



**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"Shark fins will be outlawed in NJ in 2021,"  
The Record (Hackensack, NJ), January 10, 2020

Rwh/cl

P.L. 2019, CHAPTER 285, *approved January 9, 2020*

Senate, No. 2905 (*First Reprint*)

1 AN ACT concerning the sale and possession of shark fins and  
2 supplementing Title 23 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. a. No person shall:

8 (1) sell, trade, or distribute, or offer for sale any shark fin; or

9 (2) possess any shark fin that has been separated from a shark  
10 prior to its lawful landing. The burden of proof shall be on the  
11 person in possession of the shark fin to demonstrate that it was not  
12 separated from the shark prior to its lawful landing.

13 b. (1) The provisions of subsection a. of this section shall not  
14 apply to: (a) any lawfully-obtained shark fin possessed, sold, traded,  
15 distributed, or offered for sale for scientific research or educational  
16 purposes; or (b) any lawfully-obtained smooth dogfish or spiny  
17 dogfish fin.

18 (2) A commercial or recreational fisherman may possess shark  
19 fins from sharks that they have lawfully-obtained in a manner  
20 consistent with licenses or permits issued to the commercial or  
21 recreational fisherman.

22 c. (1) Whenever, on the basis of available information, the  
23 Commissioner of Environmental Protection finds that a person is in  
24 violation of the provisions of subsection a. of this section, or of any  
25 rule or regulation adopted pursuant thereto, the commissioner:

26 (a) shall levy a civil administrative penalty in accordance with  
27 subsection d. of this section; and

28 (b) upon a person's third or subsequent violation of the  
29 provisions of subsection a. of this section, may petition the Attorney  
30 General to bring a criminal action in accordance with subsection e.  
31 of this section.

32 (2) A violation of the provisions of subsection a. of this section  
33 by a person or business holding a license or permit issued to a  
34 commercial or recreational fisherman shall result in the suspension  
35 or revocation of that license or permit.

36 d. The commissioner is authorized to assess a civil  
37 administrative penalty of not less than \$5,000 or more than \$15,000  
38 for a first offense under this section, not less than \$15,000 or more  
39 than \$35,000 for a second offense, and not less than \$35,000 or

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SEN committee amendments adopted November 26, 2018.

1 more than \$55,000 for a third or subsequent offense. Each day  
2 during which a violation continues shall constitute an additional,  
3 separate, and distinct offense. Any amount assessed under this  
4 subsection shall fall within a range established by rule or regulation  
5 by the commissioner for violations of similar type, seriousness,  
6 duration and conduct, and shall be based, in part, on the number or  
7 weight of shark fins that are the subject of the violation; provided,  
8 however, that prior to the adoption of the rule or regulation, the  
9 commissioner may, on a case-by-case basis, assess a civil  
10 administrative penalty up to the maximum identified in this  
11 subsection, utilizing the criteria set forth herein. In addition to any  
12 civil administrative penalty assessed under this subsection, and  
13 notwithstanding the maximum penalties set forth herein, the  
14 commissioner may assess an additional penalty equal to any  
15 economic benefits from the violation gained by the violator.

16 Prior to the assessment of a penalty under this subsection, the  
17 person committing the violation shall be notified by certified mail  
18 or personal service that the penalty is being assessed. The notice  
19 shall identify the section of the statute or regulation violated; recite  
20 the facts alleged to constitute a violation; state the basis for the  
21 amount of the civil penalties to be assessed; and affirm the rights of  
22 the alleged violator to a hearing. The ordered party shall have 35  
23 days from receipt of the notice within which to deliver to the  
24 commissioner a written request for a hearing. After the hearing,  
25 and upon finding that a violation has occurred, the commissioner  
26 may issue a final order assessing the amount of the fine specified in  
27 the notice. If no hearing is requested, the notice shall become a  
28 final order after the expiration of the 35-day period. Payment of the  
29 assessment is due when a final order is issued or the notice becomes  
30 a final order. The payment of any assessment shall not be deemed  
31 to affect the availability of any other enforcement provisions in  
32 connection with the violation for which the assessment is levied.

33 The department may compromise any civil administrative  
34 penalty assessed under this section in an amount and with  
35 conditions the department determines appropriate. A civil  
36 administrative penalty assessed, including any portion thereof  
37 required to be paid pursuant to a payment schedule approved by the  
38 department, which is not paid within 90 days of the date that the  
39 payment of the penalty is due, shall be subject to an interest charge  
40 on the amount of the penalty, or portion thereof that remains  
41 unpaid, which interest shall accrue as of the date payment is due. If  
42 the penalty is contested, no additional interest charge shall accrue  
43 on the amount of the penalty until 90 days after the date on which a  
44 final order is issued. Interest charges assessed and collectible  
45 pursuant to this subsection shall be based on the rate of interest on  
46 judgments provided in the New Jersey Rules of Court.

47 e. Any person who has been assessed a civil administrative  
48 penalty, on two or more occasions, pursuant to subsection d. of this

1 section shall be guilty, upon conviction for a subsequent violation  
2 of subsection a. of this section, of a crime of the fourth degree.  
3 Notwithstanding the provisions of paragraph (4) of subsection a. of  
4 N.J.S.2C:43-6 to the contrary, a person convicted under this  
5 subsection shall be subject to a term of imprisonment of not more  
6 than one year.

7 f. In addition to the penalties imposed under subsections d. and  
8 e. of this section, a person who violates the provisions of subsection  
9 a. of this section shall be liable to the department for the payment of  
10 administrative fees and costs and court costs expended in  
11 prosecuting the violation, and for the payment of reasonable  
12 attorneys' fees.

13 g. (1) Any shark fins possessed, sold, traded, distributed, or  
14 offered for sale in violation of the provisions of subsection a. of this  
15 section, or of any rule or regulation adopted pursuant thereto, and  
16 any vessels, vehicles, equipment, or other property utilized in the  
17 commission of a second or subsequent violation of subsection a. of  
18 this section, or of any rule or regulation adopted pursuant thereto,  
19 may be confiscated, and shall be subject to forfeiture by summary  
20 proceeding, instituted by the Commissioner of Environmental  
21 Protection in a court of competent jurisdiction.

22 (2) Upon viewing a violation of subsection a. of this section, the  
23 department, a conservation officer, or any other law enforcement  
24 officer may seize and secure, in accordance with the provisions of  
25 paragraph (1) of this subsection, any shark fins, vessels, vehicles,  
26 equipment, or other property involved in the violation, and the  
27 commissioner shall immediately thereafter give notice of the  
28 seizure to the court.

29 (3) In addition to the confiscation procedure identified in  
30 paragraph (2) of this subsection, a court may, upon the filing of a  
31 verified complaint, issue a warrant directing a conservation officer,  
32 or any other law enforcement officer, to: (a) seize, and take into  
33 possession, shark fins, vessels, vehicles, equipment, or other  
34 property described in the complaint; (b) bring any seized items  
35 before the court that issued the warrant; and (c) summon the person  
36 named in the warrant, and any other person who may be found in  
37 possession of the described items, to appear at the time and place  
38 therein specified.

39 (4) If, after a hearing, the court determines that any shark fin  
40 seized pursuant to this subsection was possessed, sold, traded,  
41 distributed, or offered for sale in violation of the provisions of  
42 subsection a. of this section, the shark fin shall be forfeited and,  
43 notwithstanding any other law, rule, or regulation to the contrary,  
44 shall be disposed of through destruction.

45 If, after a hearing, the court determines that any other items  
46 seized pursuant to this subsection were utilized in the commission  
47 of a violation of subsection a. of this section, the items shall be  
48 forfeited and disposed of through destruction, donation, or sale, as

1 the court may direct, but no such item shall be sold contrary to the  
2 provisions of any law, or any rule or regulation adopted pursuant  
3 thereto. The proceeds of any sale conducted pursuant to this  
4 paragraph, less legal costs and charges, shall be paid into the  
5 “Endangered and Nongame Species of Wildlife Conservation  
6 Fund,” established pursuant to section 1 of P.L.1981,  
7 c.170 (C.54A:9-25.2), to be used for the same purposes as other  
8 monies in that fund.

