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# 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.



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

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

7 "§188- Shark fins; prohibited. (a) It shall be  
8 unlawful for any person to possess, sell, offer for sale, trade,  
9 or distribute shark fins.

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

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

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



1        (1) For a first offense, by an administrative fine of not  
2        less than \$5,000 and not more than \$15,000;

3        (2) For a second offense, by an administrative fine of not  
4        less than \$15,000 and not more than \$35,000. In  
5        addition, shark fins, commercial marine licenses,  
6        vessels, fishing equipment, or other property involved  
7        in a violation of this section shall be subject to  
8        seizure and forfeiture pursuant to chapter 712A; and

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

17       (e) In addition to any penalties imposed under subsection  
18       (d), any person violating this section or any rule adopted under  
19       it shall be subject to any other penalties authorized by section  
20       188-70, and may be assessed administrative fees and costs, and  
21       attorney's fees and costs.



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

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

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

7        [~~§188-40.5~~ ~~Sharks; prohibitions; administrative~~  
8 ~~penalties.~~ (a) ~~No person shall knowingly harvest shark fins~~  
9 ~~from the territorial waters of the State, or land shark fins in~~  
10 ~~the State, unless the fins were taken from a shark landed whole~~  
11 ~~in the State.~~

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

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

20        ~~(c) Any criminal prosecution or penalty imposed for~~  
21 ~~violation of this section or any rule adopted thereunder shall~~  
22 ~~not preclude seizure and forfeiture pursuant to chapter 712A, or~~



1 ~~the imposition of any administrative fines and costs or~~  
2 ~~attorney's fees and costs under this section.~~

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

5 ~~(1) Vessels that hold a fishing license or permit issued~~  
6 ~~by the State as a prerequisite to participation in the~~  
7 ~~fishery, or that have owners or captains who hold a~~  
8 ~~fishing license or permit issued by the State as a~~  
9 ~~prerequisite to participation in the fishery;~~

10 ~~(2) Vessels that are registered under section 200-31, or~~

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

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

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

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

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



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

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

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

9       SECTION 5. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

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

12



**Report Title:**

Possession, Sale, and Distribution of Shark Fins

**Description:**

Prohibits the possession, sale, and distribution of shark fins in the State; repeals the ban on the practice of shark finning.  
(CD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

