

# **Sharks Are Friends, Not Food: Florida Is the 14th State to Ban the Shark Fin Trade, but What Will It Take for Other States to Follow?**

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## I: INTRODUCTION

Sharks are frightening, but human greed is lethal. People often perceive sharks as mindless man-eaters, but the reality is quite the opposite. Each year, nearly 65 humans are attacked by sharks worldwide, resulting in a one out of 11.5 million chance of suffering a bite.<sup>1</sup> Only a handful of these attacks are fatal.<sup>2</sup> People have a higher chance of dying from falling coconuts, which, on average, kill 150 people annually, or from poorly planned “selfie” attempts, which cause 40 deaths per year.<sup>3</sup> The sharks face much worse odds. Humans are responsible for killing 100 million sharks annually.<sup>4</sup> Up to 73 million of these sharks are killed for shark fin soup, a dish that costs anywhere from \$50 to \$200 per bowl.<sup>5</sup>

For some, shark fin soup is regarded as a status symbol.<sup>6</sup> Demand for this soup has caused sharks to fall victim to shark finning. This is a practice where commercial fishers cut the fins off of sharks and throw the still-breathing sharks back into the water to die.<sup>7</sup> In the United States, federal legislation has banned shark finning in U.S. waters, but many states still permit the sale, possession, and distribution of shark fins once the shark is properly “landed,” or brought back to shore, thus contributing to the international demand for shark fin soup.<sup>8</sup> Nonetheless, change is on the horizon.

Florida recently joined 13 other states in banning the sale, import, and export of shark fins.<sup>9</sup> This was a momentous decision coming from the state that was

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<sup>1</sup> BLAKE CHAPMAN, SHARK ATTACKS: MYTHS, MISUNDERSTANDINGS AND HUMAN FEAR 43 (2017).

<sup>2</sup> *Id.* at 44.

<sup>3</sup> *Id.*

<sup>4</sup> Bettina Tran, *Eating Our Way to Their Extinction: What Florida Should Learn from California on Banning Shark Fin Soup and the Shark Fin Trade*, 9 SEATTLE J. ENVTL. L. 240, 242 (2019).

<sup>5</sup> Francesco Ferretti et al., *Shark Fin Trade Bans and Sustainable Shark Fisheries*, 13 CONSERVATION LETTERS 1, 1 (2020); David E. Jennings, *Comparing Recent Federal and State Attempts at Legislation Promoting Shark Conservation: A Failure of Cooperative Federalism?*, 21 Vt. J. Env't. L. 416, 420 (2020).

<sup>6</sup> Rachel Fobar, *Shark Fin Is Banned in 12 U.S. States-But It's Still on the Menu*, NAT'L GEOGRAPHIC (Jan. 16, 2019), <https://www.nationalgeographic.com/animals/2019/01/restaurants-sell-shark-fin-soup-despite-state-bans/>.

<sup>7</sup> GENE HELFMAN & GEORGE H. BURGESS, *SHARKS: THE ANIMAL ANSWER GUIDE* 196 (2014).

<sup>8</sup> Sara Amundson, *Following House Approval, US Has a Chance to Ban the Cruel Shark Fin Trade*, TRUTHOUT (Mar. 13, 2020), <https://truthout.org/articles/following-house-approval-us-has-a-chance-to-ban-the-cruel-shark-fin-trade/>.

<sup>9</sup> David E. Jennings, *States Lead the Way in Ending the Shark Fin Trade*, AMERICAN BAR ASS'N (Feb. 10, 2021), [https://www.americanbar.org/groups/environment\\_energy\\_resources/publications/mr/20210210-states-lead-the-way-in-ending-the-shark-fin-trade/](https://www.americanbar.org/groups/environment_energy_resources/publications/mr/20210210-states-lead-the-way-in-ending-the-shark-fin-trade/).

once the nation's top importer of shark fins.<sup>10</sup> Unfortunately, there is still work to be done. Florida's legislation has several loopholes, and 36 states still lack strict regulation.<sup>11</sup> Thus, the U.S. still plays an active role in this unsustainable trade.

This article examines the effect the U.S. has on the international shark fin trade and the steps that need to be taken to end this wasteful practice. Part II of this article examines shark fin soup's history and the conservation issues surrounding sharks today. Part III analyzes the evolution of federal legislation regarding shark finning in the U.S. and Florida's new legislation. Lastly, Parts IV and V review existing problems with current legislation and possible solutions and counterarguments.

