

Subcommittee on Water, Power and Oceans  
Doug Lamborn, Chairman  
Hearing Memorandum

April 13, 2018

To: All Subcommittee on Water, Power and Oceans Members

From: Majority Committee Staff, Subcommittee on Water, Power and Oceans (x58331)

Hearing: **Legislative hearing on H.R. 1456 (Rep. Edward Royce, R-CA)**, To prohibit the sale of shark fins, and for other purposes.  
**April 17, 2018 at 2:00 PM; 1324 Longworth HOB**

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**H.R. 1456 (Rep. Edward Royce)**, “*Shark Fin Sales Elimination Act of 2017*”

**Bill Summary**

H.R. 1456 bans the possession, purchase or sale of shark fins or any product containing shark fins. The bill provides that an individual may separate the shark fin from a shark only to discard it or for scientific or subsistence use.

This hearing will also include consideration of two other bills.

**Cosponsors**

See [here](#) for complete list of cosponsors.

**Invited Witnesses (in alphabetical order)**

*Mr. Robert Heuter, Ph.D.*  
Director  
Center for Shark Research, Mote Marine Laboratory  
Sarasota, Florida

*Mr. Vance Kondon*  
Assistant Manager and PADI Master Scuba Diver Trainer  
Rainbow Reef Dive Center  
Key Largo, Florida

*Mr. Christopher Oliver*  
Assistant Administrator  
National Marine Fisheries Service  
Silver Spring, Maryland

*Mr. Glenn Parsons, Ph.D.*  
Biology Professor  
University of Mississippi  
Oxford, Mississippi

*Mr. John Polston*  
Owner  
King's Seafood  
Port Orange, Florida

## **Background**

With the Highly Migratory Species shark fishery management plan in 1993, the National Oceanic and Atmospheric Administration (NOAA) required that the number of fins landed by commercial fishermen match the corresponding shark carcasses, effectively prohibiting the practice of shark finning.<sup>1</sup> Congress expressly prohibited shark finning in U.S. waters in 2000 with the passage of the Shark Finning Prohibition Act (Public Law 106-557) and strengthened these prohibitions with the passage of the Shark Conservation Act of 2010 (Public Law 111-348). Shark finning is the brutal practice of removing a shark's fin(s) at sea and returning the carcass, dead or alive, to the ocean. NOAA, acting through the National Marine Fisheries Service (NMFS), enforces the prohibition on shark finning under the Magnuson-Stevens Fishery Conservation and Management Act (MSA, 16 U.S.C. 1801 et seq.).

According to information provided by NMFS to Congressman Walter B. Jones, since September 2012, NOAA brought charges in 22 cases involving shark finning violations.<sup>2</sup> Of these 22 cases, at least ten cases involved 12 or fewer total fins, and an additional five involved 12 or fewer total sharks.<sup>3</sup> In only two cases was it apparent that criminals undertook a broad effort to conduct and conceal illegal shark finning: one which involved fins from 25 sharks and a second involving 508 sharks. The first case resulted in criminal prosecution.<sup>4</sup> In all but three cases brought by NOAA, the result was a criminal prosecution or fines.

In addition to effective enforcement of shark finning prohibitions, NMFS further regulates the sustainable harvest of sharks in U.S. waters with Fishery Management Plans (FMPs) consistent with MSA. NMFS manages sharks in federal waters under 11 FMPs and the vast majority of the stocks managed under these FMPs are not overfished or undergoing overfishing or their conservation status is unknown.<sup>5</sup> These FMPs establish quotas for individual species, and when the harvest reaches or is projected to reach 80% of its quota, NMFS closes the fishery for the year.<sup>6</sup>

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<sup>1</sup> [Federal Register: 58 Fed. Reg. 21889 \(1993\), at p. 21931.](#)

<sup>2</sup> [Information provided to Representative Walter Jones by the National Marine Fisheries Service Regarding Shark Finning Violations, 26 September 2017.](#)

