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By:  Hinojosa S.B. No. 1839

A BILL TO BE ENTITLED

AN ACT

relating to the offense of selling or purchasing shark fins or products containing shark fin.

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

SECTION 1.  Section 66.2161, Parks and Wildlife Code, is amended by amending Subsections (a), (b), and (e) and adding Subsections (a-1), (a-2), (b-3), (b-4), and (g) to read as follows:

(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.

(a-1)  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 the fins from the remainder of the carcass.

(a-2)  A person commits an offense if the person fails to immediately destroy and discard a shark fin as required by Subsection (a-1).

(b)  A person commits an offense if 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 [~~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 regardless of where the shark was taken or caught.

(b-3)  Each shark fin a person purchases or possesses for the purpose of sale in violation of this section constitutes a separate offense.

(b-4)  For purposes of Subsection (b), proof that the person:

(1)  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; and

(2)  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.

(e)  When a person is charged with violating this section, the warden or other peace officer shall seize and hold [~~the shark fin~~] as evidence the shark fin, product containing shark fin, or product represented to be or to contain shark fin. Notwithstanding Section 12.109, on a final court ruling, the department shall destroy the shark fin, product containing shark fin, or product represented to be or to contain shark fin.

(g)  The commission may adopt rules as necessary to administer this section.

SECTION 2.  Sections 66.218(c) and (d), Parks and Wildlife Code, are transferred to Section 66.2161, Parks and Wildlife Code, redesignated as Sections 66.2161(b-1) and (b-2), Parks and Wildlife Code, and amended to read as follows:

(b-1) [~~(c)~~]  A person who violates this section [~~Section 66.2161~~] or a proclamation or rule adopted under this [~~that~~] section commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

(b-2) [~~(d)~~]  If it is shown at the trial for a violation of this section [~~Section 66.2161~~] or a proclamation or rule adopted under this [~~that~~] section that the defendant has been convicted within five years before the trial date of a violation of this [~~that~~] section, on conviction the defendant shall be punished for a Class A Parks and Wildlife Code misdemeanor.

SECTION 3.  Sections 66.2161(c) and (f), Parks and Wildlife Code, are repealed.

SECTION 4.  The changes in law made by this Act apply 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 September 1, 2023.