

Testimony: Examining the Regulation of Shark Finning in Texas

Witness: Brandi L. Reeder, Assistant Commander – Fisheries Law Administrator of the Texas Parks and Wildlife Department - Law Enforcement Division

Hearing: 02 November 2017, House Committee on Oversight and Government Reform, Subcommittee on the Interior, Energy, and Environment

Introduction

Good morning Chairman Farenthold, and members of the Subcommittee. My name is Brandi Reeder and I am an Assistant Commander Game Warden and the Fisheries Law Administrator for the Texas Parks and Wildlife Department (TPWD) Law Enforcement (LE) Division. I spent 12, of my 18 years with the Law Enforcement Division patrolling the mid-coast of Texas enforcing saltwater regulations. I have served in my current capacity as Fisheries Law Administrator for just over 5 years. The role of the Fisheries Law Administrator is to work with TPWD resource divisions, game warden field personnel, other governmental agencies, and non-governmental agencies to assist development of statutes and regulations that are enforceable and sufficient to deter violation. The TPWD Law Enforcement Division works cooperatively with the U.S. Coast Guard, National Oceanic Atmospheric Administration Office of Law Enforcement, U.S. Fish and Wildlife, and Border Patrol to ensure state and federal fisheries priorities are addressed.

Overview

The Texas Parks and Wildlife Department is the state agency primarily responsible for the management of native species and enforcement of statutes and regulations promulgated to ensure protection of the state's natural resources. Texas has 376 miles of coastline and approximately 4 million surface acres of saltwater. Through TPWD Coastal Fisheries creel surveys and the commercial trip ticket program it is evident the shark fishery in Texas is minimal. The commercial shark trade in Texas has been almost non-existent for many years; and while the recreational fishing pressure remains high, there appears to be a slight decline in harvest. Recreational catch-and-release of sharks appears to be increasing. The practice of shark finning has only been observed in limited instances over the course of the last ten years.

Background of State Shark Fin Legislation

Texas Representative Lucio III filed HB 852 in 2013 during the 83rd Texas Legislative Session to proactively combat shark finning in Texas. The Bill proposed to provide an offense to buy, sell, offer for sale, possess for the purpose of sale, transport, or shipment for the purpose of sale, barter, or exchange a shark fin. The offense provided a Class B Parks and Wildlife misdemeanor penalty, fine of \$200- \$2000 and up to 180 days in jail, for the first offense but increased to a Class A Parks and Wildlife Misdemeanor, \$500 - \$4000 fine and up to one year in jail, upon the second conviction within five years. However, HB 852 did not pass. Representative Lucio III filed HB 1579 during the 84th Texas Legislative Session in 2015. The Bill not only made it unlawful to possess shark fins or sharks without fins naturally attached to the carcass but also made it illegal to transport shark fins through the state of Texas by a commercial carrier for delivery outside the state, even if fins were taken lawfully in another. A shark carcass could only be processed, beyond removing the head, once at the individual's final destination or delivered to a wholesale or retail fish dealer. Both versions of the Bill authorized TPWD LE to confiscate any form of shark fins to include cooked product and mandated destruction of shark fins. HB 1579 passed in the 84th Legislative session with an effective date of July 1, 2016. As with any new statute or regulation, TPWD informed the public of the new law through a press release while LE focused on education of individuals known to be in violation of the statute prior to the effective date.

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Prohibited and Allowable Shark Species

Allowable Shark Species (15) – Atlantic sharpnose, Blacktip, Bonnethead, Bull, Finetooth, Spinner, Hammerhead, Lemon, Blacknose, Thresher, Tiger, Blue, Shortfin Mako, Nurse, and Oceanic whitetip.

Prohibited Shark Species (21) – Atlantic angel, Basking, Bigeye sand tiger, Bigeye sixgill, Bigeye thresher, Bignose, Caribbean reef, Caribbean sharpnose, Dusky, Galapagos, Longfin mako, Narrowtooth, Night, Sandbar, Sand tiger, Sevengill, Silky, Sixgill, Smalltail, Whale, and White.

Coastal Fisheries Landings Data:

Commercial Shark Landings in Texas		
Year	Total_Weight_lbs	Estimated # Landed
2012	0	0
2013	1587.99	11
2014	2620.76	6
2015	159	3
2016	446.59	3
2017	141	7
Total	4955.34	30

Recreational Sharks Landed in Texas	
Year	Total Sharks Intercepted
2012	207
2013	260
2014	170
2015	188
2016	144
2017	10
Total	979

*Coastal Fisheries data, in the charts above, is based on calendar year and is complete through May of 2017.

Game Warden Citation Information

Note: Case numbers relayed are recorded per year by citations/warnings License Year (LY): August 31 - September 1					
Violation Code	Charge Title	LY2013-14	LY2014-15	LY2015-16	LY2016 -17
1110	Exceeding the <i>Bag</i> Limit of Sharks	2/0	2/3	4/1	9/3
1117	Exceeding <i>Possession</i> Limit of Sharks	3/1	1/1	1/1	2/1
1129	Possess Undersized Shark	9/18	12/4	8/12	6/12
1165	Possess for sale, purchase, transport of Shark Fins (Class B)				44/0

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Incidents where Shark Fins were observed

In 2012, Texas Game Wardens in the Galveston filed two shark fin cases; one involved 47 shark fins on a Commercial Gulf Shrimp Boat, the other incident involving a Commercial Individual Fishing Quota (IFQ) Vessel in possession of coral and shark fins.