9 h. The department shall adopt, pursuant to the “Administrative  
10 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and  
11 regulations necessary to implement the provisions of this section.

12 i. As used in this section:

13 “Commissioner” means the Commissioner of Environmental  
14 Protection.

15 “Department” means the Department of Environmental  
16 Protection.

17 “Shark” means any species categorized in the Chondrichthyes  
18 taxonomic class (cartilaginous fishes), and belonging to the  
19 subclass Elasmobranchii, but shall not include any species in the  
20 superorder Batoidea (commonly known as a ray or a skate).

21 “Shark fin” means a raw, dried, or otherwise processed fin or tail  
22 that has been separated from the body of any species of shark.

23

24 2. a. <sup>1</sup>【Until January 1, 2019, and notwithstanding】  
25 Notwithstanding<sup>1</sup> the provisions of section 1 of  
26 <sup>1</sup>【P.L. , c. (C. ) (pending before the Legislature as this  
27 bill)】 this act<sup>1</sup>, or any other law, rule, or regulation, to the contrary,  
28 <sup>1</sup>until January 1 of the year next following the date of enactment of  
29 this act,<sup>1</sup> a person may possess, sell, trade, or distribute, or offer for  
30 sale any shark fin that is in that person’s possession on or before the  
31 date of enactment of <sup>1</sup>【P.L. , c. (C. ) (pending before the  
32 Legislature as this bill)】 this act<sup>1</sup> .

33 b. As used in this section:

34 “Shark” means any species categorized in the Chondrichthyes  
35 taxonomic class (cartilaginous fishes), and belonging to the  
36 subclass Elasmobranchii, but shall not include any species in the  
37 superorder Batoidea (commonly known as a ray or a skate).

38 “Shark fin” means a raw, dried, or otherwise processed fin or tail  
39 that has been separated from the body of any species of shark.

40

41 3. This act shall take effect immediately.

42

43

44

45

46 Prohibits certain possession, sale, trade, distribution, or offering  
47 for sale of shark fins.

**SENATE, No. 2905**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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INTRODUCED SEPTEMBER 13, 2018

**Sponsored by:**  
**Senator TROY SINGLETON**  
**District 7 (Burlington)**

**SYNOPSIS**

Prohibits certain possession, sale, trade, distribution, or offering for sale of shark fins.

**CURRENT VERSION OF TEXT**

As introduced.



S2905 SINGLETON

2

1 AN ACT concerning the sale and possession of shark fins and  
2 supplementing Title 23 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. a. No person shall:

8 (1) sell, trade, or distribute, or offer for sale any shark fin; or

9 (2) possess any shark fin that has been separated from a shark  
10 prior to its lawful landing. The burden of proof shall be on the  
11 person in possession of the shark fin to demonstrate that it was not  
12 separated from the shark prior to its lawful landing.

13 b. (1) The provisions of subsection a. of this section shall not  
14 apply to: (a) any lawfully-obtained shark fin possessed, sold, traded,  
15 distributed, or offered for sale for scientific research or educational  
16 purposes; or (b) any lawfully-obtained smooth dogfish or spiny  
17 dogfish fin.

18 (2) A commercial or recreational fisherman may possess shark  
19 fins from sharks that they have lawfully-obtained in a manner  
20 consistent with licenses or permits issued to the commercial or  
21 recreational fisherman.

22 c. (1) Whenever, on the basis of available information, the  
23 Commissioner of Environmental Protection finds that a person is in  
24 violation of the provisions of subsection a. of this section, or of any  
25 rule or regulation adopted pursuant thereto, the commissioner:

26 (a) shall levy a civil administrative penalty in accordance with  
27 subsection d. of this section; and

28 (b) upon a person's third or subsequent violation of the  
29 provisions of subsection a. of this section, may petition the Attorney  
30 General to bring a criminal action in accordance with subsection e.  
31 of this section.

32 (2) A violation of the provisions of subsection a. of this section  
33 by a person or business holding a license or permit issued to a  
34 commercial or recreational fisherman shall result in the suspension  
35 or revocation of that license or permit.

36 d. The commissioner is authorized to assess a civil  
37 administrative penalty of not less than \$5,000 or more than \$15,000  
38 for a first offense under this section, not less than \$15,000 or more  
39 than \$35,000 for a second offense, and not less than \$35,000 or  
40 more than \$55,000 for a third or subsequent offense. Each day  
41 during which a violation continues shall constitute an additional,  
42 separate, and distinct offense. Any amount assessed under this  
43 subsection shall fall within a range established by rule or regulation  
44 by the commissioner for violations of similar type, seriousness,  
45 duration and conduct, and shall be based, in part, on the number or  
46 weight of shark fins that are the subject of the violation; provided,  
47 however, that prior to the adoption of the rule or regulation, the  
48 commissioner may, on a case-by-case basis, assess a civil



S2905 SINGLETON

1 administrative penalty up to the maximum identified in this  
2 subsection, utilizing the criteria set forth herein. In addition to any  
3 civil administrative penalty assessed under this subsection, and  
4 notwithstanding the maximum penalties set forth herein, the  
5 commissioner may assess an additional penalty equal to any  
6 economic benefits from the violation gained by the violator.

7 Prior to the assessment of a penalty under this subsection, the  
8 person committing the violation shall be notified by certified mail  
9 or personal service that the penalty is being assessed. The notice  
10 shall identify the section of the statute or regulation violated; recite  
11 the facts alleged to constitute a violation; state the basis for the  
12 amount of the civil penalties to be assessed; and affirm the rights of  
13 the alleged violator to a hearing. The ordered party shall have 35  
14 days from receipt of the notice within which to deliver to the  
15 commissioner a written request for a hearing. After the hearing,  
16 and upon finding that a violation has occurred, the commissioner  
17 may issue a final order assessing the amount of the fine specified in  
18 the notice. If no hearing is requested, the notice shall become a  
19 final order after the expiration of the 35-day period. Payment of the  
20 assessment is due when a final order is issued or the notice becomes  
21 a final order. The payment of any assessment shall not be deemed  
22 to affect the availability of any other enforcement provisions in  
23 connection with the violation for which the assessment is levied.

24 The department may compromise any civil administrative  
25 penalty assessed under this section in an amount and with  
26 conditions the department determines appropriate. A civil  
27 administrative penalty assessed, including any portion thereof  
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29 department, which is not paid within 90 days of the date that the  
30 payment of the penalty is due, shall be subject to an interest charge  
31 on the amount of the penalty, or portion thereof that remains  
32 unpaid, which interest shall accrue as of the date payment is due. If  
33 the penalty is contested, no additional interest charge shall accrue  
34 on the amount of the penalty until 90 days after the date on which a  
35 final order is issued. Interest charges assessed and collectible  
36 pursuant to this subsection shall be based on the rate of interest on  
37 judgments provided in the New Jersey Rules of Court.

38 e. Any person who has been assessed a civil administrative  
39 penalty, on two or more occasions, pursuant to subsection d. of this  
40 section shall be guilty, upon conviction for a subsequent violation  
41 of subsection a. of this section, of a crime of the fourth degree.  
42 Notwithstanding the provisions of paragraph (4) of subsection a. of  
43 N.J.S.2C:43-6 to the contrary, a person convicted under this  
44 subsection shall be subject to a term of imprisonment of not more  
45 than one year.

46 f. In addition to the penalties imposed under subsections d. and  
47 e. of this section, a person who violates the provisions of subsection  
48 a. of this section shall be liable to the department for the payment of

S2905 SINGLETON

1 administrative fees and costs and court costs expended in  
2 prosecuting the violation, and for the payment of reasonable  
3 attorneys' fees.

