

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 46 (Senator Colburn)
Education, Health, and Environmental Affairs

**Natural Resources - Shark or Elasmobranch Fins - Restriction on Possession,
Distribution, or Consumption**

This bill generally prohibits a person from possessing, selling, offering for sale, trading, or distributing a shark fin. The bill authorizes a person to possess a shark fin and use an unprocessed ray or skate as bait in specified circumstances. Also, a museum, college, or university is authorized to possess a shark fin if the shark fin is used solely for display or research purposes and is prohibited from selling a shark fin when it is no longer used for such purposes. The bill also prohibits a person from selling or consuming shark fin soup. A “shark fin” is the raw, dried, or otherwise processed detached fin or tail of a shark or other elasmobranch. The Department of Natural Resources (DNR) must adopt implementing regulations.

Fiscal Summary

State Effect: This estimate assumes that DNR can enforce and implement the bill with existing budgeted resources; however, enforcement may be difficult because provisions of the bill are unclear. The application of existing penalty provisions to the bill’s prohibition is not expected to materially affect State finances.

Local Effect: The bill is not expected to materially affect local operations or finances. The application of existing penalty provisions to the bill’s prohibition is not expected to materially affect local finances.

Small Business Effect: Meaningful.

Analysis

Bill Summary: 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 or elasmobranch for recreational or commercial purposes; (2) it is taken for personal use; and (3) it is taken in a manner consistent with the person's license. A person may use an unprocessed ray or skate as bait if (1) the person holds the appropriate State or federal license or permit authorizing the taking or landing of a ray or skate; (2) the person uses the unprocessed ray or skate as bait in a coastal area; and (3) the National Marine Fisheries Service has not found that the species is overfished.

Current Law: The Secretary of Natural Resources is responsible for conservation management of the fish, fisheries, fish resources, and aquatic life within the State. Current State regulations require all sharks harvested by (1) recreational anglers to have heads, tails, and fins attached naturally to the carcass through landing and (2) commercial watermen to have the tails and fins attached naturally to the carcass through landing.

Generally, a person who violates fish and fishery provisions of the Natural Resources Article is guilty of a misdemeanor and, upon conviction, subject to a fine of up to \$1,000. A person who commits a second or subsequent offense is subject to a fine of up to \$2,000 or imprisonment for up to one year, or both. A second or subsequent offense is one which has occurred within two years of any prior violation.

Among other things, the federal Shark Conservation Act of 2010 (H.R. 81) requires that all sharks in the United States be brought to shore with their fins naturally attached. The Act applies to 40 shark species (*e.g.*, Hammerhead, Mako, Tiger, and White sharks) and the Spiny Dogfish.

Background: DNR's Fisheries Service is responsible for managing commercial and recreational fishing in the State. The Fisheries Service seeks to develop a management framework for the conservation and equitable use of fishery resources; manage fisheries in balance with the ecosystem for present and future generations; monitor and assess the status and trends of fishery resources; and provide high-quality, diverse, and accessible fishing opportunities. Maryland manages sharks under the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Atlantic Coastal Sharks.

While Maryland does not allow shark finning, shark fins may be sold and fins removed after the shark is landed or under specified ratios provided under federal and interstate management.

There is a small recreational and commercial shark fishery in Maryland. Approximately 15 commercial watermen report landing sharks in State waters every year. **Exhibit 1**

illustrates that the State's 2011 reported shark harvest totaled over 1.5 million pounds, with a dockside value of over \$653,000. The majority of the harvest was composed of spiny dogfish, which are typically sold whole for their meat. In addition, the State's 2011 skate harvest totaled 132,401 pounds, with a dockside value of approximately \$102,300. Data on the number of rays (an elasmobranch) harvested and processed in the State is not readily available; however, DNR advises that wholesalers/dealers in Maryland do process skates and rays.

Exhibit 1
2011 Reported Shark Harvest in Maryland

<u>Shark Species</u>	<u>Total Harvest (pounds)</u>	<u>Total Dockside Value</u>
Smooth Dogfish	394,208	\$373,177
Spiny Dogfish	1,099,869	255,843
Other	14,293	24,095
Total	1,508,370	\$653,115

Note: The dockside values may be for whole sharks, fins, or a combination of both.

Source: Department of Natural Resources; Atlantic Coastal Cooperative Statistics Program

Shark finning is a widespread practice that has contributed to a significant decline in some shark species. Shark finning refers to the removal and retention of shark fins and the discarding of the rest of the fish. There is an international demand for shark fins to use in soup, among other purposes.

Several states have passed laws that seek to limit or prohibit the possession, sale, trade, and/or distribution of shark fins, including California, Hawaii, Oregon, and Washington.

Small Business Effect: The bill has a meaningful impact on small fishing businesses that harvest shark as well as seafood wholesalers, dealers, truckers, and restaurants that process, transport, or sell shark and/or shark fins. Because the bill limits the possession of shark fins, it may limit the State's commercial shark fishery, affecting approximately 15 small shark fishing businesses. The bill has a negative impact on small seafood wholesalers/dealers, stores, and restaurants to the extent that they can no longer use or sell shark, skate, and ray fins. DNR advises that 10 restaurants in the State are known to serve shark fin soup. The total number of small businesses impacted by the bill cannot be reliably estimated at this time.

Additional Comments: Several provisions of the bill are unclear. The bill authorizes possession of a shark fin if, among other things, a person has a recreational or

commercial fishing license *and* if the shark fin is taken for personal use. It appears contradictory to require a commercial fishing license but only authorize personal use. In addition, the term “unprocessed” is unclear. The bill authorizes the use of unprocessed ray or skate as bait; however, if unprocessed means the fish has not been dismantled, watermen will not be able to continue to use rays and skate as bait, as the fish are often cut into pieces to be used as bait. Furthermore, watermen that use ray and skate as bait do not necessarily have the license required to take or land ray or skate, which the bill requires in order to possess such fish.

The bill prohibits selling or consuming shark fin soup; however, DNR does not traditionally enforce laws that prohibit or regulate the sale or consumption of food.

Additional Information

Prior Introductions: Legislation prohibiting the possession, sale, trade, or distribution of a shark fin was introduced during the 2012 session as SB 465/HB 393. SB 465 passed the Senate with amendments. The House Environmental Matters Committee held a hearing on both bills, but no further action was take on either bill.

Cross File: None.

Information Source(s): Department of Natural Resources, Humane Society, World Wildlife Fund, Department of Legislative Services

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