## II: BACKGROUND

### A. Shark Fin Soup: Its Origins and Current Use

Shark fin soup dates back to the Song Dynasty between 960-1279 A.D. when a Chinese emperor discovered the dish; it was then used in banquets during the Ming Dynasty.<sup>12</sup> Future emperors continued to serve the soup to guests to symbolize their ability to conquer the shark, emphasizing their strength and power.<sup>13</sup> The soup was then, and still is, consumed as a status dish within many communities around the world.<sup>14</sup> Its consumption became particularly popular at weddings and other social gatherings as the soup can be seen to represent the host's good fortune.<sup>15</sup>

Until recently, some believed that shark fins grow back after being removed.<sup>16</sup> In 2006, WildAid, a U.S. environmental organization, launched a campaign to educate the public and dispel myths about shark finning.<sup>17</sup> However, as a big-

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<sup>10</sup> Jenny Staletovich, *Miami Now Nation's Top Importer of Shark Fins. Many States Have Banned the Product.*, MIAMI HERALD, May 2, 2018 (last updated Feb. 22, 2019), <https://www.miamiherald.com/news/local/environment/article210157954.html>.

<sup>11</sup> Alexi C. Cardona, *Conservation Group Says Florida's Shark-Finishing Law Has Loopholes.*, MIAMI NEW TIMES (Sept. 24, 2020, 9:12 AM EDT), <https://www.miaminewtimes.com/news/oceana-says-florida-shark-fin-export-ban-has-loopholes-11697832>; Jennings, *supra* note 9.

<sup>12</sup> Fobar, *supra* note 6; Jennings, *supra* note 9, at 420.

<sup>13</sup> Louis Sahagun, *With Shark Fin Ban, a Slice of Asian Culture Ends in California*, L.A. TIMES (June 28, 2013), <https://www.latimes.com/local/la-xpm-2013-jun-28-la-me-shark-fins-20130629-story.html>; Tran, *supra* note 4, at 247.

<sup>14</sup> Simon Denyer, *Even as China Turns Away From Shark Fin Soup, the Prestige of the Dish is Gaining Popularity Elsewhere in Asia*, WASH. POST (Dec. 15, 2018), <https://www.washingtonpost.com/news/worldviews/wp/2018/02/14/even-as-china-turns-away-from-shark-fin-soup-the-prestige-dish-is-gaining-popularity-elsewhere-in-asia/>.

<sup>15</sup> Jeremy Iloulian, *From Shark Finning to Shark Fishing: A Strategy for the U.S. & EU to Combat Shark Finning in China & Hong Kong*, 27 DUKE ENVTL. L. & POL'Y F. 345, 346 (2017).

<sup>16</sup> Yvonne Sadovy de Mitcheson et al., *Out of Control Means Off the Menu: The Case for Ceasing Consumption of Luxury Products from Highly Vulnerable Species When International Trade Cannot Be Adequately Controlled; Shark Fin As a Case Study*, 98 MARINE POL'Y 115, 118 (2018).

<sup>17</sup> Erik Vance, *The Push to Stop the Killing of Sharks for Their Fins*, NAT'L GEOGRAPHIC (June 9, 2016), <https://www.nationalgeographic.com/magazine/2016/07/shark-fin-soup-campaign-illegal/>.

ticket item for many restaurant owners, shark fin soup is still on the menu and catered at social gatherings.<sup>18</sup> Its popularity has also spread to countries across the globe, including the U.S.<sup>19</sup> Some people eat shark fin soup for the alleged health benefits rather than the taste; however, studies reveal that its consumption can do more harm than good. For example, many believe that eating shark fins can strengthen one's kidneys, lungs, and bones.<sup>20</sup> Instead, eating shark fins may be associated with neurodegenerative diseases such as Alzheimer's and amyotrophic lateral sclerosis (ALS).<sup>21</sup> Sharks are apex predators, meaning that they are at the top of the food chain.<sup>22</sup> As a result, they are known to consume and contain high amounts of mercury, which is a toxin.<sup>23</sup>

### *B. Shark Fin Soup's Effect on Shark Populations*

Sharks are strong, resilient creatures that first came into existence millions of years before the first dinosaurs.<sup>24</sup> They have demonstrated an ability to survive changing conditions. Despite this, 100 million sharks are killed each year; averaging roughly 11,000 sharks killed every hour.<sup>25</sup> Their resilience is now put to the ultimate test. Unsustainable practices such as shark finning increase the chances of these creatures going extinct during our lifetimes.<sup>26</sup>

As apex predators, sharks reside at the top of the ocean's food chain and play a vital role in maintaining the ocean's ecosystem.<sup>27</sup> Because they are top predators, sharks' feeding habits prevent lower predatory species from overpopulating and thus depleting the ocean's resources.<sup>28</sup> Without sharks, the next predators in line might overeat herbivorous species and cause their populations to shrink.<sup>29</sup> This loss of herbivorous species is believed to be detrimental to the ocean as a whole because many of those species curb the growth of algae which competes for

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<sup>18</sup> Jennings, *supra* note 5, at 420; Fobar, *supra* note 6.

<sup>19</sup> Fobar, *supra* note 6; James Hockaday, *UK Could Become First Country in Europe to Ban Shark Fin Trade After Brexit*, METRO (Sep. 8, 2020); Denyer *supra* note 14.

<sup>20</sup> Tran, *supra* note 4, at 247-48.

<sup>21</sup> Neil Hammerschlag et al., *Cyanobacterial Neurotoxin BMAA and Mercury in Sharks*, 8 TOXINS 1, 2 (2016) (causation is still uncertain due to a lack of epidemiological data).

