

By: Morrison

H.B. No. 4692

Substitute the following for H.B. No. 4692:

By: Ashby

C.S.H.B. No. 4692

A BILL TO BE ENTITLED

AN ACT

relating to the unlawful sale or purchase of shark fins or shark fin products; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 66.2161, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.2161. SALE OR PURCHASE OF SHARK FINS OR SHARK FIN PRODUCTS; OFFENSE. (a) In this section:

(1) "Destroy" means, with respect to a shark fin, to denature the fin for the purpose of rendering the fin inedible.

(2) "Place of business" has the meaning assigned by Section 47.001.

(3) "Sale" includes barter and exchange.

(4) "Shark" means any species of the subclass Elasmobranchii.

(5) [~~2~~] "Shark fin" means the fresh and uncooked, or cooked, frozen, dried, or otherwise processed, detached fin or tail of a shark.

(b) A person may 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 department immediately on detaching

1 the fins from the remainder of the carcass.

2 (c) A person commits an offense if the person:

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

6 (2) buys or offers to buy, sells or offers to sell,  
7 possesses [~~may not buy or offer to buy, sell or offer to sell,~~  
8 ~~possess~~] for the purpose of sale, transports or ships [~~transport,~~  
9 ~~or ship~~] for the purpose of sale, or advertises for sale [~~barter, or~~  
10 ~~exchange~~] a shark fin regardless of where the shark was taken or  
11 caught; or

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

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

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

21 (f) Each shark fin a person purchases or possesses for the  
22 purpose of sale in violation of this section constitutes a separate  
23 offense.

24 (g) For purposes of Subsection (c)(2), proof that the  
25 person possessed a shark fin, other than a shark fin that has been  
26 destroyed, in a place of business or restaurant or on any commercial  
27 vessel on the waters of this state is prima facie evidence that the

1 person possessed the shark fin for the purpose of sale.

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

6 ~~[(c) A person may buy or offer to buy, sell or offer to sell,~~  
7 ~~possess for the purpose of sale, transport, or ship for the purpose~~  
8 ~~of sale, barter, or exchange a shark carcass that retains all of its~~  
9 ~~fins naturally attached to the carcass through some portion of~~  
10 ~~uncut skin.]~~

11 (i) ~~[(d)]~~ Notwithstanding Subsection (c)(2) ~~[(b)]~~, the  
12 department may issue a permit for the possession, transport, sale,  
13 or purchase of shark fins for a bona fide scientific research  
14 purpose. Subsection (c)(2) does not apply to a person who  
15 possesses, transports, sells, or purchases a shark fin in  
16 accordance with a permit issued under this subsection.

17 (j) ~~[(e)]~~ When a person is charged with an offense under  
18 ~~[violating]~~ this section, the warden or other peace officer shall  
19 seize and hold ~~[the shark fin]~~ as evidence the shark fin, product  
20 containing shark fin, or product represented to be or to contain  
21 shark fin. Notwithstanding Section 12.109, on a final court  
22 ruling, the department shall destroy the shark fin, product  
23 containing shark fin, or product represented to be or to contain  
24 shark fin.

25 (k) The commission may adopt rules as necessary to  
26 administer this section.

27 ~~[(f) A person may possess a shark fin if:~~

1           ~~[(1) the person holds the appropriate state or federal~~  
2 ~~license or permit authorizing the taking or landing of a shark for~~  
3 ~~recreational or commercial purposes;~~

4           ~~[(2) the shark fin is taken from a shark that the~~  
5 ~~person has taken or landed; and~~

6           ~~[(3) the shark fin is taken in a manner consistent with~~  
7 ~~the person's license.]~~

8           SECTION 2. Sections 66.218(c) and (d), Parks and Wildlife  
9 Code, are repealed.

10          SECTION 3. The changes in law made by this Act apply only to  
11 an offense committed on or after the effective date of this Act. An  
12 offense committed before the effective date of this Act is governed  
13 by the law in effect on the date the offense was committed, and the  
14 former law is continued in effect for that purpose. For purposes of  
15 this section, an offense was committed before the effective date of  
16 this Act if any element of the offense occurred before that date.

17          SECTION 4. This Act takes effect September 1, 2023.