

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 528
Finance

(Senator Colburn)

Business Regulation - Shark Fin Soup - Prohibition on Sale or Consumption

This bill prohibits, except for in Montgomery County, a restaurant or grocery store from selling shark fin soup and also prohibits a person from consuming shark fin soup, subject to specified civil penalties.

Fiscal Summary

State Effect: The Department of Labor, Licensing, and Regulation (DLLR) can adopt regulations to implement the bill with existing budgeted resources. The bill's penalty provisions are not expected to materially affect State finances.

Local Effect: The bill is not expected to materially affect local operations or finances.

Small Business Effect: Meaningful.

Analysis

Bill Summary: A grocery store or restaurant as defined in the bill may not sell shark fin soup. "Shark fin" means the raw, dried, or otherwise processed detached fin or tail of a shark or other elasmobranch (*e.g.*, a ray or a skate). A violation of the bill is subject to a fine of up to \$15,000, \$35,000, or \$50,000 for a first, second, or third or subsequent offense, respectively. DLLR must adopt regulations to implement the bill.

Current Law: Provisions regarding restaurant licensing in the Business Regulation Article do not apply in Montgomery County. A person must have a restaurant license issued by the clerk of the circuit court of the appropriate jurisdiction to operate a

restaurant or other eating place in the State. License fees range from \$10 to \$50, depending on the location of the business.

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 violation of the fish and fishery provisions of the Natural Resources Article is a misdemeanor and subject to a maximum penalty of a \$1,000 fine. A second or subsequent violation is subject to a maximum penalty of a \$2,000 fine and/or up to one year imprisonment.

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: An “elasmobranch” generally refers to sharks, rays, and skates – fish with skeletons composed of cartilage. The Fisheries Service within the Department of Natural Resources (DNR) 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.

State Fiscal Effect: DLLR is required to adopt regulations to implement – not enforce – the bill. Therefore, this estimate assumes that DLLR can adopt regulations and meet the bill’s requirements with existing resources. However, if the intent of the bill is to require DLLR to *actively enforce* the bill’s prohibition of shark fin soup sales and consumption, then general fund expenditures rise significantly for DLLR to hire staff, develop an administration and enforcement framework, and conduct random audits to ensure compliance. The bill’s penalty provisions are not expected to materially affect State finances.

Small Business Effect: The bill has a negative impact on restaurants and grocery stores to the extent that they can no longer sell shark fin soup. DNR advises that approximately 10 restaurants in the State are known to serve shark fin soup. The bill also 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 sale of shark fin soup, it may limit the State’s commercial shark fishery, affecting approximately 15 small shark fishing businesses. The total number of small businesses impacted by the bill cannot be reliably estimated at this time.

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 taken on either bill.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Atlantic Coast Cooperative Statistics Program; Department of Natural Resources; Department of Legislative Services

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