<sup>22</sup> Univ. of Miami Rosenstiel Sch. of Marine & Atmospheric Sci., *Shark Fins and Meat Contain High Levels of Neurotoxins Linked to Alzheimer's Disease*, SCIENCEDAILY (Aug. 29, 2016), <https://www.sciencedaily.com/releases/2016/08/160829163529.htm>.

<sup>23</sup> *Id.*

<sup>24</sup> Chapman, *supra* note 1, at 1.

<sup>25</sup> Tran, *supra* note 4, at 242.

<sup>26</sup> Sadovy de Mitcheson et al., *supra* note 16, at 116.

<sup>27</sup> Melissa C. Marquez, *Why Sharks Matter*, FORBES (Mar. 26, 2019), <https://www.forbes.com/sites/melissacristinamarquez/2019/03/26/why-sharks-matter/?sh=659a9884535c>.

<sup>28</sup> *Id.*

<sup>29</sup> Jonathan L. W. Ruppert, *Caught in the Middle: Combined Impacts of Shark Removal and Coral Loss on the Fish Communities of Coral Reefs*, 8 PLOS ONE 1, 4-5 (2013).

nutrients with coral reefs.<sup>30</sup> Coral reefs provide habitats for many other species.<sup>31</sup> Consequently, sharks play a vital role in ensuring that proper ocean vegetation continues to thrive.

Another important role sharks play in maintaining the ocean's ecosystem is their role as the ocean's "immune system."<sup>32</sup> Sharks can be thought of as the ocean's "immune system" because they feed on the weak.<sup>33</sup> As with many other predators, their diets largely consist of old, sick, and dying creatures, which helps prevent diseases from spreading while bolstering the strength and health of other prey populations.<sup>34</sup>

Sharks also prevent certain prey, such as sea turtles, from overgrazing.<sup>35</sup> This is very important because overgrazing can lead to increased carbon emissions.<sup>36</sup> Sea grass is known to absorb carbon, which prevents greenhouse gasses from contributing to global warming.<sup>37</sup>

Unfortunately, multiple shark populations have declined by over 70 percent in the last 50 years due to overfishing.<sup>38</sup> These numbers are dangerous because over a quarter of the shark species in existence today are threatened with extinction.<sup>39</sup> Of all the shark species used in the fin trade, one-third are vulnerable or endangered, meaning they are at risk of extinction.<sup>40</sup>

One example of an endangered species of shark is the scalloped hammerhead. These sharks are highly desired within the shark fin trade due to their sheer size.<sup>41</sup> Even though two of their population segments are listed as endangered under the Endangered Species Act ("ESA"), 1.3 to 2.7 million scalloped hammerheads and smooth hammerheads are killed annually for their fins.<sup>42</sup> Similarly, the oceanic

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<sup>30</sup> *Id.* at 7.

<sup>31</sup> *Id.* at 1.

<sup>32</sup> Julie Brondeel, *Why Sharks Are Important to Our Ecosystem and How You Can Help Protect Them*, PROJECTSABROAD, <https://www.projects-abroad.org/blog/why-sharks-are-important/> (last updated June 23, 2020).

<sup>33</sup> Marquez, *supra* note 27.

<sup>34</sup> *Id.*

<sup>35</sup> Ellen Johnson, *Why We Need Sharks for Healthy Oceans—And a Healthy Planet*, MYSTIC AQUARIUM (July 26, 2017), <https://www.mysticaquarium.org/2017/07/26/need-sharks-healthy-oceans-healthy-planet/>.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Nathan Pacoureaux, *Half a Century of Global Decline in Oceanic Sharks and Rays*, 589 NATURE 567, 568 (2021).

<sup>39</sup> Christina Vallianos et al., *Sharks in Crisis: Evidence of Positive Behavioral Change in China as New Threats Emerge*, WildAid 4 (Feb. 14, 2018), <https://www.legco.gov.hk/yr17-18/english/panels/ea/papers/ea20180528cb1-977-11-e.pdf>.

<sup>40</sup> Andrew T. Fields et al., *Species Composition of the International Shark Fin Trade Assessed Through a Retail-Market Survey in Hong Kong*, 32 CONSERVATION BIOLOGY 376, 376 (2017).

<sup>41</sup> *Hammerhead Sharks (Sphyrna spp.)*, U.S. FISH & WILDLIFE SERVICE, <https://www.fws.gov/international/cites/cop16/hammerhead-sharks.html> (last visited May 28, 2021).