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> [NOAA Fisheries 2016 Shark Finning Report to Congress, p. 5, 9.](#)

<sup>6</sup> [NOAA Fisheries Shark Landings Update through February 15, 2018.](#)

Since shark finning was outlawed in U.S. waters, shark populations have increased dramatically. In 2015, NOAA conducted its Coastal Shark Survey that assesses shark populations along the East Coast where shark species congregate seasonally. NOAA conducts this survey every 2-3 years and tagged over 2,800 sharks in 2015, the most in the Survey's 29-year history. This is an increase from 1,831 in the 2012 survey. NOAA identified 13 unique shark species and tagged a bull shark for the first time since 2001.<sup>7</sup>

Due to the sustainable management of shark fisheries in U.S. waters, the United States ranks as one of the top-ten shark fishing nations in the world by weight.<sup>8</sup> According to a 2017 report, despite this volume, “of 16 global shark fisheries identified as biologically sustainable, 9 involve United States shark fishermen, *accounting for 76.4% of total landings from these 16 fisheries* [emphasis added].”<sup>9</sup> Further, several of the shark species with active fisheries in the United States are identified as sustainable by consumer seafood guides.<sup>10</sup>

The United States accounts for a relatively low percentage of the global shark fin trade, exporting approximately 1% of all shark fins traded globally.<sup>11</sup> Although this is a small number, commercial access to sustainable domestic shark fisheries is essential for fishing communities across the country. Further, imports account for approximately 0.2% of the global shark fin trade and most come from countries with shark finning bans.<sup>12</sup> According to the New Zealand shark alliance, as of 2013, at least 102 countries had banned the practice of shark finning.<sup>13</sup> In 2016, the U.S. imported shark fins primarily from Canada, Netherlands, New Zealand and China.<sup>14</sup> While China does not have a shark finning ban, most imported shark fins originate in countries that do.<sup>15</sup>

H.R. 1456 proposes to ban the shark fin trade in the United States by requiring that fins be disposed of or used solely for research once removed from the carcass. Studies have shown that while these types of bans may reduce fishing mortality, their effectiveness is limited because sharks are mostly taken as incidental catch.<sup>16</sup> Supporters' concerns are well-intentioned, and a sense of urgency for Congress to enact such a ban is partially attributable to a clerical error in

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<sup>7</sup> [NOAA Fisheries Press Release “2015 Coastal Shark Survey Reveals Shark Populations Improving off U.S. East Coast”, 8 September 2015.](#)

<sup>8</sup> [Review of the Implementation of the International Plan of Action for the Conservation of Sharks, Circular No. 1076, Food and Agriculture Organization of the United Nations, p. 64.](#)

<sup>9</sup> [D.S. Shiffman, R.E. Hueter, A United States shark fin ban would undermine sustainable shark fisheries, Marine Policy, Volume 85, 2017, ISSN 0308-597X, p. 138.](#)

<sup>10</sup> Id.

<sup>11</sup> Id., at p. 139.

<sup>12</sup> Id.

<sup>13</sup> Summary of countries that have at a minimum banned shark finning, New Zealand Shark Alliance, updated as of October 2013.

<sup>14</sup> Shark Imports Data, Fisheries Statistics and Economics Division, National Marine Fisheries Service, updated as of October 2017.

<sup>15</sup> Id.

