

BILL ANALYSIS

Senate Research Center
88R20129 BEE-F

C.S.S.B. 1839
By: Hinojosa
Water, Agriculture & Rural Affairs
4/13/2023
Committee Report (Substituted)

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.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1839 amends current law relating to the unlawful sale or purchase of shark fins or shark fin products and creates a criminal offense.

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, as follows:

Sec. 66.2161. New heading: SALE OR PURCHASE OF SHARK FINS OR SHARK FIN PRODUCTS; OFFENSE. (a) Defines "destroy," "place of business," and "sale." Makes nonsubstantive changes.

(b) 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.

(c) Provides that a person commits an offense if the person:

(1) fails to immediately destroy and discard a shark fin as required by Subsection (b) or otherwise violates that subsection;

(2) 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.

(3) violates a proclamation or rule adopted under this section.

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, bartering, or exchanging a shark fin regardless of where the shark was taken or caught.

(d) Provides that an offense under this section is a Class B Parks and Wildlife Code misdemeanor, except as provided by Subsection (e).

(e) Provides that an offense under this section is a Class A Parks and Wildlife Code misdemeanor if it is shown on the trial of the offense that the defendant has previously been convicted of an offense under this section during the five-year period preceding the date of the trial of the current offense.

(f) Provides that each shark fin a person purchases or possesses for the purpose of sale in violation of this section constitutes a separate offense.

(g) Provides that proof that the person 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, for purposes of Subsection (c)(2), prima facie evidence that the person possessed the shark fin for the purpose of sale.

(h) Provides that proof that the person advertised for sale a shark fin, a product containing shark fin, or a product represented to be or to contain shark fin is, for purposes of Subsection (c)(2), prima facie evidence that the person offered a shark fin for sale.

(i) Authorizes TPWD, notwithstanding Subsection (c)(2), rather than Subsection (b), to issue a permit for the possession, transport, sale, or purchase of shark fins for a bona fide scientific research purpose. Provides that Subsection (c)(2) does not apply to a person who possesses, transports, sells, or purchases a shark fin in accordance with a permit issued under this subsection. Makes a nonsubstantive change.

(j) 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 an offense under, rather than 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.

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

Deletes existing text 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. Deletes existing text authorizing a

person to possess a shark fin if the person holds the appropriate state or federal license or permit authorizing the taking or landing of a shark for recreational or commercial purposes, the shark fin is taken from a shark that the person has taken or landed, and the shark fin is taken in a manner consistent with the person's license.

SECTION 2. Repealers: Sections 66.218(c) (relating to providing that a person who violates Section 66.2161 or a proclamation adopted under that section commits an offense that is a Class B Parks and Wildlife Code misdemeanor) and (d) (relating to requiring, for a violation of Section 66.2161, the defendant to be punished for a Class A Parks and Wildlife Code misdemeanor under certain circumstances), Parks and Wildlife Code.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2023.