<sup>42</sup> Katy Fairclough, *Shark Finning: Sharks Turned Prey*, SMITHSONIAN (Aug. 1, 2013), <https://ocean.si.edu/ocean-life/sharks-rays/shark-finning-sharks-turned-prey>.

whitetip shark is classified as critically endangered by the International Union for Conservation of Nature (“IUCN”), and their populations have declined by 95 percent in the Pacific Ocean.<sup>43</sup> This species is also listed as threatened under the ESA as their numbers have dropped by 88 percent in the Atlantic Ocean and Gulf of Mexico.<sup>44</sup> These numbers are particularly alarming because oceanic whitetips are top predators wherever they are found, and thus contribute to the ocean’s sustainability.<sup>45</sup>

Many of the shark species targeted for their fins have long lifespans, slowly mature, and produce very few young.<sup>46</sup> They are killed 30 percent faster than they can replace themselves, and some take more than 10 years to reach sexual maturity.<sup>47</sup> Once they are able to reproduce, some only have one or two pups every three years.<sup>48</sup> Female scalloped hammerheads from the Gulf of Mexico take 15 years to reach sexual maturity, and they only reproduce once a year.<sup>49</sup> Consequently, sharks cannot simply recover from the overexploitation they are experiencing.

### III: EVOLUTION OF SHARK FIN LEGISLATION

#### A. Federal Legislation

To eliminate shark finning in U.S. waters, Congress passed the Shark Finning Prohibition Act in 2000.<sup>50</sup> This law made it illegal to possess shark fins in U.S. waters without the corresponding carcasses also on board.<sup>51</sup> This law did not require the fins to be attached to the carcass by the time the boats made it to land; rather, it just required a “fin-to-carcass” ratio where the weight of the fins on board did not exceed a certain percentage of the weight of the bodies.<sup>52</sup> This motivated

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<sup>43</sup> Monica Evans, *Whitetip Sharks Declared Critically Endangered, But Gain No Protections in Pacific*, MONGABAY (Dec. 13, 2019) <https://news.mongabay.com/2019/12/whitetip-sharks-declared-critically-endangered-but-gain-no-protections-in-pacific/>.

<sup>44</sup> *Oceanic Whitetip Shark*, NOAA FISHERIES, <https://www.fisheries.noaa.gov/species/oceanic-whitetip-shark> (last visited May 28, 2021).

<sup>45</sup> *Id.*

<sup>46</sup> Patrick Mustain et al., *Shark Fin Trade: Why It Should Be Banned in the United States*, OCEANA 1, 1 (June 1, 2016), [https://usa.oceana.org/sites/default/files/shark\\_fin\\_ban\\_announcement\\_report\\_final\\_low-res.pdf](https://usa.oceana.org/sites/default/files/shark_fin_ban_announcement_report_final_low-res.pdf).

<sup>47</sup> *Id.* at 3.

<sup>48</sup> *Id.*

<sup>49</sup> Cathleen Bester, *Sphyrna Lewini*, FLORIDA MUSEUM, <https://www.floridamuseum.ufl.edu/discover-fish/species-profiles/sphyrna-lewini/> (last visited May 28, 2021); C.T. Chen et al., *Age and Growth of the Scalloped Hammerhead, Sphyrna Lewini, in Northeastern Taiwan Waters*, 44 PAC. SCI. 156, 166-69 (1990).

<sup>50</sup> Shark Finning Prohibition Act, PL 106-557, Dec. 21, 2000, 114 Stat 2772 (concerning 16 U.S.C.A. § 1822.)

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

fishermen to illegally mix fins and bodies.<sup>53</sup> They could fin an endangered species with valuable fins, throw the carcass out to sea, and allege that the fin belonged to an unprotected shark species on board with valuable meat.<sup>54</sup> Recognizing the existence of loopholes such as these, in 2011, Congress passed the Shark Conservation Act of 2010 (“SCA”).<sup>55</sup> The SCA requires U.S. fishermen to land all sharks with their fins attached, except for smooth dogfish sharks.<sup>56</sup> This is the current law, but new legislation is pending.

At the time of writing, a new law called the Shark Fin Sales Elimination Act (H.R. 737) is pending Senate approval.<sup>57</sup> This law, if approved, would ban purchasing, selling, and possessing shark fins for commercial purposes.<sup>58</sup> This legislation is exactly what the U.S. needs because the U.S. is still an active participant in the global shark fin trade.<sup>59</sup> Only 14 states have passed legislation banning the shark fin trade within their borders entirely. Without this new federal legislation, buying, selling, and possessing shark fins is still legal in most of the country.<sup>60</sup> The Act gained the House of Representatives’ approval, but without the Senate’s, it will not have the chance to become law.<sup>61</sup>

### B. Florida Legislation

In 1992, Florida banned shark finning in coastal waters and required sharks to be brought to shore with their fins attached, preceding the Shark Finning Prohibition Act in 2000.<sup>62</sup> This ban was reinforced in 2017 when it was codified as Florida Statute § 379.2426.<sup>63</sup> First-time offenders faced second-degree misdemeanor convictions and \$4,500 in administrative fines<sup>64</sup> Third-time offenders faced first-degree misdemeanor convictions and \$9,500 in administrative fines.<sup>65</sup> Although paving the way for progress, the statute’s language still permitted the sale and trade of shark fins through Florida’s ports, thereby only making it illegal to possess detached shark fins.<sup>66</sup>

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<sup>53</sup> Jennings *supra* note 5, at 422-23.

