

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 465

(Senator Frosh, *et al.*)

Education, Health, and Environmental Affairs

Environmental Matters

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Natural Resources - Shark or Elasmobranch Fins - Restriction on Possession or  
Distribution

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This bill generally prohibits a person from possessing, selling, offering for sale, trading, or distributing a shark fin. The bill authorizes possession of a shark fin and use of an unprocessed ray or skate as bait in specified circumstances. Also, a museum, college, or university is authorized to possess a shark fin if the shark fin is used solely for display or research purposes and is prohibited from selling a shark fin when it is no longer used for display or research purposes. A “shark fin” is the raw, dried, or otherwise processed detached fin or tail of a shark or other elasmobranch. The Department of Natural Resources (DNR) must adopt implementing regulations.

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Fiscal Summary

**State Effect:** This estimate assumes that DNR can enforce and implement the bill with existing budgeted resources; however, enforcement may be difficult because provisions of the bill are unclear. The application of existing penalty provisions to the bill’s prohibition is not expected to materially affect State finances.

**Local Effect:** The bill is not expected to materially affect local operations or finances. The application of existing penalty provisions to the bill’s prohibition is not expected to materially affect local finances.

**Small Business Effect:** Meaningful.

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## Analysis

**Bill Summary:** A person may possess a shark fin if (1) the person holds the appropriate State or federal license or permit authorizing the taking or landing of a shark or elasmobranch for recreational or commercial purposes; (2) it is taken for personal use; and (3) it is taken in a manner consistent with the person's license. A person may use an unprocessed ray or skate as bait if (1) the person holds the appropriate State or federal license or permit authorizing the taking or landing of a ray or skate; (2) the person uses the unprocessed ray or skate as bait in a coastal area; and (3) the National Marine Fisheries Service has not found that the species is overfished.

**Current Law:** The Secretary of Natural Resources is responsible for conservation management of the fish, fisheries, fish resources, and aquatic life within the State. Current State regulations prohibit shark finning and filleting or cutting sharks into pieces at sea.

Generally, a person who violates fish and fishery provisions of the Natural Resources Article is guilty of a misdemeanor and, upon conviction, subject to a fine of up to \$1,000. A person who commits a second or subsequent offense is subject to a fine of up to \$2,000 or imprisonment for up to one year, or both. A second or subsequent offense is one which has occurred within two years of any prior violation.

Among other things, the federal Shark Conservation Act of 2010 (H.R. 81) prohibits (1) removal of any shark fin (including the tail) at sea; (2) having a fin aboard a fishing vessel, unless the fin is naturally attached to the carcass; (3) transferring a fin from one vessel to another or receiving a fin, unless it is naturally attached; or (4) landing a fin that is not naturally attached to a carcass or landing a carcass without fins naturally attached.

**Background:** DNR's Fisheries Service is responsible for managing commercial and recreational fishing in the State. The Fisheries Service seeks to develop a management framework for the conservation and equitable use of fishery resources; manage fisheries in balance with the ecosystem for present and future generations; monitor and assess the status and trends of fishery resources; and provide high-quality, diverse, and accessible fishing opportunities. Maryland manages sharks under the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Atlantic Coastal Sharks.

There is a small recreational and commercial shark fishery in Maryland. Approximately 15 commercial watermen report landing sharks in State waters every year. **Exhibit 1** illustrates that the State's 2011 shark harvest totaled over 1.4 million pounds, with a dockside value of nearly \$1.0 million. The majority of the harvest was composed of spiny dogfish, which are typically sold whole for their meat. In addition, the State's 2010

skate (an elasmobranch) harvest totaled 76,200 pounds; however, data on the number of skate harvesters and processors and its dockside value are not readily available.

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**Exhibit 1**  
**2011 Shark Harvest in Maryland**

<b><u>Shark Species</u></b>	<b><u>Total Harvest (lbs)</u></b>	<b><u>Total Dockside Value</u></b>
Blacktip	72	\$36
Smooth Dogfish	199,081	690,430
Spiny Dogfish	1,216,547	278,574
Shortfin Mako	5,776	22,724
Tiger	667	507
Atlantic Sharpnose	294	120
Spinner	54	19
Common Thresher	2,379	3,150
<b>Total</b>	<b>1,424,870</b>	<b>\$995,560</b>

Note: The dockside values may be for whole sharks, fins, or a combination of both.

Source: Department of Natural Resources

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Shark finning is a widespread practice that has contributed to a significant decline in some shark species. Shark finning refers to the removal and retention of shark fins and the discarding of the rest of the fish. There is an international demand for shark fins to use in soup, among other purposes.

Several states have passed laws that seek to limit or prohibit the possession, sale, trade, and/or distribution of shark fins, including California, Hawaii, Oregon, and Washington.

**Small Business Effect:** The bill has a meaningful impact on small fishing businesses that harvest shark as well as seafood wholesalers, dealers, truckers, and restaurants that process, transport, or sell shark and/or shark fins. Because the bill limits the possession of shark fins, it may limit the State's commercial shark fishery, affecting approximately 15 small fishing businesses. The bill has a negative impact on small seafood wholesalers/dealers, stores, and restaurants to the extent that they can no longer utilize or sell shark fins. DNR advises that 10 restaurants in the State are known to serve shark fin soup. The total number of small businesses impacted by the bill cannot be reliably estimated at this time.

**Additional Comments:** Several provisions of the bill are unclear. The bill authorizes possession of a shark fin if, among other things, a person has a recreational or commercial fishing license *and* if the shark fin is taken for personal use. It appears contradictory to require a commercial fishing license but only authorize personal use. In addition, the term “unprocessed” is unclear. The bill authorizes the use of unprocessed ray or skate as bait; however, if unprocessed means the fish has not been dismantled, watermen will not be able to continue to use rays and skate as bait, as the fish are often cut into pieces to be used as bait. Furthermore, watermen that use ray and skate as bait do not necessarily have the license required to take or land ray or skate, which the bill requires in order to possess such fish.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** Although HB 393 (Delegate Luedtke, *et al.* - Environmental Matters) is designated as a cross file, it is different.

**Information Source(s):** Department of Natural Resources, National Conference of State Legislatures, World Wildlife Fund, Department of Legislative Services

**Fiscal Note History:** First Reader - February 24, 2012  
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