On September 16, 2017 Collin County and Dallas County Game Wardens visited several restaurants after receiving specific information from the Animal Welfare Institute in Washington D.C. in regards to possible violation concerning illegal possession and/or sale of shark fins. Several restaurants in the Dallas/Fort Worth area (DFW) advertised shark fin soup on their menus. Upon arrival at the first establishment both wardens looked at the house menu and did not notice the sale of shark fin soup, but after asking for the dish from the hostess, they were provided a different menu. On this menu they found that the restaurant did in fact serve the dish and both wardens requested to speak with the manager. The manager did confirm they served the dish and escorted the wardens to the walk in freezer where six one-gallon sized bags of shark fin soup were frozen and hidden behind several other items in the back of the freezer. During the investigation, the restaurant manager notified the wardens that the supermarket next door also sold shark fins in their fresh sea food department. Upon arrival at the supermarket, wardens discovered six incomplete shark carcasses, missing tail fins, in the display case for sale and immediately asked for the department manager. Upon request of a manager, a male individual turned around and walked away, so both wardens quickly followed him. He was later found in the walk in freezer trying to remove a box containing several other shark carcasses missing tail fins, another box was discovered totaling 38 incomplete shark carcasses. Cases are pending. Published in a recent TPWD press release <https://tpwd.texas.gov/newsmedia/releases/?req=20171027a> .



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Illegal Mexican Lancha Incursions in Texas State Waters

Mexican fishermen continue to fish illegally in Texas waters. Unfortunately, it is difficult to estimate the impact of this illegal fishing on shark populations off Texas. Since 2011, Texas Game Wardens have seized over 25 miles (132,810 feet) of illegal gill net and over 20 miles (106,000 feet) of illegal longline from the Gulf of Mexico. Sharks are commonly caught in these gear. The United States Coast Guard estimated that 800,000 pounds of Red Snapper have been illegal harvested annually during incursions of Mexican lanchas in 2013 and 2014. U.S. Coast Guard and TPWD game wardens have seen a reduction in sharks retained in lancha encounters as the market for red snapper has increased dramatically. Fewer sharks are being observed in confiscated gill nets and longline gear. Anecdotally, recent shark encounters have been only a quarter of the numbers observed in previous years. When illegal Mexican fishermen are intercepted in state waters, Texas Game Wardens seize the vessel and gear and take the Captain and crew directly before a magistrate before they are turned over to Border Patrol for deportation.



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United States Coast Guard Encountered Lancha Incursions

USCG Reported Numbers					
Lanchas	2012	2013	2014	2015	2016
Seized	22	35	33	40	45
Sighted	108	124	160	160	141

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Summary

Shark fishing is not a large fishery in Texas, commercially or recreationally, resulting in few observed cases of shark finning during patrols in state waters. Sharks offered for sale in Texas will come from either interstate or foreign imports. The recent encounter of shark fins in a restaurant in the Dallas-Fort Worth area, imported from another state, as an “off-menu” item, suggests there may be an underground market for this product. While in the retail establishment, it was clear the manager knew possession of the shark carcass with fins removed was illegal as the individual tried to remove the remaining carcasses from the freezer. The proactive statute developed by Texas Representative Lucio III, and passed 2015, provided penalties which are strong enough that repeated violation is not anticipated. Law enforcement experience demonstrates that regulations or statutes must provide penalties sufficient to deter the behavior on the first violation as subsequent offenses become more difficult to detect as future sales will be conducted more covertly.

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PARKS AND WILDLIFE CODE
TITLE 5. WILDLIFE AND PLANT CONSERVATION
SUBTITLE B. HUNTING AND FISHING
CHAPTER 66. FISH AND AQUATIC PLANTS
SUBCHAPTER C. SALTWATER FISHING

Sec. 66.216. POSSESSION OF HEADED OR TAILED FISH. (a) No person may possess a finfish of any species taken from coastal water, except broadbill swordfish, shark, or king mackerel, that has the head removed unless the fish has been finally processed and delivered to the final destination or to a certified wholesale or retail dealer.

(b) No person may possess a finfish of any species taken from coastal water, except broadbill swordfish or king mackerel, that has the tail removed unless the fish has been finally processed and delivered to the final destination or to a certified wholesale or retail dealer. *Added by Acts 1981, 67th Leg., p. 376, ch. 153, Sec. 6, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 73, eff. Sept. 1, 1985. Amended by: Acts 2015, 84th Leg., R.S., Ch. 1254 (H.B. 1579), Sec. 1, eff. July 1, 2016.*

Sec. 66.2161. SALE OR PURCHASE OF SHARK FINS. (a) In this section:

(1) "Shark" means any species of the subclass Elasmobranchii.

(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 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.

(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.

(d) Notwithstanding Subsection (b), the department may issue a permit for the possession, transport, sale, or purchase of shark fins for a bona fide scientific research purpose.

(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. Notwithstanding Section 12.109, on a final court ruling, the department shall destroy the shark fin.

(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. *Added by Acts 2015, 84th Leg., R.S., Ch. 1254 (H.B. 1579), Sec. 2, eff. July 1, 2016.*