<sup>54</sup> *Id.*

<sup>55</sup> Shark Conservation Act, Pub. L. No. 111-348, § 103, 124 Stat. 3668, 3670 (2011).

<sup>56</sup> *Id.*

<sup>57</sup> Shark Fin Sales Elimination Act, H.R. 737, 116th Cong. § 1 (2019).

<sup>58</sup> *Id.* at § 2.

<sup>59</sup> Elizabeth Murdock & Vanessa Villanueva, *Unintentional Partner: How the United States Helps the Illegal Shark Fin Market*, NRDC 1, 4 (Oct. 8, 2019), [https://www.nrdc.org/sites/default/files/unintentional-partner-shark-fin-market-report\\_0.pdf](https://www.nrdc.org/sites/default/files/unintentional-partner-shark-fin-market-report_0.pdf).

<sup>60</sup> Shark Conservation Act *supra* note 55, § 103; Jennings, *supra* note 5, at 423-24.

<sup>61</sup> H.R. 737 *supra* note 57, § 1.

<sup>62</sup> FLA. ADMIN. CODE ANN. r. 68B-44.003(2) (West 2021).

<sup>63</sup> Tran, *supra* note 4, at 253.

<sup>64</sup> FLA. STAT. ANN. § 379.2426(3)(a) (West 2020).

<sup>65</sup> *Id.* § 379.2426(3)(c) (additionally, third-time offenders risk the permanent revocation of their license privileges).

<sup>66</sup> Tran, *supra* note 4, at 254.

On September 18, 2020, history was made when Florida Governor Ron DeSantis signed the Kristin Jacobs Ocean Conservation Act into law.<sup>67</sup> This law, gaining nearly unanimous support from Florida's House of Representatives and Senate, bans the sale, import, and export of shark fins through Florida's ports.<sup>68</sup> This legislation came at a great time. In 2017, Miami had the most shark fin imports in the entire U.S. with 88,128 fins.<sup>69</sup> Additionally, Florida was North America's largest hub for the sale, import, and transport of illegal shark fins.<sup>70</sup> Law enforcement officials did their best to capture illegal fins. For example, in January of 2020, wildlife inspectors seized 1,400 pounds of dry shark fins originating from South America which were packaged to ship to Asia.<sup>71</sup> Some of these shark fins came from protected species, making the shipment illegal.<sup>72</sup>

Unfortunately, a number of illegal shipments appear to have slipped through the cracks. In 2012, Stony Brooke University students used DNA testing to test shark fin soup found in many major U.S. cities and found several fins from endangered, vulnerable, and near-threatened species.<sup>73</sup> The researchers found DNA from the following vulnerable and near-threatened species: school sharks, blue sharks, spiny dogfish, copper sharks, and bull sharks.<sup>74</sup> These results reaffirm that Florida's participation in the shark fin trade has not ended finning of vulnerable species. With Florida's new legislation, those who illegally engage in shark fin trading now face the same criminal charges and administrative fines enumerated in the 2017 version of § 379.2426.<sup>75</sup>

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<sup>67</sup> *Senate Bill 680 Bill History*, THE FLA. SENATE., <https://www.flsenate.gov/Session/Bill/2020/680> (last visited Apr. 29, 2021).

<sup>68</sup> *Id.*; FLA. STAT. § 379.2426(3) (2020).

<sup>69</sup> Danielle Ivanov, *Florida Fishermen Fret As Shark Fin Sale Ban Moves Forward*, NEWS4JAX (Feb. 22, 2020, 7:00 AM), <https://www.news4jax.com/news/florida/2020/02/22/florida-fishermen-fret-as-shark-fin-sale-ban-moves-forward/>.

<sup>70</sup> Ed Killer, *Florida Law Banning Shark Fin Trade Has Loophole Allowing Commercial Fishers to Sell Them*, THE LEDGER (Oct. 6, 2020), <https://www.theledger.com/story/news/state/2020/10/06/florida-shark-fin-law-bans-import-export-through-state-ports-commercial-fishers-still-can-sell-them/3634800001/>.

<sup>71</sup> Sophie Lewis, *1,400 Pounds of Shark Fins, Worth up to \$1 Million, Seized in Miami*, CBS NEWS (Feb. 4, 2020, 12:47 PM), <https://www.cbsnews.com/news/endangered-species-1400-pounds-shark-fins-1m-seized-miami/>.

<sup>72</sup> *Id.*

<sup>73</sup> *New DNA Study Reveals Fins of Endangered Sharks in U.S. Soups*, THE INST. FOR OCEAN CONSERVATION SCI. (Aug. 8, 2012), [http://www.oceanconservationscience.org/media/2012/nr\\_2012.08.08.shtml](http://www.oceanconservationscience.org/media/2012/nr_2012.08.08.shtml).

