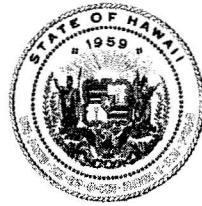


LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the House Committee on
WATER, LAND, & OCEAN RESOURCES**

**Friday, January 29, 2010
9:00 AM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 1775
RELATING TO FISHING**

House Bill 1775 would amend Section 188-40.5, Hawaii Revised Statutes (HRS) by changing the section title to specifically refer to shark fins, and adding additional conditions to current restrictions regarding the harvest, importation, landing, custody or possession of shark fins. It would further prohibit vessel transit or refueling when carrying shark fins in the State or its waters. Finally, the measure would establish rebuttable presumption of violation should a vessel be found to contain shark fins greater than 5% of the total weight of shark carcasses found on board. The Department of Land and Natural Resources (Department) has concerns that this bill raises legal questions that should be examined by the Department of the Attorney General, as it proposes measures that would exceed the authority of the Department in terms of prohibiting the importation, the harvest of shark fins outside the state territorial waters, and prohibiting the transiting or refueling of vessels in the State. Such measures would require consultation with the federal Departments of Commerce and Transportation prior to consideration. In addition, a prohibition on the importation of shark fins from outside state waters could lead to a redistribution of fishing effort on sharks within state waters, thereby having an undesirable transferred impact to the State's marine resources.

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



**THE HUMANE SOCIETY
OF THE UNITED STATES**

TO: Honorable Chair Ito, Vice-Chair Har

COMMITTEE ON WATER, LAND AND OCEAN RESOURCES

DATE: Tuesday, January 29, 2010, 9:00am

RE: Testimony and Proposed amendments to HB1775; Related to shark-finning

Submitted by: Inga Gibson, Hawaii State Director, The Humane Society of the United States,
P.O. Box 89131, Honolulu, HI 96830, igibson@hsus.org, 808-922-9910

Dear Chair Ito, Vice-Chair Har and Committee Members,

On behalf of our more than 47,700 members and supporters in Hawaii, The Humane Society of the United States (HSUS) greatly appreciates the opportunity to comment and provide suggested amendments on HB 1775; Related to shark-finning.

We welcome any effort to provide greater protection for sharks by strengthening legislative measures to prevent shark finning; an issue that our membership cares deeply about and is reflected in two other bills under consideration this session; SB 2169, introduced by Senator Hee and HB 1959, introduced by Representative Mizuno.

The State of Hawaii has been a leader in establishing strong legislation and enforcement mechanisms to prevent sharks from being finned. Current state legislation [§188-40.5] states that, "No person shall knowingly harvest shark fins from the territorial waters of the State, or land shark fins in the State, unless the fins were taken from a shark landed whole in the State."

To further strengthen existing statute we recommend the following amendments:

- Prohibition on sale and distribution of fins (from SB 2169)

Each year, millions of sharks are hunted, have their fins sliced off, and then are thrown back into the ocean, dead or dying, all due to the high demand for fins for shark fin soup. In order to help reduce the demand that leads to this cruel and wasteful practice, we support language included in SB 2169 to "prohibit the sale and distribution of fins" in Hawaii. If Hawaii adopts such language, it would be the first state to explicitly prohibit the sale of fins.

- Close additional loophole to prevent vessels from simply transferring illegal fins to other vessels for sale or distribution.

In May 2002 the U.S. Coast Guard confiscated more than 32 tons of shark fins from the King Diamond II, a vessel operating out of Hawaii, the vessel fought this seizure in court and won its case due to an unintended loophole in the law-- that applies to just "fishing" vessels and not "all vessels." This case revealed a strong need for all conservation and management measures to apply to all vessels rather than just fishing vessels. Federal legislation including the proposed



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Shark Conservation Act (H.R. 81/S. 850) has been proposed and is pending in Congress, to close this and similar loopholes.

We also believe it would be extremely helpful if the trans-shipment of sharks and their fins, both to and from any and all vessels subject to Hawaii state law, be totally prohibited. Vessels needing to comply with the regulations when docking at Hawaiian ports should not be permitted to transfer a whole shark or any part of a shark – regardless of where it was caught - to vessels that, for one reason or another, are not subject to state law and which could buy whole sharks from them, remove the fins and discard the carcasses at sea. Nor should vessels subject to state law be permitted to buy or transfer shark parts from other vessels that may not have caught them in compliance with state law.

- Should apply to all vessels outside of Hawaii if not in conflict with other federal laws and apply to all vessels in Hawaii waters (per HB 1959)

As we will explain in a section below, Hawaii state regulations banning shark finning are stronger than the regulations that currently apply to the federal fishery in the Pacific. In order to properly manage shark populations off the coast of Hawaii and protect them from over-exploitation, it is necessary for the fins-attached policy to apply to all vessels in Hawaii's waters.

- Remove reference to the term “ratio” (major loophole) and instead insert “fins attached” language (this essential term is lacking in Pacific laws but present in the Gulf of Mexico, Caribbean and Atlantic waters)

We have concerns about adding a rebuttable presumption relating to the weight ratio of fins to carcasses. HSUS believes that the island's commendable efforts to increase protection for vulnerable shark species could be severely compromised by adding any language referencing a rebuttable presumption which could be used in place of the current fins-attached policy.

Where the 5% weight ratio is used, it has been subject to differing interpretations and has resulted in serious enforcement issues. Over the past few years, a number of the world's biggest shark fishing nations and entities, such as Spain and Taiwan, have argued that the 5% ratio is too low and is inconsistent with the average ratios that they have recorded in their own fisheries and they have provided data that show ratios that are more than double that. However, US catch data show clearly that the fins of almost all species commonly caught in domestic fisheries fall easily below the 5% limit. This “room for maneuver” means that it is more than likely that many sharks are still finned in US fisheries that use the ratio system, which is not in the interests of conservation or sustainable fishing. The issue of weight ratios has become highly contentious in all international forums where shark finning is discussed and has served to deflect the debate



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away from the pressing need for immediate and forceful management measures for sharks. Where sharks must be landed with their fins attached in the natural way, these arguments about the “correct” weight ratio have become irrelevant.

Aside from the prevention of shark finning, a fins-attached policy also provides for more accurate management of sharks and thus better conservation and management practices. It is very difficult to identify some shark species solely by looking at the fins. Understanding and assessing shark stocks, shark catches, bycatches and landings is a fundamental pre-requisite for effective management. When fins and carcasses can be landed separately, a considerable amount of data is lost.

We are working with Congress on the Shark Conservation Act (H.R. 81/S. 850) which has been passed by the House of Representatives and the Senate Commerce Committee. Congress banned shark finning in 2000, but enforcement is complex and there is room for cheating. Because of this, the National Marine Fisheries Service implemented regulations that require federal shark fisheries in the Atlantic Ocean and Gulf of Mexico to land sharks with their fins still naturally attached. Atlantic states followed suit. However federal shark fisheries in the Pacific still use the imprecise ratio system. HSUS believes a fins-attached policy is the only way to ensure that sharks are not finned.

Thank you for your consideration of these amendments and the opportunity to provide comments on this very important issue.