

ACT 277

H.B. NO. 1947

A Bill for an Act Relating to Fisheries.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the vast ocean area surrounding the State has historically contained bountiful natural resources and productive fisheries that have had great commercial, recreational, social, cultural, and sustenance values to Hawaii's people. Many of these fisheries are now in decline and in critical need of effective conservation and management measures to prevent further decline and to create a pattern of sustainable use for future generations. One of the fisheries that has shown the most urgent need for conservation and management is the shark fishery.

Sharks are one of the top predators in the marine food chain and play an important role in our ocean's ecosystem. Sharks have characteristics that make them more vulnerable to overfishing than most fish, and data from state, federal, and

international agencies show a decline in the shark populations both locally and worldwide. Unlike other fish species, most sharks do not reach sexual maturity until seven to twelve years of age and then only give birth to a small litter of young. Thus, sharks cannot rebuild their populations quickly once they are overfished.

About one hundred thousand sharks (two thousand metric tons) are taken each year by Hawaii-based longliners. Data from log books and observers indicate that eighty-six per cent of the shark are alive when brought to the boat but are killed just for their fins; approximately sixty per cent are then finned. That means once caught, the fins are removed, and the carcasses are discarded. These fins are landed in Hawaii as unreported, untaxed catch. An additional one hundred fifty metric tons of shark fins are taken elsewhere in the Pacific, and are then transshipped unreported and untaxed into and through the State.

The legislature finds shark finning to be a wasteful and inhumane practice, and the landing of unreported shark fins contributes little if anything to the economy of this State. The purpose of this Act is to prevent the practice of shark finning by requiring that sharks caught in the territorial waters of the State be landed whole.

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

“§188- Sharks; prohibitions; administrative penalties. (a) 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.

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

- (1) Seizure and forfeiture of shark fins, commercial marine license, vessel, and fishing equipment; and
- (2) An administrative fine of not less than \$5,000 and not more than \$15,000. In addition, the violator may be assessed administrative fees and costs, and attorney’s fees and costs.

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

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

- (1) Vessels that hold a fishing license or permit issued by the State as a prerequisite to participation in the fishery, or that have owners or captains who hold a fishing license or permit issued by the State as a prerequisite to participation in the fishery;
- (2) Vessels that are registered under section 200-31; or
- (3) Vessels with federal documentation that lists as a homeport a location within the State;

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

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

(f) As used in this section:

“Land” or “landed” means when the shark or any part thereof is first brought to shore.

“Shark fin” means the raw or dried fin of a shark with the shark carcass removed.

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“Whole” means the entire shark with its head and flesh intact, allowing for the removal of the blood, internal organs, and tail at sea.”

SECTION 3. Section 187A-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Harvest” means the taking and retaining of marine life by any means whatsoever.

“Shark” means any member of the class Chondrichthyes, including but not limited to: inshore species of galapagos shark (Carcharhinus galapagensis), reef blacktip shark (Carcharhinus melanopterus), gray reef shark (Carcharhinus amblyrhynchos), big-nosed shark (Carcharhinus altimus), tiger shark (Galeocerdo cuvier), blacktip shark (Carcharhinus limbatus), smooth hammerhead shark (Sphyrna zygaena), reef whitetip shark (Triaenodon obesus), scalloped hammerhead shark (Sphyrna lewini), sandbar shark (Carcharhinus plumbeus), offshore species of white shark (Carcharodon carcharias), shortfin mako shark (Isurus oxyrinchus), silky shark (Carcharhinus falciformis), blue shark (Prionace glauca), whale shark (Rhincodon typus), thresher shark (Alopias vulpinus), oceanic whitetip shark (Carcharhinus longimanus), cookie cutter shark (Isistius brasiliensis), and megamouth shark (Megachasma pelagios).”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. New statutory material is underscored.¹

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

(Approved June 22, 2000.)

Note

1. Edited pursuant to HRS §23G-16.5.