<sup>74</sup> *Id.*

<sup>75</sup> FLA. STAT. § 379.2426(5) (2020); *See The Fla. Senate Bill Analysis and Fiscal Impact Statement, CS/CS/SB 884*, Apr. 10, 2017, <https://perma.cc/YVT4-U8LJ>.

## IV: PROBLEMS WITH CURRENT LEGISLATION

## A. Federal Legislative Issues

## 1. Imports and Transit Shipments Indirectly Incentivize Shark Finning in Other Countries

The SCA forbids any U.S. fishermen from landing a shark without its fins attached; however, it still allows the U.S. to exist as a transit hub for detached shark fins packaged from other countries.<sup>76</sup> This means that the U.S. receives packages sent from other countries and sends them to their final destination.<sup>77</sup> This is alarming because the U.S. rarely inspects the fin shipments that transit through its borders, and research shows that many illegal shark fins go unnoticed.<sup>78</sup>

Between 2010 and 2017, it is estimated that fins from more than one million sharks caught in Latin America passed through U.S. ports.<sup>79</sup> Of the Latin American countries exporting shark fins, at least 10 of them ship to Hong Kong, a major consumer, from the U.S.<sup>80</sup> These Latin American countries collectively contribute to about 15.6 percent of Hong Kong's shark fin imports.<sup>81</sup> They are also among the countries that catch the largest amounts of the most commonly traded shark species.<sup>82</sup>

The U.S. should no longer transit fins anywhere. Studies in 2017 and 2018 showed that many threatened and endangered shark species were found in shark fin markets, including scalloped hammerheads and oceanic whitetip sharks.<sup>83</sup> In fact, Mexico and Costa Rica rank among the six countries who are responsible for exporting the most shark fins from species that are regulated by the Convention on International Trade in Endangered Species (CITES).<sup>84</sup>

Moreover, the SCA permits the U.S. to receive shark fin imports from other countries.<sup>85</sup> Some of these countries include China, Hong Kong, Japan, and Indonesia, all of which either have loopholes in their shark fin bans or no shark fin bans at all.<sup>86</sup> As a result, shark fin soup served in the U.S. may contain shark

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<sup>76</sup> Murdock & Villanueva, *supra* note 59, at 4.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.* at 9.

<sup>80</sup> *Id.* at 13.

<sup>81</sup> *Id.* at 13-14 (adding each country's percentage of total Hong Kong imports found in Table 4).

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at 15.

<sup>84</sup> *Id.* at 13.

<sup>85</sup> Mustain et al., *supra* note 46, at 8.

<sup>86</sup> Iloulia *supra* note 15, at 356-63; Basten Gokken, *Investigation Reveals Loopholes for Illegal Shark Fin Exports from Indonesia*, Mongabay (Feb. 12, 2020), <https://news.mongabay.com/2020/02/indonesia-shark-fin-export-china-illegal-export/#:~:text=Indonesia%20allows%20the%20catch%20of,leave%20the%20fish%20to%20die;>

fins that were obtained through shark finning and that come from endangered species.<sup>87</sup> It is nearly impossible for law enforcement to check every imported shipment for illegal fins.<sup>88</sup> Once a fin is detached, it is difficult to determine which species it belongs to without DNA testing.<sup>89</sup> In 2012 alone, 32 at-risk shark species were found in shark fin soup sold in 14 U.S. cities.<sup>90</sup>

## 2. The SCA Creates a “Whack-a-Mole” Effect Among the States

Without a nationwide ban on the shark fin trade, individual states are still allowed to possess, sell, and trade shark fins. At the time of writing, only 14 states have completely removed themselves from the trade, leaving 36 states open for business.<sup>91</sup> When certain states do decide to forbid the trade, imports and exports may simply shift to those states that are still open. For example, when states on the west coast banned the trade, a 240 percent increase in fins shipped to Texas followed.<sup>92</sup> Similarly, when Texas banned the trade, more fins appeared in Florida.<sup>93</sup>

Now that Florida has banned the trade, it is likely that states still participating in the trade will experience a surge of imports and exports. Some states to keep an eye on are Tennessee, Virginia, and Georgia as they are homes to substantial shark fin ports in the U.S. and have yet to prohibit the shark fin trade.<sup>94</sup> This trend can be compared to a game of “whack-a-mole,” which highlights the need for a federal ban.<sup>95</sup>

## 3. The SCA Carves Out Exemptions for Smooth Dogfish Sharks

The SCA makes it illegal to land any detached shark fins except for those belonging to the smooth dogfish shark.<sup>96</sup> The smooth dogfish, also known as the dusky smooth-hound, can land without its fins attached as long as fishermen meet

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Amanda Siddharta, *Indonesia’s Fisherman Turn to Shark Finning to Satisfy Demand for Shark’s Fin Soup and Earn Some Extra Money*, South China Morning Post (Apr. 15, 2018).

<sup>87</sup> *Id.*

<sup>88</sup> Amundson, *supra* note 8.