<sup>16</sup> [C.A. Simpfendorfer, N.K. Dulvy, Bright spots of sustainable shark fishing, Current Biology, Volume 26, Issue 3, 2017, p. R97.](#)

information NOAA submitted to Congress that suggested NOAA investigated over 500 cases of domestic shark finning. NOAA has since corrected this error.<sup>17</sup>

Supporters argue that a ban on shark fin sales would reduce the international fin trade and send a message to other countries that currently do not prohibit shark finning.<sup>18</sup> Demand for shark fin soup historically has been the primary driver behind the international shark fin trade, and has created incentives for unsustainable shark finning.<sup>19</sup> A 2014 report issued by WildAid, notes that public awareness campaigns in China aimed at educating people on the cruelty of shark finning have been highly successful and are credited with an 80% decline in consumption of shark fin soup in China.<sup>20</sup> However, this report also notes that much of the progress in China is being offset by expanding markets outside of mainland China, including Hong Kong, Macau and Thailand.<sup>21</sup>

Opponents of this measure have argued that H.R. 1456 would adversely impact fishermen and harm shark conservation efforts. Dr. Robert Heuter states, “the proposed fin ban would eliminate about 23% of the ex-vessel value of legally caught sharks, causing economic harm to rule-following fishermen and undermining decades of progress towards sustainable shark fisheries management in the United States.”<sup>22</sup> Heuter goes on to argue that this ban could “seriously compromise” the United States’ international negotiating position and send the message that the United States would not support other nations’ shark conservation efforts irrespective of improvements in their management of sharks.<sup>23</sup> Industry groups have also highlighted concerns that taking sustainably-sourced U.S. shark fins off the market would shift demand to the bad actors, further increasing demand for fins procured unsustainably.<sup>24</sup> Further, a requirement to discard shark fins before processing the shark for sale violates the “full use” directive in the Food and Agriculture Organization of the United Nations’ International Plan of Action for Conservation and Management of Sharks.<sup>25</sup>

This bill is opposed by the States of Florida and Louisiana and commercial fishing groups. A full list of opposition from individual fishermen and stakeholders in the U.S. shark fisheries can be found [here](#). Oceana is the main organization supporting this bill. Senator Cory Booker (D-NJ) introduced an identical companion bill, S. 793, which was amended and discharged by the Senate Committee on Commerce, Science, and Transportation in May 2017.<sup>26</sup>

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<sup>17</sup> <https://www.undercurrentnews.com/2017/10/27/misplaced-noaa-footnote-blamed-for-shark-fin-miscue/>.

<sup>18</sup> [Shark Fin Trade: Why it Should Be Banned in the United States, Oceana, June 2016, p. 1.](#)

<sup>19</sup> *Id.*

<sup>20</sup> [Sharks in Crisis: Evidence of Positive Behavioral Change in China as New Threats Emerge, WildAid, October 2014, p. 4.](#)

<sup>21</sup> *Id.*

<sup>22</sup> [D.S. Shiffman, R.E. Hueter, A United States shark fin ban would undermine sustainable shark fisheries, Marine Policy, Volume 85, 2017, ISSN 0308-597X, p. 138-9.](#)

<sup>23</sup> *Id.*, at p. 139.

<sup>24</sup> Sustainable Shark Alliance Memo

<sup>25</sup> <http://www.fao.org/ipoa-sharks/background/about-ipoa-sharks/en/>.

<sup>26</sup> <https://www.congress.gov/bill/115th-congress/senate-bill/793>.

## **Major Provisions/Analysis of H.R. 1456**

*Section 2* prohibits the sale or purchase of any shark fin or product containing shark fin.

*Section 3* states that an individual may remove the shark fin from an otherwise lawfully harvested shark for the purposes of discarding it, subsistence use or scientific uses.

*Section 5* provides that States may adopt regulations more stringent than the restrictions on handling shark fins provided in this bill.

### **Cost**

The Congressional Budget Office (CBO) analyzed a nearly identical bill, S. 793 and found that the legislation would result in an increase in penalty collections due resulting from violations of the bill's prohibitions and that revenues from customs duties would decline. CBO found both changes to be negligible in the 10-year window.

CBO found that the provisions of the bill would impose private-sector mandates resulting in an estimated loss of income less than \$3 million annually.<sup>27</sup>

### **Administration Position**

Unknown.

### **Effect on Current Law (Ramseyer)**

N/A

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<sup>27</sup> <https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/s793.pdf>.