

BILL ANALYSIS

Senate Research Center

S.B. 1839
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Shark finning is the process where fishermen catch and slice off the top fin, sides, and tail of the shark while the animal is still alive. After, the fishermen dispose of the shark back in the water where the shark will die as it is immobilized. Although the process and possession of shark fin for commercial and private use is illegal, it is still a common practice in Texas. In 2015, H.B. 1579 attempted to protect sharks from an unnecessarily cruel death due to the practice of shark finning by making it a misdemeanor for a person to buy or offer to buy, sell or offer to sell, possess for the purpose of sale, transport, or ship for the purpose of selling, bartering, or exchanging a shark fin, regardless of where the shark was taken or caught.

In recent years, the number of shark fin cases being developed by Texas game wardens has increased tremendously. In 2022, two game wardens found almost 400 shark fins and 30 pounds of frozen shark fins inside a seafood restaurant in San Antonio. Prosecutors and game wardens who have attempted to file or prosecute cases related to the sale or purchase of shark fins in recent years have raised issues with the ability to prove a crime was committed. The statute does not clearly identify that noncompliance with the requirements identified is an offense in Section 66.2161, Parks and Wildlife Code.

S.B. 1839 will address these concerns by making it clear and direct when identifying prohibited actions related to the sale and purchase of shark fins. In addition, the bill will provide direct requirements related to processing which includes adding destruction and disposal requirements.

As proposed, S.B. 1839 amends current law relating to the offense of selling or purchasing shark fins or products containing shark fin.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Parks and Wildlife Commission in SECTION 1 (Section 66.2161, Parks and Wildlife Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 66.2161, Parks and Wildlife Code, by amending Subsections (a), (b), and (e) and adding Subsections (a-1), (a-2), (b-3), (b-4), and (g), as follows:

(a) Defines "destroy," "place of business," and "sale." Makes nonsubstantive changes.

(a-1) Authorizes a person to process in a place of business or restaurant a shark carcass into steaks or fillets only if:

(1) the steaks and fillets do not contain any portion of a shark fin; and

(2) each of the shark's fins is destroyed and discarded in the manner prescribed by the Texas Parks and Wildlife Department (TPWD) immediately on detaching the fins from the remainder of the carcass.

(a-2) Provides that a person commits an offense if the person fails to immediately destroy and discard a shark fin as required by Subsection (a-1).

(b) Provides that a person commits an offense if the person buys or offers to buy, sells or offers to sell, possesses for the purpose of sale, transports or ships for the purpose of sale, or advertises for sale a shark fin regardless of where the shark was taken or caught. Deletes existing text prohibiting a person from buying or offering to buy, selling or offering to sell, possessing for the purpose of sale, transporting, or shipping for the purpose of sale, barter, or exchange a shark fin regardless of where the shark was taken or caught.

(b-3) Provides that each shark fin a person purchases or possesses for the purpose of sale in violation of Section 66.2161 (Sale or Purchase of Shark Fins) constitutes a separate offense.

(b-4) Provides that, for purposes of Subsection (b), proof that the person:

(1) possessed a shark fin, other than a shark fin that has been destroyed, in a place of business or restaurant or on any commercial vessel on the waters of this state is prima facie evidence that the person possessed the shark fin for the purpose of sale; and

(2) advertised for sale a shark fin, a product containing shark fin, or a product represented to be or to contain shark fin is prima facie evidence that the person offered a shark fin for sale.

(e) Requires the warden or other peace officer to seize and hold as evidence the shark fin, product containing shark fin, or product represented to be or to contain shark fin when a person is charged with violating this section. Requires TPWD, notwithstanding Section 12.109 (Confiscation and Disposition of Aquatic Products), on a final court ruling, to destroy the shark fin, product containing shark fin, or product represented to be or to contain shark fin. Makes nonsubstantive changes.

(g) Authorizes the Texas Parks and Wildlife Commission to adopt rules as necessary to administer this section.

SECTION 2. Transfers Sections 66.218(c) and (d), Parks and Wildlife Code, to Section 66.2161, Parks and Wildlife Code, redesignates them as Sections 66.2161(b-1) and (b-2), Parks and Wildlife Code, and amends them, as follows:

(b-1) Provides that a person who violates this section or a proclamation or rule adopted under this section commits an offense that is a Class B Parks and Wildlife Code misdemeanor. Makes nonsubstantive changes.

(b-2) Requires that on conviction the defendant be punished for a Class A Parks and Wildlife Code misdemeanor if it is shown at the trial for a violation of this section or a proclamation or rule adopted under this section that the defendant has been convicted within five years before the trial date of a violation of this section. Makes nonsubstantive changes.

SECTION 3. Repealers: Sections 66.2161(c) (relating to authorizing a person to buy or offer to buy, sell or offer to sell, possess for the purpose of sale, transport, or ship for the purpose of sale, barter, or exchange a shark carcass that retains all of its fins naturally attached to the carcass through some portion of uncut skin) and (f) (relating to authorizing a person to possess a shark fin under certain circumstances), Parks and Wildlife Code.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2023.