

BILL ANALYSIS

C.S.H.B. 852
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Culture, Recreation & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Shark fins are sold around the world, and observers note that this product can demand up to \$700 per pound in some countries. Interested parties contend that the practice of acquiring the fins, known as shark finning, is inhumane and results in high numbers of dead sharks as a result of the preferred method of shark finning, which involves catching the sharks, removing their fins, and then throwing the sharks back into the ocean because far more fins can fit on a boat than full sharks. These parties have also expressed concern that overfishing is leading to the depletion of shark populations, which negatively affects the ocean's ecosystem. Although the practice of shark finning already is illegal under federal law, C.S.H.B. 852 seeks to complement existing federal and state law by establishing restrictions relating to the sale or purchase of shark fins and relating to the possession of sharks that have the tail removed.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 852 amends the Parks and Wildlife Code to remove shark from among the species of finfish that are excepted from the prohibition against possessing a finfish taken from coastal water that has the tail removed without the fish being finally processed and delivered to a final destination or to a certified dealer.

C.S.H.B. 852 prohibits a person from buying or offering to buy a shark fin, selling or offering to sell a shark fin, possessing a shark fin for the purpose of sale, transporting a shark fin, or shipping a shark fin for the purpose of sale, barter, or exchange. The bill applies that prohibition to the possession or transportation of any shark fin with the intent to sell the fin regardless of where the shark was taken or caught and to the sale or purchase of any shark fin regardless of where the shark was taken or caught. The bill makes an exception for the possession or transportation in Texas of a shark fin taken or caught outside Texas and transported from a point outside Texas by common carrier without being unloaded in Texas to a point of delivery outside Texas. The bill authorizes the Parks and Wildlife Department to issue a permit for the possession, transport, sale, or purchase of shark fins for a bona fide scientific research purpose. The bill requires a warden or other peace officer to seize and hold the shark fin as evidence when a person is charged with violating the bill's provisions relating to the sale or purchase of shark fins and requires the department to destroy the shark fin on a final court ruling.

C.S.H.B. 852 makes it a Class B Parks and Wildlife Code misdemeanor offense to violate the bill's provisions relating to the sale or purchase of shark fins or a proclamation adopted under those provisions and enhances the penalty to a Class A Parks and Wildlife Code misdemeanor if it is shown at the trial for the violation that the defendant has been convicted within five years before the trial date of another violation of those bill provisions.

EFFECTIVE DATE

July 1, 2014.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 852 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 66.216, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.216. POSSESSION OF HEADED OR TAILED FISH. No person may possess a finfish of any species taken from coastal water, except broadbill swordfish or [~~shark, and~~] king mackerel, that has the head or tail removed unless the fish has been finally processed and delivered to the final destination or to a certified wholesale or retail dealer.

SECTION 2. Subchapter C, Chapter 66, Parks and Wildlife Code, is amended by adding Section 66.2161 to read as follows:

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

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

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

(b) A person may not 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 fin.

(c) Except as provided by Subsection (d), this section applies to the possession, transportation, sale, or purchase of any shark fin regardless of where the shark was taken or caught.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 66.216, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.216. POSSESSION OF HEADED OR TAILED FISH. (a) No person may possess a finfish of any species taken from coastal water, except broadbill swordfish, shark, or [~~and~~] king mackerel, that has the head [~~or tail~~] removed unless the fish has been finally processed and delivered to the final destination or to a certified wholesale or retail dealer.

(b) No person may possess a finfish of any species taken from coastal water, except broadbill swordfish or king mackerel, that has the tail removed unless the fish has been finally processed and delivered to the final destination or to a certified wholesale or retail dealer.

SECTION 2. Subchapter C, Chapter 66, Parks and Wildlife Code, is amended by adding Section 66.2161 to read as follows:

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

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

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

(b) A person may not 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 fin.

(c) Except as provided by Subsection (d), this section applies to:

(1) the possession or transportation of any shark fin with the intent to sell the fin regardless of where the shark was taken or caught; and

(2) the sale or purchase of any shark fin regardless of where the shark was taken or

(d) This section does not apply to the possession or transportation in this state of a shark fin taken or caught outside this state and transported from a point outside this state by common carrier without being unloaded in this state to a point of delivery outside this state.

(e) Notwithstanding Subsection (b), the department may issue a permit for the possession, transport, sale, or purchase of shark fins for a bona fide scientific research purpose.

(f) When a person is charged with violating this section, the warden or other peace officer shall seize and hold the shark fin as evidence. Notwithstanding Section 12.109, on a final court ruling, the department shall destroy the shark fin.

SECTION 3. Section 66.218, Parks and Wildlife Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) 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.

(d) If it is shown at the trial for a violation of Section 66.2161 or a proclamation adopted under that section that the defendant has been convicted within five years before the trial date of a violation of that section, on conviction the defendant shall be punished for a Class A Parks and Wildlife Code misdemeanor.

SECTION 4. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 5. This Act takes effect July 1, 2014.

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(d) This section does not apply to the possession or transportation in this state of a shark fin taken or caught outside this state and transported from a point outside this state by common carrier without being unloaded in this state to a point of delivery outside this state.

(e) Notwithstanding Subsection (b), the department may issue a permit for the possession, transport, sale, or purchase of shark fins for a bona fide scientific research purpose.

(f) When a person is charged with violating this section, the warden or other peace officer shall seize and hold the shark fin as evidence. Notwithstanding Section 12.109, on a final court ruling, the department shall destroy the shark fin.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.