4 g. (1) Any shark fins possessed, sold, traded, distributed, or  
5 offered for sale in violation of the provisions of subsection a. of this  
6 section, or of any rule or regulation adopted pursuant thereto, and  
7 any vessels, vehicles, equipment, or other property utilized in the  
8 commission of a second or subsequent violation of subsection a. of  
9 this section, or of any rule or regulation adopted pursuant thereto,  
10 may be confiscated, and shall be subject to forfeiture by summary  
11 proceeding, instituted by the Commissioner of Environmental  
12 Protection in a court of competent jurisdiction.

13 (2) Upon viewing a violation of subsection a. of this section, the  
14 department, a conservation officer, or any other law enforcement  
15 officer may seize and secure, in accordance with the provisions of  
16 paragraph (1) of this subsection, any shark fins, vessels, vehicles,  
17 equipment, or other property involved in the violation, and the  
18 commissioner shall immediately thereafter give notice of the  
19 seizure to the court.

20 (3) In addition to the confiscation procedure identified in  
21 paragraph (2) of this subsection, a court may, upon the filing of a  
22 verified complaint, issue a warrant directing a conservation officer,  
23 or any other law enforcement officer, to: (a) seize, and take into  
24 possession, shark fins, vessels, vehicles, equipment, or other  
25 property described in the complaint; (b) bring any seized items  
26 before the court that issued the warrant; and (c) summon the person  
27 named in the warrant, and any other person who may be found in  
28 possession of the described items, to appear at the time and place  
29 therein specified.

30 (4) If, after a hearing, the court determines that any shark fin  
31 seized pursuant to this subsection was possessed, sold, traded,  
32 distributed, or offered for sale in violation of the provisions of  
33 subsection a. of this section, the shark fin shall be forfeited and,  
34 notwithstanding any other law, rule, or regulation to the contrary,  
35 shall be disposed of through destruction.

36 If, after a hearing, the court determines that any other items  
37 seized pursuant to this subsection were utilized in the commission  
38 of a violation of subsection a. of this section, the items shall be  
39 forfeited and disposed of through destruction, donation, or sale, as  
40 the court may direct, but no such item shall be sold contrary to the  
41 provisions of any law, or any rule or regulation adopted pursuant  
42 thereto. The proceeds of any sale conducted pursuant to this  
43 paragraph, less legal costs and charges, shall be paid into the  
44 "Endangered and Nongame Species of Wildlife Conservation  
45 Fund," established pursuant to section 1 of P.L.1981,  
46 c.170 (C.54A:9-25.2), to be used for the same purposes as other  
47 monies in that fund.

1 h. The department shall adopt, pursuant to the “Administrative  
2 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and  
3 regulations necessary to implement the provisions of this section.

4 i. As used in this section:

5 “Commissioner” means the Commissioner of Environmental  
6 Protection.

7 “Department” means the Department of Environmental  
8 Protection.

9 “Shark” means any species categorized in the Chondrichthyes  
10 taxonomic class (cartilaginous fishes), and belonging to the  
11 subclass Elasmobranchii, but shall not include any species in the  
12 superorder Batoidea (commonly known as a ray or a skate).

13 “Shark fin” means a raw, dried, or otherwise processed fin or tail  
14 that has been separated from the body of any species of shark.

15

16 2. a. Until January 1, 2019, and notwithstanding the provisions  
17 of section 1 of P.L. , c. (C. ) (pending before the Legislature as  
18 this bill), or any other law, rule, or regulation, to the contrary, a person  
19 may possess, sell, trade, or distribute, or offer for sale any shark fin  
20 that is in that person’s possession on or before the date of enactment of  
21 P.L. , c. (C. ) (pending before the Legislature as this bill).

22 b. As used in this section:

23 “Shark” means any species categorized in the Chondrichthyes  
24 taxonomic class (cartilaginous fishes), and belonging to the subclass  
25 Elasmobranchii, but shall not include any species in the superorder  
26 Batoidea (commonly known as a ray or a skate).

27 “Shark fin” means a raw, dried, or otherwise processed fin or tail  
28 that has been separated from the body of any species of shark.

29

30 3. This act shall take effect immediately.

31

32

33

#### STATEMENT

34

35 This bill prohibits: (1) the sale, trade, or distribution, or the  
36 offering for sale, of any shark fin; and (2) the possession of any  
37 shark fin that has been separated from a shark prior to its lawful  
38 landing. The bill’s prohibitions do not apply to lawfully obtained  
39 shark fins possessed, sold, traded, or distributed for scientific  
40 research or educational purposes, or to lawfully obtained smooth  
41 dogfish or spiny dogfish fins. The bill allows commercial and  
42 recreational fishermen to possess shark fins from sharks if obtained  
43 lawfully in a manner consistent with the fisherman’s license or  
44 permit. A person is authorized, until January 1, 2019, to possess,  
45 sell, trade, or distribute, or offer for sale, any shark fin that is in that  
46 person’s possession on or before the date of enactment of this bill  
47 into law.

**S2905 SINGLETON**

1 A person who violates the bill's prohibitions against the  
2 possession, sale, trade, distribution, or offer for sale of shark fins is  
3 subject: (1) for a first offense, to a civil administrative penalty of  
4 not less than \$5,000 or more than \$15,000; (2) for a second offense,  
5 to a civil administrative penalty of not less than \$15,000 or more  
6 than \$35,000; and (3) for a third or subsequent offense, to a civil  
7 administrative penalty of not less than \$35,000 or more than  
8 \$55,000, or by imprisonment of not more than one year, or both.  
9 Each day during which a violation continues constitutes an  
10 additional, separate, and distinct offense. The Commissioner of  
11 Environmental Protection may assess an additional penalty for an  
12 amount up to the value of the economic gain from violating the  
13 bill's provisions. Any shark fins possessed in violation of the bill's  
14 provisions, and any vessels, vehicles, equipment, or other property  
15 utilized in the commission of a second or subsequent violation of  
16 the bill's provisions, are subject to seizure and forfeiture by a  
17 summary proceeding. Shark fins determined by a court to be  
18 possessed, sold, traded, distributed, or offered for sale in violation  
19 of the provisions of the bill would be destroyed. The bill also  
20 provides that a person or business holding a commercial or  
21 recreational fishing license or permit that violates the provisions of  
22 the bill would have their license or permit suspended or revoked.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 2905**

# **STATE OF NEW JERSEY**

DATED: MARCH 18, 2019

The Assembly Appropriations Committee reports favorably Senate Bill No. 2905 (1R).

This bill prohibits: (1) the sale, trade, or distribution, or the offering for sale, of any shark fin; and (2) the possession of any shark fin that has been separated from a shark prior to its lawful landing. The bill's prohibitions do not apply to lawfully obtained shark fins possessed, sold, traded, or distributed for scientific research or educational purposes, or to lawfully obtained smooth dogfish or spiny dogfish fins. The bill allows commercial and recreational fishermen to possess shark fins from sharks if obtained lawfully in a manner consistent with the fisherman's license or permit. Under the bill, as amended, a person is authorized, until January 1 of the year next following the date of enactment of the bill, to possess, sell, trade, or distribute, or offer for sale, any shark fin that is in that person's possession on or before the date of enactment of this bill.

A person who violates the bill's prohibitions against the possession, sale, trade, distribution, or offer for sale of shark fins is subject: (1) for a first offense, to a civil administrative penalty of not less than \$5,000 or more than \$15,000; (2) for a second offense, to a civil administrative penalty of not less than \$15,000 or more than \$35,000; and (3) for a third or subsequent offense, to a civil administrative penalty of not less than \$35,000 or more than \$55,000, or by imprisonment of not more than one year, or both. Each day during which a violation continues constitutes an additional, separate, and distinct offense. The Commissioner of Environmental Protection may assess an additional penalty for an amount up to the value of the economic gain from violating the bill's provisions. Shark fins possessed in violation of the bill's provisions, and vessels, vehicles, equipment, or other property utilized in the commission of a second or subsequent violation of the bill's provisions, are subject to seizure and forfeiture by a summary proceeding. Shark fins determined by a court to be possessed, sold, traded, distributed, or offered for sale in violation of the provisions of the bill would be destroyed. The bill also provides that a person or business holding a commercial or recreational fishing license or permit that violates the provisions of the bill would have their license or permit suspended or revoked.

