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106TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 106–650

SHARK FINNING PROHIBITION ACT

JUNE 6, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources, submitted the following

R E P O R T

[To accompany H.R. 3535]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3535) to amend the Magnuson-Stevens Fishery Conservation and Management Act to eliminate the wasteful and unsportsmanlike practice of shark finning, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Shark Finning Prohibition Act".

SEC. 2. PURPOSE.

The purpose of this Act is to eliminate the wasteful and unsportsmanlike practice of shark finning and to reduce the high mortality levels associated with shark finning in waters of the United States.

SEC. 3. PROHIBITION ON REMOVING SHARK FIN AND DISCARDING SHARK CARCASS AT SEA.

Section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) in subparagraph (N) by striking "or" after the semicolon at the end;

(2) in subparagraph (O) by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(P)(i) to remove any of the fins of a shark (including the tail) and discard the carcass of the shark at sea;

"(ii) to have custody, control, or possession of any such fin aboard a fishing vessel without the corresponding carcass; or

"(iii) to land any such fin without the corresponding carcass;".

79–006

PURPOSE OF THE BILL

The purpose of H.R. 3535 is to amend the Magnuson-Stevens Fishery Conservation and Management Act to eliminate the wasteful and unsportsmanlike practice of shark finning.

BACKGROUND AND NEED FOR LEGISLATION

Sharks are harvested in many parts of the world in directed fisheries; however, in the United States waters, they are primarily caught as bycatch in pelagic longline fisheries such as the swordfish and tuna fisheries. In some fisheries, the shark is landed and both the flesh of the shark and the fins are sold for food purposes. In fisheries where the shark's fin is the primary product from the animal, the fins are removed at sea and are dried before they are landed.

Shark finning is currently prohibited in fisheries of the United States in waters of the Atlantic Ocean, Gulf of Mexico, and the Caribbean Sea; however, the practice is not illegal in the Western and Central Pacific Ocean. Shark finning is a practice where the fins of a shark are removed and retained while a portion or all of the carcass is then discarded back into the ocean.

The fins of sharks are the primary ingredient in shark-fin soup. The increasing popularity of shark-fin soup in Asia has increased the practice of shark finning in Hawaii. In fact, in 1991, the percentage of sharks retained by the longline fisheries for finning was approximately 3 percent. By 1998, that percentage had grown to 60 percent. Between 1991 and 1998, the number of sharks retained by the Hawaii-based swordfish and tuna longline fishery had increased from 2,289 to 60,857 annually, and by 1998, it is estimated that over 98 percent of these sharks were killed for their fins. While the Hawaiian longline fleet produces between 66,000–88,000 pounds of shark fins per year, this amount represents approximately one percent of the worldwide production of shark fins.

Blue sharks

The blue shark is one of the most common and widely distributed pelagic sharks of all the shark species and they are highly migratory. They are found throughout the tropical, sub-tropical and temperate waters of the Atlantic, Pacific, and Indian Oceans, and the Mediterranean Sea.

While most shark species have slow growth rates, mature late and produce small litters, blue sharks are one of the most prolific sharks. The litter size of blue sharks varies with the average litter consisting of between 20 and 40 pups; however, some litter sizes have reached as many as 135 pups. While the blue shark matures faster and produces more offspring than other sharks, sharks in general do not produce offspring at the replacement rates of most fish species.

The blue shark is the primary shark affected by finning in the Western Pacific Ocean. The sharks are caught as a bycatch in the longline fisheries, which primarily target tuna and swordfish. The fins of sharks only account for one to five percent of the total body weight, which results in 95 to 99 percent of the carcass being wasted. Of the approximately 100,000 sharks that are caught off Hawaii, 90 to 95 percent of these sharks are blue sharks.

The population of blue sharks is unknown in the Pacific Ocean; however, the Honolulu Laboratory of the National Marine Fisheries Service is working on a comprehensive stock assessment of blue sharks that is expected to be completed in May of 2000. The last stock assessment of blue sharks was completed in 1991 and at that time the stock in the North Pacific was estimated to range between 52 million and 67 million animals.

Federal fisheries conservation and management and Hawaii State law

Fisheries in United States waters are primarily managed through federal legislation known as the Magnuson-Stevens Fishery Conservation and Management Act (the Magnuson-Stevens Act). The Magnuson-Stevens Act delegates management of fishery resources in the Pacific Ocean seaward of the States of Hawaii, American Samoa, Guam, the Northern Mariana Islands, and the insular areas of the United States in the Pacific Ocean area to the Western Pacific Fishery Management Council.

The Magnuson-Stevens Act requires that fishery management plans must be consistent with the national standards for fishery conservation and management. Included in these national standards is a requirement that "Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch." Since the primary source of shark fins is as a result of bycatch in longline fisheries, the increased retention and increased mortality of sharks has caused concern among fisheries managers and conservation organizations.

While the Western Pacific Regional Fishery Management Council has been debating the issue of shark finning and whether to create a fishery management plan for a directed shark fishery, the National Marine Fisheries Service has written to the Council on several occasions urging the Council to address the issue of finning immediately.

