
A BILL FOR AN ACT

RELATING TO SHARK FINS.

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

1 SECTION 1. Sharks are one of the top predators in the
2 marine food chain and play an important role in our ocean's
3 ecosystem. Sharks have characteristics that make them more
4 vulnerable to overfishing than most fish, and data from state,
5 federal, and international agencies show a decline in the shark
6 populations both locally and worldwide. Unlike other fish
7 species, most sharks do not reach sexual maturity until seven to
8 twelve years of age and then only give birth to a small litter
9 of young. Thus, sharks cannot rebuild their populations quickly
10 once they are overfished.

11 The practice of shark finning, where a shark is caught, the
12 fin is cut off, and the shark is returned to the water, causes
13 tens of millions of sharks to die a slow death each year. Some
14 sharks starve to death, others are slowly eaten by other fish,
15 and some drown, because most sharks need to keep moving to force
16 water through their gills for oxygen.

17 Shark fins are the principal ingredient in shark fin soup,
18 and the demand for the delicacy has skyrocketed in recent years.



1 Despite state and federal laws to ban the practice of shark
2 finning, fishers continue the practice on a massive scale.
3 Since 1972 the number of blacktip sharks has fallen by ninety-
4 three per cent, tiger sharks by ninety-seven per cent, and bull
5 sharks, dusky sharks, and smooth hammerheads by ninety-nine per
6 cent. The rapid reduction of sharks is disrupting the ocean's
7 equilibrium.

8 Sharks are an essential element of the ocean's ecosystem,
9 and by reducing the demand for shark fins, Hawaii can help
10 ensure that sharks will not become extinct.

11 The purpose of this Act is to protect sharks by:

- 12 (1) Prohibiting the harvest, possession, sale, trade,
13 transfer, or distribution of a shark or parts of a
14 shark unless the shark is landed whole, and is
15 harvested under a commercial marine license or a
16 permit for research or other noncommercial uses; and
17 (2) Prohibiting under the Hawaii food, drug, and cosmetic
18 Act, the possession, sale, delivery for sale, holding
19 for sale, or offering for sale of any shark fin or
20 part of any shark fin.



1 SECTION 2. Chapter 188, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§188- shark fins; prohibited. (a) No person may
5 harvest, possess, sell, offer for sale, trade, transfer, or
6 distribute any shark or part of a shark unless:

7 (1) All shark fins are naturally attached to the shark
8 when landed;

9 (2) The shark was harvested in federal waters beyond three
10 nautical miles of any shore of the state, on the high
11 seas, or in state waters where shark fishing is
12 permitted; and

13 (3) The shark is harvested for any commercial purpose and:

14 (A) The shark is of the species *Isurus oxyrinchus*
15 (Mako shark) or *Alopias pelagicus* (Thresher
16 shark);

17 (B) The person harvesting the shark has a commercial
18 marine license; and

19 (C) After harvesting and landing the shark, the fins
20 are discarded;

21 or



- 1 (4) The shark is harvested for noncommercial purposes,
2 under a permit issued by the department under
3 subsection (b).
- 4 (b) The department may issue permits to harvest, possess,
5 sell, offer for sale, trade, transfer, or distribute a shark or
6 any of its parts for noncommercial purposes; provided that:
- 7 (1) The shark shall be landed whole as provided in
8 subsection (a) (1);
- 9 (2) The shark is to be used for bona fide research,
10 propagation, or resource conservation purposes;
- 11 (3) The applicant provides the applicant's full legal
12 name, street and mailing addresses, the vessel
13 registration number or documentation number, name and
14 length of the vessel, date and place of the proposed
15 landing, and such information as the department may
16 require regarding the purpose for which the shark is
17 needed; and
- 18 (4) The applicant reports to the department the location
19 where the shark was caught, length, estimated weight,
20 and species of shark, if known.
- 21 (c) Any person violating this section or any rule adopted
22 pursuant to this section shall be subject to:

1 (1) An administrative fine of not less than \$5,000 and not
2 more than \$15,000; and

3 (2) Seizure and forfeiture pursuant to chapter 712A of any
4 shark fins, commercial marine licenses, vessels,
5 fishing equipment, or other property involved in a
6 violation of this section,

7 and may be assessed administrative fees and costs, and
8 attorney's fees and costs.

9 The penalties under this section are in addition to any
10 other penalty provided by law.

11 (d) The department may adopt rules pursuant to chapter 91
12 to establish fees and for other purposes necessary to implement
13 this section.

14 (e) For purposes of this section:

15 "Land" or "landed" means when the shark or any part thereof
16 is first brought to shore.

17 "Shark fin" means any fin of a shark, including the tail.