<sup>89</sup> Elizabeth Claire Alberts, *DNA Detective Work Reveals Where in the Ocean Shark Fins Came from*, MONGABAY (May 7, 2020), <https://news.mongabay.com/2020/05/dna-detective-work-reveals-where-in-the-ocean-shark-fins-came-from/>.

<sup>90</sup> *New DNA Study Reveals Fins of Endangered Sharks in U.S. Soups*, *supra* note 73.

<sup>91</sup> Jennings, *supra* note 9.

<sup>92</sup> Jon Herskovitz, *Texas, a Center of U.S. Shark Fin Trade, Enacts Ban on Practice*, REUTERS (July 1, 2016, 03:55 PM) <https://www.reuters.com/article/us-texas-sharkfin/texas-a-center-of-u-s-shark-fin-trade-enacts-ban-on-practice-idUSKCN0ZH5UB>.

<sup>93</sup> Lewis, *supra* note 71 (video at 01:20).

<sup>94</sup> Murdock & Villanueva, *supra* note 59, at 11; Jennings *supra* note 9.

<sup>95</sup> Lewis, *supra* note 71.

<sup>96</sup> Conservation of Sharks, PL 111-348, January 4, 2011, 124 Stat 3668 (concerning 16 U.S.C.A. § 1857).

certain requirements.<sup>97</sup> The smooth dogfish must be caught in U.S. waters within 50 miles from the shore, and the total weight of fins on board cannot exceed 12 percent of the total carcass weight.<sup>98</sup>

The exception made for the smooth dogfish is problematic because it opens the door to mixing and matching shark fins and carcasses. A smooth dogfish's fins make up nearly 1.7 percent of its bodyweight; if the body has been gutted, or "dressed," the fins make up 3.51 percent of its bodyweight.<sup>99</sup> This allows ample room for more fins to be landed without corresponding carcasses.<sup>100</sup> Additionally, once a smooth dogfish has been finned and dressed, it is nearly impossible to distinguish the carcass from that of a near-threatened species: the blacknose shark.<sup>101</sup> The carcasses also resemble juvenile dusky sharks, which are currently vulnerable and decreasing at rapid rates.<sup>102</sup> Consequently, fishermen can catch, fin, and dress a blacknose or juvenile dusky shark, and it might pass inspection as a smooth dogfish when landed.<sup>103</sup> Sadly, the smooth dogfish exception allows for the same dangerous practices that occurred under the Shark Finning Prohibition Act in 2000.

### B. Florida's Legislative Issues

#### 1. Commercial Fishermen Can Still Export Shark Fins

Florida's Ocean Conservation Act had the potential to serve as a complete ban on Florida's participation in the fin trade.<sup>104</sup> However, last-minute exemptions were drafted to please commercial fishermen and to prevent the bill from failing:

The bill, which goes into effect October 1, still allows the export and sale of shark fins by commercial fishermen with valid federal shark-fishing permits and by wholesale dealers with valid federal Atlantic shark-dealer permits. It also permits the sale and export of "domestically sourced" shark fins by any shark-fin

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<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> Leah Biery & Daniel Pauly, *A Global Review of Species-Specific Shark-Fin-to-Body-Mass Ratios and Relevant Legislation*, 80 J. FISH BIOLOGY 1643, 1648 (2012); Enric Cortés & Julie A. Neer, *Preliminary Reassessment of the Validity of the 5% Fin to Carcass Weight Ratio for Sharks*, 59 COLLECTIVE VOL. SCI. PAPERS ICCT 1025, 1033 (2006) (the smooth dogfish is also known as its scientific name *Mustelus canis*).

<sup>100</sup> Biery & Pauly, *supra* note 99, at 1645.

<sup>101</sup> Jacqueline Baker, *Plight of an Ocean Predator: The Shark Conservation Act of 2010 and the Future of Shark Conservation Legislation in the United States*, 38 ENVIRONS 67, 102 (2015).

<sup>102</sup> Chuck Banglely, *Of Fin-Body Ratios and Smooth Dogfish-Updated*, SOUTHERN FRIED SCI. (Mar. 27, 2013), <http://www.southernfriedscience.com/of-fin-body-ratios-and-smooth-dogfish/>; Mustain et al., *supra* note 46, at 9.

<sup>103</sup> Banglely, *supra* note 102.

<sup>104</sup> Cardona, *supra* note 11.

processor that obtains fins from a wholesale dealer with a federal Atlantic shark-dealer permit.<sup>105</sup>

To qualify for the exemptions, commercial fishermen must have held valid shark fishing permits by January 1, 2020.<sup>106</sup> At the time of writing, the exemptions are set to extend until January 1, 2025 to provide commercial fishermen ample time to adjust to the new changes.<sup>107</sup> In the meantime, the Florida Fish and Wildlife Conservation Commission (FWC) will conduct financial analyses assessing the financial impact a complete ban on the fin trade would have on commercial fishermen.<sup>108</sup> If the financial impact is not too severe, the exemptions may be repealed, but there is no guarantee.<sup>109</sup>