As reported, Senate Bill No. 2905 (1R) is identical to Assembly Bill No. 4845, as also reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate, likely nominal, annual State expenditure increases arising from new enforcement and administrative responsibilities for the Department of Environmental Protection (DEP) related to the new prohibition against the possession, sale, distribution, trade, and offer for sale of shark fins. Considering that a third or subsequent violation of the prohibition will be a crime of the fourth degree, the bill can also be expected to periodically increase the expenditures of the Department of Law and Public Safety, the Judiciary, and the Department of Corrections from prosecuting, trying, and possibly incarcerating violators.

The OLS estimates further that the bill will increase annual State revenue collections by an indeterminate, likely nominal, amount from the assessment of civil administrative penalties by the DEP, the imposition of criminal fines by the courts, and the sale of any confiscated property used in the violation of the prohibition established by the bill.

The OLS lacks the informational basis to determine the number of violations that the DEP may discover in any given year, but available data suggest that the acts prohibited by the bill are not highly prevalent in New Jersey. Consequently, the fiscal impacts of the bill can be anticipated to be nominal in a typical year.

# SENATE ENVIRONMENT AND ENERGY COMMITTEE

## STATEMENT TO

### **SENATE, No. 2905**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: NOVEMBER 26, 2018

The Senate Environment and Energy Committee favorably reports Senate Bill No. 2905 with committee amendments.

This bill prohibits: (1) the sale, trade, or distribution, or the offering for sale, of any shark fin; and (2) the possession of any shark fin that has been separated from a shark prior to its lawful landing. The bill's prohibitions do not apply to lawfully obtained shark fins possessed, sold, traded, or distributed for scientific research or educational purposes, or to lawfully obtained smooth dogfish or spiny dogfish fins. The bill allows commercial and recreational fishermen to possess shark fins from sharks if obtained lawfully in a manner consistent with the fisherman's license or permit. Under the bill, as amended, a person is authorized, until January 1 of the year next following the date of enactment of the bill, to possess, sell, trade, or distribute, or offer for sale, any shark fin that is in that person's possession on or before the date of enactment of this bill.

A person who violates the bill's prohibitions against the possession, sale, trade, distribution, or offer for sale of shark fins is subject: (1) for a first offense, to a civil administrative penalty of not less than \$5,000 or more than \$15,000; (2) for a second offense, to a civil administrative penalty of not less than \$15,000 or more than \$35,000; and (3) for a third or subsequent offense, to a civil administrative penalty of not less than \$35,000 or more than \$55,000, or by imprisonment of not more than one year, or both. Each day during which a violation continues constitutes an additional, separate, and distinct offense. The Commissioner of Environmental Protection may assess an additional penalty for an amount up to the value of the economic gain from violating the bill's provisions. Shark fins possessed in violation of the bill's provisions, and vessels, vehicles, equipment, or other property utilized in the commission of a second or subsequent violation of the bill's provisions, are subject to seizure and forfeiture by a summary proceeding. Shark fins determined by a court to be possessed, sold, traded, distributed, or offered for sale in violation of the provisions of the bill would be destroyed. The bill also provides that a person or business holding a commercial or recreational fishing license or permit that violates the provisions of the bill would have their license or permit suspended or revoked.

The committee amendments would change the date until which a person may legally possess, sell, trade, distribute, or offer for sale any shark fin that is in that person's possession on or before the date of enactment of the bill, from January 1, 2019 to January 1 of the year next following the date of enactment of the bill.



# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 2905

### STATE OF NEW JERSEY 218th LEGISLATURE

DATED: MARCH 21, 2019

#### SUMMARY

- Synopsis:** Prohibits certain possession, sale, trade, distribution, or offering for sale of shark fins.
- Type of Impact:** Annual State expenditure and revenue increases to the General Fund.
- Agencies Affected:** Department of Environmental Protection, Department of Law and Public Safety, The Judiciary, Department of Corrections.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Expenditure Increase</b>	Indeterminate
<b>State Revenue Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate, likely nominal, annual State expenditure increases arising from new enforcement and administrative responsibilities for the Department of Environmental Protection (DEP) related to the new prohibition against the possession, sale, distribution, trade, and offer for sale of shark fins. Considering that a third or subsequent violation of the prohibition will be a crime of the fourth degree, the bill can also be expected to periodically increase the expenditures of the Department of Law and Public Safety, The Judiciary, and the Department of Corrections from prosecuting, trying, and possibly incarcerating violators.
- The OLS estimates further that the bill will increase annual State revenue collections by an indeterminate, likely nominal, amount from the assessment of civil administrative penalties by the DEP, the imposition of criminal fines by the courts, and the sale of any confiscated property used in the violation of the prohibition established by the bill.
- The OLS lacks the informational basis to determine the number of violations that the DEP may discover in any given year, but available data suggest that the acts prohibited by the bill are not highly prevalent in New Jersey. Consequently, the fiscal impacts of the bill can be anticipated to be nominal in a typical year.

## **BILL DESCRIPTION**

This bill prohibits: (1) the sale, trade, or distribution, or the offering for sale, of any shark fin; and (2) the possession of any shark fin that has been separated from a shark prior to its lawful landing. The bill's prohibitions do not apply to lawfully obtained shark fins possessed, sold, traded, or distributed for scientific research or educational purposes, or to lawfully obtained smooth dogfish or spiny dogfish fins. The bill allows commercial and recreational fishermen to possess shark fins from sharks if obtained lawfully in a manner consistent with the fisherman's license or permit. Under the bill, a person is authorized, until January 1 of the year next following the date of enactment of the bill, to possess, sell, trade, or distribute, or offer for sale, any shark fin that is in that person's possession.

A person who violates the bill's prohibitions is subject: (1) for a first offense, to a civil administrative penalty of not less than \$5,000 or more than \$15,000; (2) for a second offense, to a civil administrative penalty of not less than \$15,000 or more than \$35,000; and (3) for a third or subsequent offense, to a civil administrative penalty of not less than \$35,000 or more than \$55,000, a criminal fine of up to \$10,000, and a term of imprisonment of not more than one year. Each day during which a violation continues constitutes a distinct offense. The DEP may assess an additional penalty for an amount up to the value of the economic gain from violating the bill's provisions. Shark fins possessed in violation of the bill's provisions, and vessels, vehicles, equipment, or other property utilized in the commission of a second or subsequent violation of the bill's provisions, are subject to seizure and forfeiture by a summary proceeding. Shark fins determined by a court to be possessed, sold, traded, distributed, or offered for sale in violation of the provisions of the bill would be destroyed. The bill also provides that a person or business holding a commercial or recreational fishing license or permit that violates the provisions of the bill would have the license or permit suspended or revoked.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that this bill will result in an indeterminate, likely nominal, increase in State expenditures and revenues to the General Fund. The bill creates new enforcement responsibilities for the DEP, which enforces fishing regulations through the Division of Fish and Wildlife. However, the enforcement of the prohibition against the possession or sale, distribution, trade, and offer for sale of shark fins may be outside the scope of the division's usual duties and may necessitate new enforcement training. These expenditures will vary depending on the prevalence of these activities and practices like "finning" (harvesting only the fin of the shark), which is already a violation of federal law.

The bill also requires the DEP to adopt rules and regulations to implement the provisions of the bill and could impose additional administrative tasks on the DEP that require State expenditures. For example, an alleged violator is to be notified by certified mail or in person that a penalty is being assessed and be made aware of the right to a hearing before any final order assessing a fine is given. However, the DEP currently undertakes administrative actions for

other types of violations and so it is possible that these responsibilities could be subsumed within the duties of current staff using existing resources.

