assessment of administrative fees and costs, and  
9            attorney's fees and costs.

10        ~~[(e)]~~ (d) Any criminal prosecution or penalty imposed for  
11 violation of this section or any rule adopted thereunder shall  
12 not preclude seizure and forfeiture pursuant to chapter 712A, or  
13 the imposition of any administrative fines and costs or  
14 attorney's fees and costs under this section.

15        ~~[(d) This section shall apply to the following vessels~~  
16 ~~when fishing outside the territorial waters of the State.~~

17        ~~(1) Vessels that hold a fishing license or permit issued~~  
18        ~~by the State as a prerequisite to participation in the~~  
19        ~~fishery, or that have owners or captains who hold a~~  
20        ~~fishing license or permit issued by the State as a~~  
21        ~~prerequisite to participation in the fishery;~~

22        ~~(2) Vessels that are registered under section 200-31; or~~



1       ~~(3) Vessels with federal documentation that lists as a~~  
2           ~~homeport a location within the State,~~  
3 ~~provided that the enforcement of this section on these vessels~~  
4 ~~outside the territorial waters of the State shall not apply if~~  
5 ~~enforcement of this section is in violation of, or in conflict~~  
6 ~~with, federal law.~~

7       ~~(e) Notwithstanding anything to the contrary, this section~~  
8 ~~shall apply only to vessels that off-load cargo in the State or~~  
9 ~~its territorial waters.]~~

10       (e) There shall be a rebuttable presumption that any shark  
11 fins landed from a vessel or found on board a vessel were taken,  
12 held, or landed in violation of subsection (a) if the total  
13 weight of shark fins landed or found on board exceeds five per  
14 cent of the total weight of shark carcasses landed or found on  
15 board.

16       (f) As used in this section:

17       "Land" or "landed" means when the shark or any part thereof  
18 is ~~[first]~~ brought to shore~~[-]~~ in Hawaii.

19       "Shark fin" means the raw or dried fin of a shark with the  
20 shark carcass removed.



1 "Whole" means the entire shark with its head and flesh  
2 intact, allowing for the removal of the blood, internal organs,  
3 and tail at sea.

4 (g) All fines, fees, or costs collected pursuant to this  
5 section shall be deposited to the credit of the state general  
6 fund. Any property forfeited pursuant to this section shall  
7 become property of the State."

8 SECTION 2. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun, before its effective date.

11 SECTION 3. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

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

14 ~~Blava~~  
Melé Carrell  
Almond Spivey III

INTRODUCED BY:

John M. Spivey  
Tom Brown  
K. L.

JAN 15 2010



**Report Title:**

Fishing; Sharks; Finning

**Description:**

Amends existing law prohibiting "shark finning" by making it a misdemeanor offense to harvest, land, or possess shark fins unless the fins were taken from a shark landed whole in the State. Imposes mandatory fines upon conviction in addition to existing civil sanctions. Establishes presumption regarding possession of shark fins not attached to the carcass.

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

