

SUBJECT: Banning the sale of shark fins and creating penalties

COMMITTEE: Culture, Recreation and Tourism — committee substitute recommended

VOTE: 6 ayes — Guillen, Dukes, Aycock, Kuempel, Larson, Nevárez

0 nays

1 absent — Smith

WITNESSES: For — Anna Clark, Shark Stewards; Katie Jarl, Humane Society of the US; David Mcguire; Shark Stewards; Bruce Melton, Eloy Javier Mondragon; Marisol Ramirez; Anne Rogers; (*Registered, but did not testify*: Joy Benson, Brad Boney; Elizabeth Carey, ASPCA; Heather Carpenter, Humane Society of the United States; Kelley Dwyer; Ashira Edelheit Rice; Nathaniel Edelheit-Rice; Melissa Gaskill; Mark Hall; Kelly Hanes, Austin Humane Society; Jessica Johnson, ASPCA; Luke Metzger, Environment Texas; Gretchen Meyer; Joey Park, Coastal Conservation Association Texas; Billy Phenix, Coastal Conservation Association; Jonathan Rice; Naomi Rice; Yaira Robinson, Texas Interfaith Center for Public Policy; Melissa Smith, ASPCA; Robert "Skip" Trimble, Texas Humane Legislation Network; Scheleen Walker, Sierra Club Lone Star Chapter)

Against — Jeanette Moll, Texas Public Policy Foundation (*Registered, but did not testify*: Monica Kache)

On — Brandi Reeder, Texas Parks and Wildlife Department

BACKGROUND: Parks and Wildlife Code, sec. 66.216 lists the conditions under which a person may or may not possess certain finfish with the head or tail of the fish removed.

DIGEST: **Ban on sale and possession of shark fins with intent to sell.** The bill would add Parks and Wildlife Code, sec. 66.2161 (Sale or Purchase of Shark Fins) to prohibit a person from buying, selling, offering to buy or sale, possessing for the purpose of sale, transporting, or shipping for the purpose of sale, bartering, or exchanging a shark fin. With the exception of shark fins caught outside the state and transported through the state on a

common carrier to a point outside the state, the prohibition would apply, regardless of where a shark was taken or caught, to the possession or transportation of a shark fin with the intent to sell the fin and to the sale or purchase of a shark fin.

**Possession of Headed or Tailed Fish.** CSHB 852 would modify the existing prohibition on the possession of headless or tailless saltwater finfish. The bill would allow the head of a shark to be removed, but not the tail.

**Penalties.** Under CSHB 852, a person who violated Parks and Wildlife, sec. 66.2161 or a regulation adopted under that section would commit a class B Parks and Wildlife Code misdemeanor (up to 180 days in jail and/or a fine from \$200 to \$2,000).

A person who had previously violated Parks and Wildlife, sec. 66.2161 or a regulation adopted under that section and had been convicted within five years before the trial date of the most recent violation would be punished for a class A Parks and Wildlife Code misdemeanor (up to one year in jail and/or \$500 to \$4,000).

**Disposal.** HB 852 would require a game warden or other peace officer to seize and hold the shark fin as evidence. TPWD would be required to destroy the shark fin on the final ruling of a court, regardless of provisions Parks and Wildlife Code, sec. 12.109 that require seafood to be sold at auction.

**Scientific Research.** CSHB 852 would allow TPWD to issue permits for the possession, transport, sale, or purchase of shark fins for scientific research.

**Definitions.** The bill would define shark by species of the subclass Elasmobranchii. Shark fin would be the fresh and uncooked, or cooked, frozen, dried, or otherwise processed, fin or tail of a shark.

CSHB 852 would take effect July 1, 2014, and would apply only to an offense committed on or after that date.

SUPPORTERS  
SAY:

Texas should join the national and international effort to end to shark finning and the sale and possession of shark fins with intent to sell. Shark finning is the practice of catching a shark, cutting off its fin and tail, and

throwing the live shark back into the water. The shark dies of shock, blood loss, predation, or the inability to move. Worldwide, an estimated 73 million sharks are killed per year for their fins. Many of the shark fins are sold to China for use in shark fin soup. CSHB 852 would end shark finning in Texas waters, while protecting the rights of anglers to catch sharks for recreational purposes and commercial fishermen to catch sharks for the sale of shark meat.

The Gulf of Mexico's shark fishery, due to shark finning and low reproductive rates, is not a sustainable fishery. A reduction in the size of the shark fishery in the Gulf of Mexico could have wider ecological effects, including disease outbreaks in prey species.

While current federal law banning shark finning controls shark handling practices, it does not restrict the number of sharks killed or the possession of shark fins. CSHB 852 would fill a gap by banning the sale of shark fins or the possession of shark fins with the intent to sell. The ban would include the sale of shark-fin products, such as shark-fin soup. CSHB 852 would end the trade of shark fins within the state and stop the export of shark fins to other countries.

The committee substitute would address the concern of recreational fishermen who were concerned that they would be banned from catching sharks. The substitute was modified to ensure that sharks could still be caught by anglers and the heads of sharks removed, a practice that is necessary to preserve shark meat.

Texas is one of the nation's leaders in coastal conservation and should join with other coastal states, such as California, Hawaii, and Washington, to ban the sale and trade of shark fins and end the cruel practice of shark finning.

**OPPONENTS  
SAY:**

CSHB 852 is addressing a problem that does not occur in Texas waters, and shark finning is outlawed by federal law. The bill would have the effect of criminalizing the use of the whole carcasses of sharks by disallowing the use of tail and fins. There is no biological basis for the bill, and it would not help rebuild the population of any species. The bill would not be effective in ending the shark-fin trade; it simply would drive the trade underground.

There are already limits on the number of sharks that can be caught per

boat per day. The bill was developed without the input of commercial fishermen and charter operators and outside the normal mechanism of establishing fishery guidelines through fisheries management councils.

OTHER  
OPPONENTS  
SAY:

CSHB 852 is just one more example of the over criminalization in Texas law. Individuals engaged in the practice of possessing or selling shark fins may deserve a civil fine, but not jail time.