

ACT 148

S.B. NO. 2169

A Bill for an Act Relating to Shark Fins.

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

SECTION 1. 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.

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

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

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

"§188- Shark fins; prohibited. (a) It shall be unlawful for any person to possess, sell, offer for sale, trade, or distribute shark fins.

(b) Notwithstanding subsection (a), any person who holds a license or permit issued by the department of land and natural resources to conduct research or for educational purposes possesses, sells, offers for sale, trades, or distributes shark fins shall not be subject to the penalties in this section.

(c) Prior to July 1, 2011, any restaurant holding a valid certificate, permit, or license issued by the department of health under section 321-11 may possess, sell, offer for sale, trade, or distribute shark fins possessed by that restaurant as of July 1, 2010 which are prepared for consumption.

(d) Any person violating this section or any rule adopted pursuant to this section shall be penalized as follows:

- (1) For a first offense, by an administrative fine of not less than \$5,000 and not more than \$15,000;
- (2) For a second offense, by an administrative fine of not less than \$15,000 and not more than \$35,000. In addition, shark fins, commercial marine licenses, vessels, fishing equipment, or other property involved in a violation of this section shall be subject to seizure and forfeiture pursuant to chapter 712A; and
- (3) For a third or subsequent offense, by an administrative fine of not less than \$35,000 and not more than \$50,000 or by imprisonment of not more than one year, or both. In addition, shark fins, commercial marine licenses, vessels, fishing equipment, or other property involved in a violation of this section shall be subject to seizure and forfeiture pursuant to chapter 712A.

(e) In addition to any penalties imposed under subsection (d), any person violating this section or any rule adopted under it shall be subject to any other penalties authorized by section 188-70, and may be assessed administrative fees and costs, and attorney's fees and costs.

(f) The department may adopt rules pursuant to chapter 91 necessary for the purposes of this section.

(g) For the purpose of this section, "shark fin" means the raw or dried fin or tail of a shark."

SECTION 3. Section 188-40.5, Hawaii Revised Statutes, is repealed.

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

SECTION 6. This Act shall take effect on July 1, 2010.

(Approved May 28, 2010.)

Note

1. Edited pursuant to HRS §23G-16.5.