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

21 SECTION 3. Section 328-6, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§328-6 Prohibited acts. The following acts and the
2 causing thereof within the [~~State~~] state by any person are
3 prohibited:

- 4 (1) The manufacture, sale, delivery, holding, or offering
5 for sale of any food, drug, device, or cosmetic that
6 is adulterated or misbranded;
- 7 (2) The adulteration or misbranding of any food, drug,
8 device, or cosmetic;
- 9 (3) The receipt in commerce of any food, drug, device, or
10 cosmetic that is adulterated or misbranded, and the
11 delivery or proffered delivery thereof for pay or
12 otherwise;
- 13 (4) The sale, delivery for sale, holding for sale, or
14 offering for sale of any article in violation of
15 section 328-11, 328-12, or 328-17;
- 16 (5) The dissemination of any false advertisement;
- 17 (6) The refusal to permit entry or inspection, or to
18 permit the taking of a sample, as authorized by
19 sections 328-22 and 328-23 to 328-27, or to permit
20 access to or copying of any record as authorized by
21 section 328-23;



- 1 (7) The giving of a guaranty or undertaking which guaranty
2 or undertaking is false, except by a person who relied
3 on a guaranty or undertaking to the same effect signed
4 by, and containing the name and address of the person
5 residing in the [~~State~~] state from whom the person
6 received in good faith the food, drug, device, or
7 cosmetic;
- 8 (8) The removal or disposal of a detained or embargoed
9 article in violation of sections 328-25 to 328-27;
- 10 (9) The alteration, mutilation, destruction, obliteration,
11 or removal of the whole or any part of the labeling
12 of, or the doing of any other act with respect to a
13 food, drug, device, or cosmetic, if the act is done
14 while the article is held for sale and results in the
15 article being adulterated or misbranded;
- 16 (10) Forging, counterfeiting, simulating, or falsely
17 representing, or without proper authority using any
18 mark, stamp, tag, label, or other identification
19 device authorized or required by rules adopted under
20 this part or regulations adopted under the Federal
21 Act;



- 1 (11) The use, on the labeling of any drug or in any
2 advertisement relating to the drug, of any
3 representation or suggestion that an application with
4 respect to the drug is effective under section 328-17,
5 or that the drug complies with that section;
- 6 (12) The use by any person to the person's own advantage,
7 or revealing other than to the department of health or
8 to the courts when relevant in any judicial proceeding
9 under this part, any information acquired under
10 authority of section 328-11, 328-12, 328-17, or 328-
11 23, concerning any method or process which as a trade
12 secret is entitled to protection;
- 13 (13) In the case of a prescription drug distributed or
14 offered for sale in this [~~State,~~] state, the failure
15 of the manufacturer, packer, or distributor thereof to
16 maintain for transmittal, or to transmit, to any
17 practitioner who makes written request for information
18 as to the drug, true and correct copies of all printed
19 matter which is required to be included in any package
20 in which that drug is distributed or sold, or such
21 other printed matter as is approved under the Federal
22 Act. Nothing in this paragraph shall be construed to



1 exempt any person from any labeling requirement
2 imposed by or under other provisions of this part;
3 (14) (A) Placing or causing to be placed upon any drug or
4 device or container thereof, with intent to
5 defraud, the trade name or other identifying
6 mark, or imprint of another or any likeness of
7 any of the foregoing; or
8 (B) Selling, dispensing, disposing of, or causing to
9 be sold, dispensed, or disposed of, or concealing
10 or keeping in possession, control, or custody,
11 with intent to sell, dispense, or dispose of, any
12 drug, device, or any container thereof, with
13 knowledge that the trade name or other
14 identifying mark or imprint of another or any
15 likeness of any of the foregoing has been placed
16 thereon in a manner prohibited by subparagraph
17 (A); or
18 (C) Making, selling, disposing of, or causing to be
19 made, sold, or disposed of, or keeping in
20 possession, control, or custody, or concealing,
21 with intent to defraud, any punch, die, plate, or
22 other thing designed to print, imprint, or

1 reproduce that trade name or other identifying
2 mark or imprint of another or any likeness of any
3 of the foregoing upon any drug, device, or
4 container thereof;

5 (15) Except as provided in part VI and section 461-1,
6 dispensing or causing to be dispensed a different drug
7 or brand of drug in place of the drug or brand of drug
8 ordered or prescribed without express permission in
9 each case of the person ordering or prescribing;

10 (16) The distribution in commerce of a consumer commodity
11 as defined in this part, if such commodity is
12 contained in a package, or if there is affixed to that
13 commodity a label, which does not conform to this part
14 and of rules adopted under authority of this part;
15 provided that this prohibition shall not apply to
16 persons engaged in business as wholesale or retail
17 distributors of consumer commodities except to the
18 extent that such persons:

19 (A) Are engaged in the packaging or labeling of such
20 commodities; or

21 (B) Prescribe or specify by any means the manner in
22 which such commodities are packaged or labeled;



1 (17) The selling or dispensing in restaurants, soda
2 fountains, drive-ins, lunch wagons, or similar public
3 eating establishments of imitation milk and imitation
4 milk products in place of fresh milk and fresh milk
5 products respectively; of liquid or dry products which
6 simulate cream but do not comply with content
7 requirements for cream in place of cream; of non-dairy
8 frozen desserts which do not comply with content
9 requirements for dairy frozen desserts in place of
10 dairy frozen desserts; and of any other imitation food
11 or one made in semblance of a genuine food in place of
12 such genuine food, unless the consumer is notified by
13 either proper labeling or conspicuous posted signs or
14 conspicuous notices on menu cards and advertisements
15 informing of such substitution, to include but not
16 limited to the substitution of imitation milk in milk
17 shake and malted milk drinks;

18 (18) Wilfully and falsely representing or using any
19 devices, substances, methods, or treatment as
20 effective in the diagnosis, cure, mitigation,
21 treatment, or alleviation of cancer. This paragraph
22 shall not apply to any person who depends exclusively



1 upon prayer for healing in accordance with teachings
2 of a bona fide religious sect, denomination, or
3 organization, nor to a person who practices such
4 teachings;

5 (19) The selling or offering for sale at any food facility
6 which serves or sells over the counter directly to the
7 consumer an unlabeled or unpackaged food that is a
8 confectionery which contains alcohol in excess of one-
9 half of one per cent by weight unless the consumer is
10 notified of that fact by either proper labeling or
11 conspicuous posted signs or conspicuous notices on
12 menu cards and advertisements;

13 (20) The sale to a person below the age of twenty-one years
14 of any food which is a confectionery which contains
15 alcohol in excess of one-half of one per cent by
16 weight [-]; and

17 (21) The possession, sale, delivery for sale, holding for
18 sale, or offering for sale, of any shark fin or part
19 of any shark fin."

20 SECTION 4. Section 188-40.5, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§188-40.5] Sharks, prohibitions, administrative~~
2 ~~penalties. (a) No person shall knowingly harvest shark fins~~
3 ~~from the territorial waters of the State, or land shark fins in~~
4 ~~the State, unless the fins were taken from a shark landed whole~~
5 ~~in the State.~~

6 ~~(b) Any person violating this section or any rule adopted~~
7 ~~thereunder shall be subject to:~~

8 ~~(1) Seizure and forfeiture of shark fins, commercial~~
9 ~~marine license, vessel, and fishing equipment; and~~

10 ~~(2) An administrative fine of not less than \$5,000 and not~~
11 ~~more than \$15,000. In addition, the violator may be~~
12 ~~assessed administrative fees and costs, and attorney's~~
13 ~~fees and costs.~~

14 ~~(c) Any criminal prosecution or penalty imposed for~~
15 ~~violation of this section or any rule adopted thereunder shall~~
16 ~~not preclude seizure and forfeiture pursuant to chapter 712A, or~~
17 ~~the imposition of any administrative fines and costs or~~
18 ~~attorney's fees and costs under this section.~~

19 ~~(d) This section shall apply to the following vessels when~~
20 ~~fishing outside the territorial waters of the State:~~

21 ~~(1) Vessels that hold a fishing license or permit issued~~
22 ~~by the State as a prerequisite to participation in the~~



1 ~~fishery, or that have owners or captains who hold a~~
2 ~~fishing license or permit issued by the State as a~~
3 ~~prerequisite to participation in the fishery;~~

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

5 ~~(3) Vessels with federal documentation that lists as a~~
6 ~~homeport a location within the State;~~

7 ~~provided that the enforcement of this section on these vessels~~
8 ~~outside the territorial waters of the State shall not apply if~~
9 ~~enforcement of this section is in violation of, or in conflict~~
10 ~~with, federal law.~~

11 ~~(c) Notwithstanding anything to the contrary, this section~~
12 ~~shall apply only to vessels that off-load cargo in the State or~~
13 ~~its territorial waters.~~

14 ~~(f) As used in this section:~~

15 ~~"Land" or "landed" means when the shark or any part thereof~~
16 ~~is first brought to shore.~~

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

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



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. If any provision of this Act, or the
4 application thereof to any person or circumstance is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act, which can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 7. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 8. This Act shall take effect on July 1, 2050.



Report Title:

Possession, Sale, and Distribution of Shark Fins

Description:

Prohibits the harvest, possession, sale, or distribution of a shark or shark parts unless landed whole and harvested under a commercial marine license or noncommercial permit. Prohibits under Hawaii Food, Drug, and Cosmetic Act, possession or sale of shark fins. Effective July 1, 2050. (SB2169 HD1)

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