Any person who has been assessed two or more civil administrative penalties will be guilty, upon conviction of a subsequent violation, of a crime of the fourth degree and subject to criminal penalties including a fine of up to \$10,000 and imprisonment for up to one year. The Office of the Attorney General and the courts would incur additional costs for the prosecution of these cases and the administration of the proceedings. However, there is a presumption of non-incarceration for the first conviction for a crime of the fourth degree and so significant expenditures related to imprisonment are unlikely.

The bill requires the DEP to assess civil administrative penalties on persons who violate the provisions of the bill and to recover administrative fees and costs expended in prosecuting violations, which would result in a marginal revenue increase to the General Fund. Repeat violators are subject to additional criminal fines as noted above. The bill also authorizes law enforcement officers to seize any vessels, vehicles, equipment, or other property involved in a second or subsequent violation of the provisions of the bill and requires that all proceeds from the sales of such property be deposited into the "Endangered and Nongame Species of Wildlife Conservation Fund" within the General Fund. However, it is unclear how prevalent the unlawful possession or sale, distribution, trade, and offering for sale of shark fins is in the State and therefore difficult to determine the State revenue impact. According to the Animal Welfare Institute, there were five restaurants in the State offering shark fin soup (the primary use of shark fins) for sale in 2017, while the Humane Society of the United States testified before the Senate Environment and Energy Committee on November 26, 2018 that there were "close to a dozen" restaurants in New Jersey selling shark fins. This suggests that the demand for shark fins is not particularly high. However, the Animal Welfare Institute further claims that there are fourteen restaurants in New York offering shark fin soup for sale despite the state prohibiting their sale in 2014. Therefore, there could be a small but persistent market in the State for shark fins that leads to increased State revenues from civil and criminal fines as well as the sale of property seized in the enforcement of the provisions of the bill.

*Section: Environment, Agriculture, and Natural Resources*

*Analyst: Eric Hansen  
Assistant Research Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# ASSEMBLY, No. 4845

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JANUARY 15, 2019

**Sponsored by:**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Assemblyman JOHN ARMATO**

**District 2 (Atlantic)**

**Assemblyman VINCENT MAZZEO**

**District 2 (Atlantic)**

**Co-Sponsored by:**

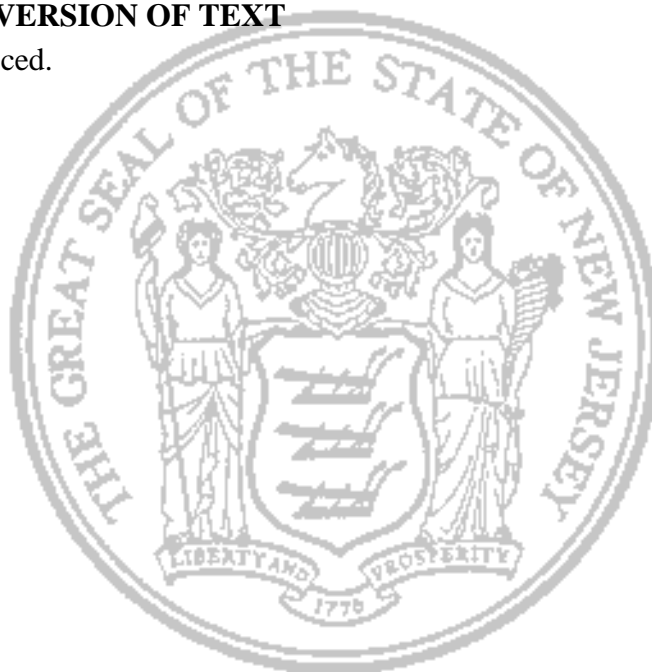
**Assemblywomen Jasey, Murphy, Assemblymen Zwicker, McKeon and Calabrese**

**SYNOPSIS**

Prohibits certain possession, sale, trade, distribution, or offering for sale of shark fins.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 11/26/2019)**

1 AN ACT concerning the sale and possession of shark fins and  
2 supplementing Title 23 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. a. No person shall:

8 (1) sell, trade, or distribute, or offer for sale any shark fin; or

9 (2) possess any shark fin that has been separated from a shark  
10 prior to its lawful landing. The burden of proof shall be on the  
11 person in possession of the shark fin to demonstrate that it was not  
12 separated from the shark prior to its lawful landing.

13 b. (1) The provisions of subsection a. of this section shall not  
14 apply to: (a) any lawfully-obtained shark fin possessed, sold, traded,  
15 distributed, or offered for sale for scientific research or educational  
16 purposes; or (b) any lawfully-obtained smooth dogfish or spiny  
17 dogfish fin.

18 (2) A commercial or recreational fisherman may possess shark  
19 fins from sharks that they have lawfully-obtained in a manner  
20 consistent with licenses or permits issued to the commercial or  
21 recreational fisherman.

22 c. (1) Whenever, on the basis of available information, the  
23 Commissioner of Environmental Protection finds that a person is in  
24 violation of the provisions of subsection a. of this section, or of any  
25 rule or regulation adopted pursuant thereto, the commissioner:

26 (a) shall levy a civil administrative penalty in accordance with  
27 subsection d. of this section; and

28 (b) upon a person's third or subsequent violation of the  
29 provisions of subsection a. of this section, may petition the Attorney  
30 General to bring a criminal action in accordance with subsection e.  
31 of this section.

32 (2) A violation of the provisions of subsection a. of this section  
33 by a person or business holding a license or permit issued to a  
34 commercial or recreational fisherman shall result in the suspension  
35 or revocation of that license or permit.

36 d. The commissioner is authorized to assess a civil  
37 administrative penalty of not less than \$5,000 or more than \$15,000  
38 for a first offense under this section, not less than \$15,000 or more  
39 than \$35,000 for a second offense, and not less than \$35,000 or  
40 more than \$55,000 for a third or subsequent offense. Each day  
41 during which a violation continues shall constitute an additional,  
42 separate, and distinct offense. Any amount assessed under this  
43 subsection shall fall within a range established by rule or regulation  
44 by the commissioner for violations of similar type, seriousness,  
45 duration and conduct, and shall be based, in part, on the number or  
46 weight of shark fins that are the subject of the violation; provided,  
47 however, that prior to the adoption of the rule or regulation, the  
48 commissioner may, on a case-by-case basis, assess a civil

1 administrative penalty up to the maximum identified in this  
2 subsection, utilizing the criteria set forth herein. In addition to any  
3 civil administrative penalty assessed under this subsection, and  
4 notwithstanding the maximum penalties set forth herein, the  
5 commissioner may assess an additional penalty equal to any  
6 economic benefits from the violation gained by the violator.

7 Prior to the assessment of a penalty under this subsection, the  
8 person committing the violation shall be notified by certified mail  
9 or personal service that the penalty is being assessed. The notice  
10 shall identify the section of the statute or regulation violated; recite  
11 the facts alleged to constitute a violation; state the basis for the  
12 amount of the civil penalties to be assessed; and affirm the rights of  
13 the alleged violator to a hearing. The ordered party shall have 35  
14 days from receipt of the notice within which to deliver to the  
15 commissioner a written request for a hearing. After the hearing,  
16 and upon finding that a violation has occurred, the commissioner  
17 may issue a final order assessing the amount of the fine specified in  
18 the notice. If no hearing is requested, the notice shall become a  
19 final order after the expiration of the 35-day period. Payment of the  
20 assessment is due when a final order is issued or the notice becomes  
21 a final order. The payment of any assessment shall not be deemed  
22 to affect the availability of any other enforcement provisions in  
23 connection with the violation for which the assessment is levied.