Following the hearing on a resolution which condemned the practice of shark finning as wasteful and unsportsmanlike (H. Con. Res. 189), the Western Pacific Fishery Management Council at its February/March meeting took action to restrict the longline fleet to one shark per trip limit for all non-blue shark species, to require that all non-blue sharks be landed whole, and to cap the blue shark quota at 50,000 animals per year. In May, the Council passed additional measures under the pelagic management plan, which includes coastal sharks, that bans demersal longline gear.

In addition, the State of Hawaii passed legislation that is awaiting signature by the Governor which would prohibit the harvest of shark fins in territorial waters of the State or the landing of shark fins unless the shark is landed whole. Penalties in the bill include: seizure and forfeiture of shark fins, commercial marine licenses, vessel and fishing equipment; and an administrative fine of not less than $5,000 and not more than $15,000. Changes have been made to the Hawaii longline trip report forms requiring fishermen to report shark fins sold to dealers.

COMMITTEE ACTION

H.R. 3535 was introduced on January 27, 2000, by Congressman Randy "Duke" Cunningham (R–CA). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. On April 13, 2000, the Subcommittee held a hearing on the bill, where testimony was heard from the Honorable Randy "Duke" Cunningham, U.S. House of Representatives; Ms. Penelope Dalton, Assistant Administrator for Fisheries, National Marine Fisheries Service; Mr. James D. Cook, Chairman, Western Pacific Regional Fishery Management Council; Mr. Frederick M. O'Regan, President, International Fund For Animal Welfare; and Mr. William Aila, Harbor Master, Waianae Small Boat Harbor. On May 18, 2000, the Subcommittee met to mark up the bill. Congressman Eni Faleomavaega (D–AS) offered an amendment to prohibit the removal of any shark fins and discarding the carcass at sea and the custody, control, possession or landing of shark fins without the corresponding carcass. The amendment was adopted by voice vote. The bill, as amended, was then ordered favorably reported to the Full Committee by voice vote. On May 24, 2000, the Full Resources Committee met to consider the bill. There were no further amendments and the bill was ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. The bill would increase revenues by a "negligible amount."

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and rec-

ommendations from the Committee on Government Reform on this bill.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 6, 2000.

Hon. DON YOUNG,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3535, the Shark Finning Prohibition Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis (for federal costs), and Natalie Tawil (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3535—Shark Finning Prohibition Act

H.R. 3535 would make it unlawful to remove any of the fins of a shark and then discard the carcass of the fish at sea. Persons who violate this prohibition would be liable for a civil penalty. CBO expects that this new penalty would increase federal revenues, but by a negligible amount. Because the bill would affect governmental receipts, pay-as-you-go procedures would apply.

H.R. 3535 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no significant costs on state, local, or tribal governments. The bill would impose new private-sector mandates, but CBO estimate that the total direct costs of the mandates would fall well below the annual threshold established in UMRA ($109 million in 2000, adjusted annually for inflation) in any of the first five years that the mandates are in effect.

Under current law, shark finning is banned in the U.S. waters of the Atlantic, Caribbean, and Gulf of Mexico, but not in the Central and Western Pacific. H.R. 3535 would impose new federal mandates on the private sector by making it illegal to remove any of the fins of a shark (including the tail) and discard the carcass of the shark at sea, and to bring fins to port without the corresponding carcass. H.R. 3535 also would impose a new mandate on the private sector by effectively prohibiting the transshipment of fins—the transfer of fins from foreign vessels outside the U.S. Exclusive Economic Zone to U.S.-based vessels for export from the United States or the landing of fins by foreign vessels in U.S. ports.

According to estimates by the National Marine Fisheries Service, the total value of shark fins harvested by fishermen on U.S. vessels and landed in the Central and Western Pacific (Hawaii, Guam, and American Samoa) in 1998 was about $1.4 million. The National

Marine Fisheries Service also estimates that the total value of shark fins transshipped through Hawaii, Guam, and American Samoa did not exceed $3.9 million at the point of first sales transactions in 1998. The value to the U.S. private sector of those transshipments is substantially less than that initial sales value of the transshipped fins. Thus, CBO estimates that the total direct costs of the mandates, measured as lost net income, would fall well below the annual threshold established in UMRA ($109 million in 2000, adjusted annually for inflation) in any of the first five years that the mandates are in effect.

The CBO staff contacts for this estimate are Deborah Reis (for federal costs), and Natalie Tawil (for the private-sector impact). The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 307 OF THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

SEC. 307. PROHIBITED ACTS.

It is unlawful—

(1) for any person—

(A) * * *

* * * * * * *

(N) to strip pollock of its roe and discard the flesh of the pollock; **[**or**]**

(O) to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required under section 302(j), or to knowingly vote on a Council decision in violation of section 302(j)(7)(A)**[**.**]***; or*

(P)(i) to remove any of the fins of a shark (including the tail) and discard the carcass of the shark at sea;

(ii) to have custody, control, or possession of any such fin aboard a fishing vessel without the corresponding carcass; or

(iii) to land any such fin without the corresponding carcass;

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