By:  Hinojosa S.B. No. 1839

(In the Senate - Filed March 8, 2023; March 20, 2023, read first time and referred to Committee on Water, Agriculture & Rural Affairs; April 17, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 8, Nays 0; April 17, 2023, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Perry           X

Hancock         X

Blanco          X

Flores          X

Gutierrez                 X

Johnson         X

Kolkhorst       X

Sparks          X

Springer        X

COMMITTEE SUBSTITUTE FOR S.B. No. 1839 By:  Flores

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 the fins from the remainder of the carcass.

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

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

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

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

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

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

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

(g)  For purposes of Subsection (c)(2), 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.

(h)  For purposes of Subsection (c)(2), 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.

[~~(c)  A person may 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.~~]

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

(j) [~~(e)~~]  When a person is charged with an offense under [~~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.

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

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

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

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

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

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

SECTION 3.  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 4.  This Act takes effect September 1, 2023.

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