24 The department may compromise any civil administrative  
25 penalty assessed under this section in an amount and with  
26 conditions the department determines appropriate. A civil  
27 administrative penalty assessed, including any portion thereof  
28 required to be paid pursuant to a payment schedule approved by the  
29 department, which is not paid within 90 days of the date that the  
30 payment of the penalty is due, shall be subject to an interest charge  
31 on the amount of the penalty, or portion thereof that remains  
32 unpaid, which interest shall accrue as of the date payment is due. If  
33 the penalty is contested, no additional interest charge shall accrue  
34 on the amount of the penalty until 90 days after the date on which a  
35 final order is issued. Interest charges assessed and collectible  
36 pursuant to this subsection shall be based on the rate of interest on  
37 judgments provided in the New Jersey Rules of Court.

38 e. Any person who has been assessed a civil administrative  
39 penalty, on two or more occasions, pursuant to subsection d. of this  
40 section shall be guilty, upon conviction for a subsequent violation  
41 of subsection a. of this section, of a crime of the fourth degree.  
42 Notwithstanding the provisions of paragraph (4) of subsection a. of  
43 N.J.S.2C:43-6 to the contrary, a person convicted under this  
44 subsection shall be subject to a term of imprisonment of not more  
45 than one year.

46 f. In addition to the penalties imposed under subsections d. and  
47 e. of this section, a person who violates the provisions of subsection  
48 a. of this section shall be liable to the department for the payment of

1 administrative fees and costs and court costs expended in  
2 prosecuting the violation, and for the payment of reasonable  
3 attorneys' fees.

4 g. (1) Any shark fins possessed, sold, traded, distributed, or  
5 offered for sale in violation of the provisions of subsection a. of this  
6 section, or of any rule or regulation adopted pursuant thereto, and  
7 any vessels, vehicles, equipment, or other property utilized in the  
8 commission of a second or subsequent violation of subsection a. of  
9 this section, or of any rule or regulation adopted pursuant thereto,  
10 may be confiscated, and shall be subject to forfeiture by summary  
11 proceeding, instituted by the Commissioner of Environmental  
12 Protection in a court of competent jurisdiction.

13 (2) Upon viewing a violation of subsection a. of this section, the  
14 department, a conservation officer, or any other law enforcement  
15 officer may seize and secure, in accordance with the provisions of  
16 paragraph (1) of this subsection, any shark fins, vessels, vehicles,  
17 equipment, or other property involved in the violation, and the  
18 commissioner shall immediately thereafter give notice of the  
19 seizure to the court.

20 (3) In addition to the confiscation procedure identified in  
21 paragraph (2) of this subsection, a court may, upon the filing of a  
22 verified complaint, issue a warrant directing a conservation officer,  
23 or any other law enforcement officer, to: (a) seize, and take into  
24 possession, shark fins, vessels, vehicles, equipment, or other  
25 property described in the complaint; (b) bring any seized items  
26 before the court that issued the warrant; and (c) summon the person  
27 named in the warrant, and any other person who may be found in  
28 possession of the described items, to appear at the time and place  
29 therein specified.

30 (4) If, after a hearing, the court determines that any shark fin  
31 seized pursuant to this subsection was possessed, sold, traded,  
32 distributed, or offered for sale in violation of the provisions of  
33 subsection a. of this section, the shark fin shall be forfeited and,  
34 notwithstanding any other law, rule, or regulation to the contrary,  
35 shall be disposed of through destruction.

36 If, after a hearing, the court determines that any other items  
37 seized pursuant to this subsection were utilized in the commission  
38 of a violation of subsection a. of this section, the items shall be  
39 forfeited and disposed of through destruction, donation, or sale, as  
40 the court may direct, but no such item shall be sold contrary to the  
41 provisions of any law, or any rule or regulation adopted pursuant  
42 thereto. The proceeds of any sale conducted pursuant to this  
43 paragraph, less legal costs and charges, shall be paid into the  
44 "Endangered and Nongame Species of Wildlife Conservation  
45 Fund," established pursuant to section 1 of P.L.1981,  
46 c.170 (C.54A:9-25.2), to be used for the same purposes as other  
47 monies in that fund.

1 h. The department shall adopt, pursuant to the “Administrative  
2 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and  
3 regulations necessary to implement the provisions of this section.

4 i. As used in this section:

5 “Commissioner” means the Commissioner of Environmental  
6 Protection.

7 “Department” means the Department of Environmental  
8 Protection.

9 “Shark” means any species categorized in the Chondrichthyes  
10 taxonomic class (cartilaginous fishes), and belonging to the  
11 subclass Elasmobranchii, but shall not include any species in the  
12 superorder Batoidea (commonly known as a ray or a skate).

13 “Shark fin” means a raw, dried, or otherwise processed fin or tail  
14 that has been separated from the body of any species of shark.

15

16 2. a. Notwithstanding the provisions of section 1 of this act, or  
17 any other law, rule, or regulation, to the contrary, until January 1 of  
18 the year next following the date of enactment of this act, a person  
19 may possess, sell, trade, or distribute, or offer for sale any shark fin  
20 that is in that person’s possession on or before the date of enactment  
21 of this act.

22 b. As used in this section:

23 “Shark” means any species categorized in the Chondrichthyes  
24 taxonomic class (cartilaginous fishes), and belonging to the  
25 subclass Elasmobranchii, but shall not include any species in the  
26 superorder Batoidea (commonly known as a ray or a skate).

27 “Shark fin” means a raw, dried, or otherwise processed fin or tail  
28 that has been separated from the body of any species of shark.

29

30 3. This act shall take effect immediately.

31

32

33

#### STATEMENT

34

35 This bill prohibits: (1) the sale, trade, or distribution, or the  
36 offering for sale, of any shark fin; and (2) the possession of any  
37 shark fin that has been separated from a shark prior to its lawful  
38 landing. The bill’s prohibitions do not apply to lawfully obtained  
39 shark fins possessed, sold, traded, or distributed for scientific  
40 research or educational purposes, or to lawfully obtained smooth  
41 dogfish or spiny dogfish fins. The bill allows commercial and  
42 recreational fishermen to possess shark fins from sharks if obtained  
43 lawfully in a manner consistent with the fisherman’s license or  
44 permit. Under the bill, a person is authorized, until January 1 of the  
45 year next following the date of enactment of the bill, to possess,  
46 sell, trade, or distribute, or offer for sale, any shark fin that is in that  
47 person’s possession on or before the date of enactment of this bill.



1 A person who violates the bill's prohibitions against the  
2 possession, sale, trade, distribution, or offer for sale of shark fins is  
3 subject: (1) for a first offense, to a civil administrative penalty of  
4 not less than \$5,000 or more than \$15,000; (2) for a second offense,  
5 to a civil administrative penalty of not less than \$15,000 or more  
6 than \$35,000; and (3) for a third or subsequent offense, to a civil  
7 administrative penalty of not less than \$35,000 or more than  
8 \$55,000, or by imprisonment of not more than one year, or both.  
9 Each day during which a violation continues constitutes an  
10 additional, separate, and distinct offense. The Commissioner of  
11 Environmental Protection may assess an additional penalty for an  
12 amount up to the value of the economic gain from violating the  
13 bill's provisions. Shark fins possessed in violation of the bill's  
14 provisions, and vessels, vehicles, equipment, or other property  
15 utilized in the commission of a second or subsequent violation of  
16 the bill's provisions, are subject to seizure and forfeiture by a  
17 summary proceeding. Shark fins determined by a court to be  
18 possessed, sold, traded, distributed, or offered for sale in violation  
19 of the provisions of the bill would be destroyed. The bill also  
20 provides that a person or business holding a commercial or  
21 recreational fishing license or permit that violates the provisions of  
22 the bill would have their license or permit suspended or revoked.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4845

# STATE OF NEW JERSEY

DATED: MARCH 18, 2019

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4845.

