

JAN 28 2009

S.B. NO. 1628

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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) Import into the State shark fins harvested from  
9           outside the territorial waters of the State;

10          (3) Land shark fins in the State~~[, or]~~;

11          (4) Have custody, control, or possession of any shark fin;

12 unless the fins were taken from a shark landed whole in the  
13 State.

14          (b) Any person violating this section or any rule adopted  
15 thereunder shall be subject to:

16          (1) Seizure and forfeiture of shark fins, commercial  
17           marine license, vessel, and fishing equipment; and



1           (2) An administrative fine of not less than \$5,000 and not  
2           more than \$15,000. In addition, the violator may be  
3           assessed administrative fees and costs, and attorney's  
4           fees and costs.

5           (c) Any criminal prosecution or penalty imposed for  
6           violation of this section or any rule adopted thereunder shall  
7           not preclude seizure and forfeiture pursuant to chapter 712A, or  
8           the imposition of any administrative fines and costs or  
9           attorney's fees and costs under this section.

10          (d) This section shall apply to the following vessels when  
11          fishing outside the territorial waters of the State:

12          (1) Vessels that hold a fishing license or permit issued  
13          by the State as a prerequisite to participation in the  
14          fishery, or that have owners or captains who hold a  
15          fishing license or permit issued by the State as a  
16          prerequisite to participation in the fishery;

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

18          (3) Vessels with federal documentation that lists as a  
19          homeport a location within the State;

20          provided that the enforcement of this section on these vessels  
21          outside the territorial waters of the State shall not apply if



1 enforcement of this section is in violation of, or in conflict  
2 with, federal law.

3 (e) Notwithstanding anything to the contrary, this section  
4 shall apply [~~only~~] to vessels in transit through the State or  
5 its territorial waters or that stop to off-load cargo or refuel  
6 in the State or its territorial waters.

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

13 [~~(f)~~] (g) As used in this section:

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

16 "Shark fin" means the raw or dried fin of a shark with the  
17 shark carcass removed.

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



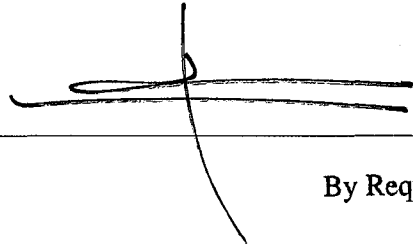
1           SECTION 2. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun, before its effective date.

4           SECTION 3. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: \_\_\_\_\_

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By Request



**Report Title:**

Fishing; Sharks; Finning

**Description:**

Prohibits importation to the State or possession of shark fins unless the fins were taken from a shark landed whole in the State. Applies prohibition to any vessel stopping to refuel or offload cargo or otherwise in transit through waters of the State. Establishes presumption regarding possession of shark fins not attached to the carcass.

