



GOV. MSG. NO. **606**

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

May 28, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 28, 2010, the following bill was signed into law:

SB2169 SD2 HD2 CD1

A BILL FOR AN ACT
RELATING TO SHARK FINES.
ACT 148 (10)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

Approved by the Governor

on MAY 28 2010

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

ACT 148

S.B. NO.

2169
S.D. 2
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO SHARK FINS.

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

1 SECTION 1. Sharks are one of the top predators in the
2 marine food chain and play an important role in our ocean's
3 ecosystem. Sharks have characteristics that make them more
4 vulnerable to overfishing than most fish, and data from state,
5 federal, and international agencies show a decline in the shark
6 populations both locally and worldwide. Unlike other fish
7 species, most sharks do not reach sexual maturity until seven to
8 twelve years of age and then only give birth to a small litter
9 of young. Thus, sharks cannot rebuild their populations quickly
10 once they are overfished.

11 The practice of shark finning, where a shark is caught, the
12 fin is cut off, and the shark is returned to the water, causes
13 tens of millions of sharks to die a slow death each year. Some
14 sharks starve to death, others are slowly eaten by other fish,
15 and some drown because most sharks need to keep moving to force
16 water through their gills for oxygen.



1 Sharks are an essential element of the ocean's ecosystem,
2 and by reducing the demand for shark fins, Hawaii can help
3 ensure that sharks will not become extinct.

4 SECTION 2. Chapter 188, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§188- Shark fins; prohibited. (a) It shall be
8 unlawful for any person to possess, sell, offer for sale, trade,
9 or distribute shark fins.

10 (b) Notwithstanding subsection (a), any person who holds a
11 license or permit issued by the department of land and natural
12 resources to conduct research or for educational purposes
13 possesses, sells, offers for sale, trades, or distributes shark
14 fins shall not be subject to the penalties in this section.

15 (c) Prior to July 1, 2011, any restaurant holding a valid
16 certificate, permit, or license issued by the department of
17 health under section 321-11 may possess, sell, offer for sale,
18 trade, or distribute shark fins possessed by that restaurant as
19 of July 1, 2010 which are prepared for consumption.

20 (d) Any person violating this section or any rule adopted
21 pursuant to this section shall be penalized as follows:



- 1 (1) For a first offense, by an administrative fine of not
2 less than \$5,000 and not more than \$15,000;
- 3 (2) For a second offense, by an administrative fine of not
4 less than \$15,000 and not more than \$35,000. In
5 addition, shark fins, commercial marine licenses,
6 vessels, fishing equipment, or other property involved
7 in a violation of this section shall be subject to
8 seizure and forfeiture pursuant to chapter 712A; and
- 9 (3) For a third or subsequent offense, by an
10 administrative fine of not less than \$35,000 and not
11 more than \$50,000 or by imprisonment of not more than
12 one year, or both. In addition, shark fins,
13 commercial marine licenses, vessels, fishing
14 equipment, or other property involved in a violation
15 of this section shall be subject to seizure and
16 forfeiture pursuant to chapter 712A.
- 17 (e) In addition to any penalties imposed under subsection
18 (d), any person violating this section or any rule adopted under
19 it shall be subject to any other penalties authorized by section
20 188-70, and may be assessed administrative fees and costs, and
21 attorney's fees and costs.



1 (f) The department may adopt rules pursuant to chapter 91
2 necessary for the purposes of this section.

3 (g) For the purpose of this section, "shark fin" means the
4 raw or dried fin or tail of a shark."

5 SECTION 3. Section 188-40.5, Hawaii Revised Statutes, is
6 repealed.

7 ~~["~~§188-40.5~~ Sharks; prohibitions; administrative~~
8 ~~penalties. (a) No person shall knowingly harvest shark fins~~
9 ~~from the territorial waters of the State, or land shark fins in~~
10 ~~the State, unless the fins were taken from a shark landed whole~~
11 ~~in the State.~~

12 ~~(b) Any person violating this section or any rule adopted~~
13 ~~thereunder shall be subject to:~~

- 14 ~~(1) Seizure and forfeiture of shark fins, commercial~~
15 ~~marine license, vessel, and fishing equipment; and~~
16 ~~(2) An administrative fine of not less than \$5,000 and not~~
17 ~~more than \$15,000. In addition, the violator may be~~
18 ~~assessed administrative fees and costs, and attorney's~~
19 ~~fees and costs.~~

20 ~~(c) Any criminal prosecution or penalty imposed for~~
21 ~~violation of this section or any rule adopted thereunder shall~~
22 ~~not preclude seizure and forfeiture pursuant to chapter 712A, or~~



1 ~~the imposition of any administrative fines and costs or~~
2 ~~attorney's fees and costs under this section.~~

3 ~~(d) This section shall apply to the following vessels when~~
4 ~~fishing outside the territorial waters of the State:~~

5 ~~(1) Vessels that hold a fishing license or permit issued~~
6 ~~by the State as a prerequisite to participation in the~~
7 ~~fishery, or that have owners or captains who hold a~~
8 ~~fishing license or permit issued by the State as a~~
9 ~~prerequisite to participation in the fishery;~~

10 ~~(2) Vessels that are registered under section 200 31; or~~

11 ~~(3) Vessels with federal documentation that lists as a~~
12 ~~homeport a location within the State;~~

13 ~~provided that the enforcement of this section on these vessels~~
14 ~~outside the territorial waters of the State shall not apply if~~
15 ~~enforcement of this section is in violation of, or in conflict~~
16 ~~with, federal law.~~

17 ~~(e) Notwithstanding anything to the contrary, this section~~
18 ~~shall apply only to vessels that off load cargo in the State or~~
19 ~~its territorial waters.~~

20 ~~(f) As used in this section:~~

21 ~~"Land" or "landed" means when the shark or any part thereof~~
22 ~~is first brought to shore.~~



1 ~~"Shark fin" means the raw or dried fin of a shark with the~~
2 ~~shark carcass removed.~~

3 ~~"Whole" means the entire shark with its head and flesh~~
4 ~~intact, allowing for the removal of the blood, internal organs,~~
5 ~~and tail at sea."]~~

6 SECTION 4. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 5. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect on July 1, 2010.

12

APPROVED this 28 day of MAY, 2010



GOVERNOR OF THE STATE OF HAWAII