This bill prohibits: (1) the sale, trade, or distribution, or the offering for sale, of any shark fin; and (2) the possession of any shark fin that has been separated from a shark prior to its lawful landing. The bill's prohibitions do not apply to lawfully obtained shark fins possessed, sold, traded, or distributed for scientific research or educational purposes, or to lawfully obtained smooth dogfish or spiny dogfish fins. The bill allows commercial and recreational fishermen to possess shark fins from sharks if obtained lawfully in a manner consistent with the fisherman's license or permit. Under the bill, a person is authorized, until January 1 of the year next following the date of enactment of the bill, to possess, sell, trade, or distribute, or offer for sale, any shark fin that is in that person's possession on or before the date of enactment of this bill.

A person who violates the bill's prohibitions against the possession, sale, trade, distribution, or offer for sale of shark fins is subject: (1) for a first offense, to a civil administrative penalty of not less than \$5,000 or more than \$15,000; (2) for a second offense, to a civil administrative penalty of not less than \$15,000 or more than \$35,000; and (3) for a third or subsequent offense, to a civil administrative penalty of not less than \$35,000 or more than \$55,000, or by imprisonment of not more than one year, or both. Each day during which a violation continues constitutes an additional, separate, and distinct offense. The Commissioner of Environmental Protection may assess an additional penalty for an amount up to the value of the economic gain from violating the bill's provisions. Shark fins possessed in violation of the bill's provisions, and vessels, vehicles, equipment, or other property utilized in the commission of a second or subsequent violation of the bill's provisions, are subject to seizure and forfeiture by a summary proceeding. Shark fins determined by a court to be possessed, sold, traded, distributed, or offered for sale in violation of the provisions of the bill would be destroyed. The bill also provides that a person or business holding a commercial or recreational fishing license or permit that violates the provisions of the bill would have their license or permit suspended or revoked.

As reported, Assembly Bill No. 4845 is identical to Senate Bill No. 2905 (1R), as also reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate, likely nominal, annual State expenditure increases arising from new enforcement and administrative responsibilities for the Department of Environmental Protection (DEP) related to the new prohibition against the possession, sale, distribution, trade, and offer for sale of shark fins. Considering that a third or subsequent violation of the prohibition will be a crime of the fourth degree, the bill can also be expected to periodically increase the expenditures of the Department of Law and Public Safety, the Judiciary, and the Department of Corrections from prosecuting, trying, and possibly incarcerating violators.

The OLS estimates further that the bill will increase annual State revenue collections by an indeterminate, likely nominal, amount from the assessment of civil administrative penalties by the DEP, the imposition of criminal fines by the courts, and the sale of any confiscated property used in the violation of the prohibition established by the bill.

The OLS lacks the informational basis to determine the number of violations that the DEP may discover in any given year, but available data suggest that the acts prohibited by the bill are not highly prevalent in New Jersey. Consequently, the fiscal impacts of the bill can be anticipated to be nominal in a typical year.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 4845**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: MARCH 20, 2019

**SUMMARY**

- Synopsis:** Prohibits certain possession, sale, trade, distribution, or offering for sale of shark fins.
- Type of Impact:** Annual State expenditure and revenue increases to the General Fund.
- Agencies Affected:** Department of Environmental Protection, Department of Law and Public Safety, The Judiciary, Department of Corrections.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Expenditure Increase</b>	Indeterminate
<b>State Revenue Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate, likely nominal, annual State expenditure increases arising from new enforcement and administrative responsibilities for the Department of Environmental Protection (DEP) related to the new prohibition against the possession, sale, distribution, trade, and offer for sale of shark fins. Considering that a third or subsequent violation of the prohibition will be a crime of the fourth degree, the bill can also be expected to periodically increase the expenditures of the Department of Law and Public Safety, The Judiciary, and the Department of Corrections from prosecuting, trying, and possibly incarcerating violators.
- The OLS estimates further that the bill will increase annual State revenue collections by an indeterminate, likely nominal, amount from the assessment of civil administrative penalties by the DEP, the imposition of criminal fines by the courts, and the sale of any confiscated property used in the violation of the prohibition established by the bill.
- The OLS lacks the informational basis to determine the number of violations that the DEP may discover in any given year, but available data suggest that the acts prohibited by the bill are not highly prevalent in New Jersey. Consequently, the fiscal impacts of the bill can be anticipated to be nominal in a typical year.

## **BILL DESCRIPTION**

This bill prohibits: (1) the sale, trade, or distribution, or the offering for sale, of any shark fin; and (2) the possession of any shark fin that has been separated from a shark prior to its lawful landing. The bill's prohibitions do not apply to lawfully obtained shark fins possessed, sold, traded, or distributed for scientific research or educational purposes, or to lawfully obtained smooth dogfish or spiny dogfish fins. The bill allows commercial and recreational fishermen to possess shark fins from sharks if obtained lawfully in a manner consistent with the fisherman's license or permit. Under the bill, a person is authorized, until January 1 of the year next following the date of enactment of the bill, to possess, sell, trade, or distribute, or offer for sale, any shark fin that is in that person's possession.

A person who violates the bill's prohibitions is subject: (1) for a first offense, to a civil administrative penalty of not less than \$5,000 or more than \$15,000; (2) for a second offense, to a civil administrative penalty of not less than \$15,000 or more than \$35,000; and (3) for a third or subsequent offense, to a civil administrative penalty of not less than \$35,000 or more than \$55,000, a criminal fine of up to \$10,000, and a term of imprisonment of not more than one year. Each day during which a violation continues constitutes a distinct offense. The DEP may assess an additional penalty for an amount up to the value of the economic gain from violating the bill's provisions. Shark fins possessed in violation of the bill's provisions, and vessels, vehicles, equipment, or other property utilized in the commission of a second or subsequent violation of the bill's provisions, are subject to seizure and forfeiture by a summary proceeding. Shark fins determined by a court to be possessed, sold, traded, distributed, or offered for sale in violation of the provisions of the bill would be destroyed. The bill also provides that a person or business holding a commercial or recreational fishing license or permit that violates the provisions of the bill would have the license or permit suspended or revoked.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that this bill will result in an indeterminate, likely nominal, increase in State expenditures and revenues to the General Fund. The bill creates new enforcement responsibilities for the DEP, which enforces fishing regulations through the Division of Fish and Wildlife. However, the enforcement of the prohibition against the possession or sale, distribution, trade, and offer for sale of shark fins may be outside the scope of the division's usual duties and may necessitate new enforcement training. These expenditures will vary depending on the prevalence of these activities and practices like "finning" (harvesting only the fin of the shark), which is already a violation of federal law.

The bill also requires the DEP to adopt rules and regulations to implement the provisions of the bill and could impose additional administrative tasks on the DEP that require State expenditures. For example, an alleged violator is to be notified by certified mail or in person that a penalty is being assessed and be made aware of the right to a hearing before any final order assessing a fine is given. However, the DEP currently undertakes administrative actions for

other types of violations and so it is possible that these responsibilities could be subsumed within the duties of current staff using existing resources.

Any person who has been assessed two or more civil administrative penalties will be guilty, upon conviction of a subsequent violation, of a crime of the fourth degree and subject to criminal penalties including a fine of up to \$10,000 and imprisonment for up to one year. The Office of the Attorney General and the courts would incur additional costs for the prosecution of these cases and the administration of the proceedings. However, there is a presumption of non-incarceration for the first conviction for a crime of the fourth degree and so significant expenditures related to imprisonment are unlikely.

