|  |
| --- |
| BILL ANALYSIS |

|  |
| --- |
| S.B. 1839 |
| By: Hinojosa |
| Culture, Recreation & Tourism |
| Committee Report (Unamended) |

|  |
| --- |
| **BACKGROUND AND PURPOSE** In recent years, the number of cases being developed by Texas game wardens against the illegal sale and purchase or possession of shark fins has increased tremendously. Unfortunately, many of these cases have not been prosecuted due to concerns with current statutory language that have been brought to the attention of the Parks and Wildlife Department by local game wardens and prosecutors who have attempted to file or prosecute cases related to the illegal sale or purchase of shark fins in recent years. S.B. 1839 seeks to address these concerns by, among other revisions, clearly identifying the prohibited actions related to the sale and purchase of shark fins, clarifying the requirements related to processing them, and granting the Parks and Wildlife Commission rulemaking authority to address additional needs or concerns related to the sale or purchase of shark fins. This will be very beneficial when addressing necessary changes or developing procedures on such topics as how to lawfully destroy a shark fin. |
| **CRIMINAL JUSTICE IMPACT**It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision. |
| **RULEMAKING AUTHORITY** It is the committee's opinion that rulemaking authority is expressly granted to the Parks and Wildlife Commission in SECTION 1 of this bill. |
| **ANALYSIS** S.B. 1839 amends the Parks and Wildlife Code to establish that a person commits a Class B Parks and Wildlife Code misdemeanor offense for the unlawful sale or purchase of shark fins or shark fin products as follows:* the person processes in a place of business or restaurant a shark carcass into steak or fillets and fails to immediately destroy and discard a shark fin in violation of the bill's requirement that the steaks and fillets do not contain any portion of a shark fin and each of the shark's fins is destroyed and discarded in the manner prescribed by the Parks and Wildlife Department (TPWD) immediately on detaching the fins from the remainder of the carcass; or
* the person otherwise violates that requirement.

The bill defines "destroy" for that purpose as to denature the fin for the purpose of rendering the fin inedible and provides for the meaning of "place of business" by reference to its definition in provisions relating to commercial fishing licenses. S.B. 1839 includes advertising for sale a shark fin regardless of where the shark was taken or caught among the conduct constituting the offense and establishes 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 prima facie evidence that the person offered a shark fin for sale, which is prohibited conduct under existing law. Additionally, the bill establishes that for purposes of the prohibited possession of a shark fin for the purpose of sale under existing law, 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 prima facie evidence that the person possessed the shark fin for the purpose of sale. S.B. 1839 exempts a person who possesses, transports, sells, or purchases a shark fin in accordance with a permit issued by TPWD for a bona fide scientific research purpose from the provisions making such conduct an offense. The bill establishes that each shark fin a person purchases or possesses for the purpose of sale in violation of provisions regarding the unlawful sale or purchase of shark fins or shark fin products constitutes a separate offense. The bill includes product containing shark fin or product represented to be or to contain shark fin among the items, in addition to a shark fin, that a warden or other peace officer is required to seize and hold as evidence when a person is charged with an offense under such provisions and that TPWD is required to destroy on a final court ruling.S.B. 1839 removes provisions authorizing a person to do the following:* 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
* possess a shark fin if they hold an appropriate state or federal license or permit authorizing the taking or landing of a shark for recreational or commercial purposes and the shark fin is taken from a shark they have taken or landed in a manner consistent with the license.

S.B. 1839 authorizes the Parks and Wildlife Commission to adopt rules as necessary to administer provisions relating to the offense for the unlawful sale or purchase of shark fins or shark fin products and makes it an offense to violate a proclamation or rule adopted under those provisions.S.B. 1839 applies only to an offense committed on or after the bill's effective date and provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date. S.B. 1839 repeals Sections 66.218(c) and (d), Parks and Wildlife Code. |
| **EFFECTIVE DATE** September 1, 2023. |