The bill requires the DEP to assess civil administrative penalties on persons who violate the provisions of the bill and to recover administrative fees and costs expended in prosecuting violations, which would result in a marginal revenue increase to the General Fund. Repeat violators are subject to additional criminal fines as noted above. The bill also authorizes law enforcement officers to seize any vessels, vehicles, equipment, or other property involved in a second or subsequent violation of the provisions of the bill and requires that all proceeds from the sales of such property be deposited into the "Endangered and Nongame Species of Wildlife Conservation Fund" within the General Fund. However, it is unclear how prevalent the unlawful possession or sale, distribution, trade, and offering for sale of shark fins is in the State and therefore difficult to determine the State revenue impact. According to the Animal Welfare Institute, there were five restaurants in the State offering shark fin soup (the primary use of shark fins) for sale in 2017, while the Humane Society of the United States testified before the Senate Environment and Energy Committee on November 26, 2018 that there were "close to a dozen" restaurants in New Jersey selling shark fins. This suggests that the demand for shark fins is not particularly high. However, the Animal Welfare Institute further claims that there are fourteen restaurants in New York offering shark fin soup for sale despite the state prohibiting their sale in 2014. Therefore, there could be a small but persistent market in the State for shark fins that leads to increased State revenues from civil and criminal fines as well as the sale of property seized in the enforcement of the provisions of the bill.

*Section: Environment, Agriculture, and Natural Resources*

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# Governor Murphy Takes Action on Legislation

01/9/2020

**TRENTON** – Today, Governor Phil Murphy signed the following bills into law:

**S446 (Addiego, Madden/DeAngelo, Houghtaling, Wirths)** - Provides preferences for certain businesses applying for workforce development grants.

**S1242 (Turner, Greenstein/Benson, DeAngelo, Pinkin)** - Requires boil water notices be provided to municipal officials within one hour.

**S1712 (Beach, Turner/Lampitt, Chaparro, Houghtaling)** - Requires consumer notification of vehicle warranty for aftermarket and recycled parts.

**S1874 (Ruiz, Greenstein/Giblin, Webber, Wimberly, Chiaravalloti)** - Establishes special license plates to bring awareness to breast cancer.

**S2055 (Cunningham, Ruiz/Sumter, Jasey, Jones)** - Permits incarcerated persons to receive student financial aid.

**S2106 (Bucco, Bucco/Dancer, Pinkin)** - Requires Adjutant General of DMVA to issue State flag to resident enrolling in federal service academy.

**S2656 (Pou, Cruz-Perez, Ruiz/Lopez, Mejia, Chaparro)** - Establishes 35 member New Jersey Puerto Rico Commission in Department of State.

**S2905 (Singleton/Mukherji, Armato, Mazzeo)** - Prohibits certain possession, sale, trade, distribution, or offering for sale of shark fins.

**S3594 (Singer, Singleton/Quijano)** - Provides certain employment protections for National Guard members employed in New Jersey.

**SJR36 (Weinberg/Mosquera, Lampitt, Webber)** - Designates October of each year as "Pregnancy and Infant Loss Remembrance Month" in New Jersey.

**SJR59 (Doherty, Madden/Mosquera, Moriarty, Dancer)** - Designates May of each year as "Civil War Veterans Recognition Month," in honor of the Grand Army of the Republic and the Sons of Union Veterans of the Civil War.

**SJR83 (Van Drew/Armato, Mazzeo, DeAngelo)** - Expresses support for United States Air Force to base F-35 fighter jets at 177th Fighter Wing in Atlantic City.

**A5070 (Speight, Tucker, Pintor Marin/Ruiz, Rice, Cunningham)** - Authorizes certain municipalities to impose parking taxes to fund projects to improve pedestrian access to mass transit.

Governor Murphy conditionally vetoed the following bill:

**S2389 (Singleton/Quijano, Downey, Houghtaling, Moriarty)** – Requires New Jersey State Board of Pharmacy to establish prescription drug pricing disclosure website and certain pharmaceutical manufacturing companies to provide prescription drug price information.

[Copy of Statement on S2389](#)

Governor Murphy absolute vetoed the following bills:

**S2167 (Pennacchio, Pou/Webber, McKeon, Pinkin, Giblin)** - Dedicates \$500,000 annually in revenues from vessel registration and renewal fees to NJ Greenwood Lake Fund.

[Copy of Statement on S2167](#)

**S3509 (Beach, Turner/Greenwald, Murphy, Vainieri Huttie)** - Increases dedication of certain revenues to “New Jersey Wine Promotion Account.”

[Copy of Statement on S3509](#)



# Governor Murphy Signs Legislation Prohibiting Possession, Sale, Trade, and Distribution of Shark Fins

01/9/2020

**TRENTON** – Governor Phil Murphy today signed S2905, which will prohibit the sale, trade, distribution, or offering for sale of shark fins, as well as the possession of any shark fin that is separated from a shark that is caught and released. The law will prevent the highly cruel practice of separating shark fins from sharks and releasing them back into the water.

“Shark fins are often obtained in a very inhumane manner that causes much suffering to the animal,” said **Governor Murphy**. “I am proud to sign this law that will prevent the catch and release of sharks for the purpose of cutting off their fins.”

“Shark finning is unnecessary and inhumane. I am pleased that we can come together as a state to protect New Jersey’s sharks as part of our ongoing efforts to protect all of our natural resources,” said **New Jersey Department of Environmental Protection Commissioner Catherine R. McCabe**. “Cutting the fins of sharks and then dumping them back in the water is a death sentence for the shark, needlessly wastes our precious resources and impacts New Jersey’s delicate coastal ecosystem.”

S2905 bans the sale, trade, distribution, or the offering for sale of any shark fin. The law further bans the possession of any shark fin that has been separated from a shark prior to its lawful landing. The law does not apply to lawfully obtained shark fins that are possessed, sold, traded or distributed for scientific research or education purposes. The law also allows commercial and recreational fishermen to possess shark fins if obtained lawfully in a manner consistent with the fisherman’s license or permit.

Violations of the law are subject to civil administration penalties ranging from \$5,000 to \$15,000 for the first offense, \$15,000 to \$35,000 for the second offense, and \$35,000 to \$55,000 for a third or subsequent offense. Additionally, a third or subsequent offense shall be deemed a crime of the fourth degree, which carries a penalty of a term of imprisonment for up to one year. The law also allows the Commissioner of Environmental Protection to assess an additional penalty for an amount up to the value of the economic gain from violating the bill’s provisions.

The law will take effect on January 1, 2021.

Primary sponsors of the legislation include Senator Troy Singleton, and Assemblymen Raj Mukherji, John Armato, and Vincent Mazzeo.

“With this new law, New Jersey now joins 13 other states in ending the sale of shark fins,” said **Senator Troy Singleton**. “I will continue to advocate for animals, whether they are a part of our marine life or domesticated in our homes, to ensure that they are not abused or needlessly harmed.”

“Shark finning is an inhumane practice that leads to the animal’s slow, excruciating death,” said **Assemblyman Mukherji**. “Aside from being downright cruel, shark finning is threatening the very existence of certain species, which ultimately poses a threat to the balance of all marine life.”

“The shark fin trade leads to the death of millions of sharks annually and has a devastating impact on the ocean’s ecosystem,” said **Assemblyman Armato**. “This new law is about ensuring that New Jersey has no participation in a market, the output of which promotes the destruction of the world’s ecosystem.”

“The bottom line is that the shark fin trade is unsustainable,” said **Assemblyman Mazzeo**. “Sharks play an invaluable role in maintaining marine ecosystems, and New Jersey must take a stand against finning in order to preserve them.”

“With the Governor’s signature, New Jersey has been removed from the global shark fin trade market and sends a clear signal that New Jerseyans will not tolerate cruel and wasteful shark finning,” said **Brian R. Hackett, New Jersey State Director for the Humane Society of the United States**. “NJ now becomes the 14th state to limit

or ban the trade. We thank Governor Murphy for his support, and appreciate the bill sponsors, Assemblymen Raj Mukherji, Vincent Mazzeo and John Armato; Senators Troy Singleton and Kip Bateman for their strong leadership to protect sharks and our ocean ecosystems.”

“We applaud the state of New Jersey for their leadership on shark conservation,” **said Ariana Spawn, ocean advocate at Oceana.** “New Jersey joins a growing list of states that have already banned the shark fin trade, including neighboring New York and Delaware. It’s clear that the time has come to pass federal legislation to take the United States out of the shark fin trade entirely.”