The uncertainty surrounding the bill's future poses a greater threat to sharks than it does to fishermen. A number of commercial fishermen hold multiple fishing licenses, some of which allow them to harvest a large number of saltwater species; therefore, they may not rely on shark fin sales alone.<sup>110</sup> Sharks, however, do not have an alternative plan. Sharks are commercially harvested at approximately 50,000 pounds per month in federal waters off the Florida Atlantic Coast as of 2017.<sup>111</sup> The federal Atlantic boundary begins only three miles beyond the shoreline.<sup>112</sup> The numbers are similar for sharks harvested in federal waters off of Florida's Gulf Coast, which begin nine miles from the shoreline.<sup>113</sup> Combined, that yields at least one million pounds of shark meat commercially harvested each year just in federal waters off of Florida's coast.<sup>114</sup> These numbers do not include the numerous sharks caught, sold, and exported by state commercial fishermen.

The commercial fishermen catching sharks in federal waters can take certain species that are otherwise protected in Florida's state waters and land them in Florida.<sup>115</sup> State licensed wholesale dealers, who are also federally permitted

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<sup>105</sup> *Id.*

<sup>106</sup> FLA. STAT. § 379.2426(4)(a) (2020).

<sup>107</sup> Ivanov, *supra* note 69.

<sup>108</sup> *Senate Bill 680 Bill History*, *supra* note 67.

<sup>109</sup> *Id.*

<sup>110</sup> *Commercial Fisheries FAQ*, FLA. FISH AND WILDLIFE CONSERVATION COMM'N, <https://myfwc.com/research/saltwater/fishstats/commercial-fisheries/faq/> (last visited Apr. 30, 2021); *Commercial Saltwater Licenses*, FLA. FISH AND WILDLIFE CONSERVATION COMM'N, <https://myfwc.com/license/commercial/saltwater/> (last visited June 26, 2021).

<sup>111</sup> *Shark Landings*, FLA. FISH AND WILDLIFE CONSERVATION COMM'N., <https://myfwc.com/research/saltwater/sharks-rays/shark-fisheries/landings/> (last visited Apr. 30, 2020).

<sup>112</sup> *Boundary Maps and Management Zones*, FLA. FISH AND WILDLIFE CONSERVATION COMM'N, <https://myfwc.com/fishing/saltwater/recreational/maps/> (last visited Apr. 30, 2021).

<sup>113</sup> *Shark Landings*, *supra* note 111.

<sup>114</sup> *Id.*

<sup>115</sup> *Sharks*, FLA. FISH AND WILDLIFE CONSERVATION COMM'N., <https://myfwc.com/fishing/saltwater/commercial/sharks/> (last visited Apr. 30, 2020).

shark dealers, can then buy the sharks once they are landed.<sup>116</sup> If commercial fishermen were not allowed to sell and export fins under these exemptions, they may have less incentive to fish for sharks at all. Shark fins are worth up to \$2,000 per pound depending on the species, whereas the rest of the body is only worth up to \$1 per pound.<sup>117</sup> Therefore, while fishermen can sell shark livers and meat, the fins make up the majority of their profits and are largely responsible for their desire to continue shark fishing.<sup>118</sup>

## 2. The Exemptions Pose Harm to Dwindling Shark Species

The Ocean Conservation Act in its current form is especially dangerous to several shark species whose populations are already thinning.<sup>119</sup> While the FWC protects most large coastal sharks from commercial fishing in federal waters, a commercial vessel is still permitted to catch up to 55 large coastal sharks per day and bring them back to Florida to sell.<sup>120</sup> Moreover, in state waters, the FWC allows commercial fishermen to harvest certain threatened and near-threatened species.<sup>121</sup> These loopholes pose the greatest threats to two sharks in particular: the hammerhead and oceanic whitetip.

The FWC protects the great, smooth, and scalloped hammerheads from harvest in Florida waters.<sup>122</sup> Nonetheless, commercial fishermen are still allowed to harvest each of these species in federal waters and bring them back to shore.<sup>123</sup> The scalloped hammerhead is listed as endangered under the ESA only in the Eastern Atlantic and Eastern Pacific; therefore, its protections do not reach federal waters off the Florida coast.<sup>124</sup> The great hammerhead, a species which is now listed as critically endangered under the IUCN after experiencing an estimated 80 percent population decline over the past 71.1 to 74.4 years, does not receive any

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<sup>116</sup> *Id.*

<sup>117</sup> Rebecca Tatum, *Chapter 524: The Ecology and Controversy of Shark-Fin Soup*, 43 MCGEORGE L. REV. 667, 668 (2012).

<sup>118</sup> Ivanov, *supra* note 69; Killer, *supra* note 70.

<sup>119</sup> Killer, *supra* note 70.

<sup>120</sup> *Adjustment of Commercial Large Coastal Shark Retention Limit in the Atlantic to 55 Sharks Per Trip for 2020*, NOAA FISHERIES, <https://www.fisheries.noaa.gov/action/adjustment-commercial-large-coastal-shark-retention-limit-atlantic-55-sharks-trip-2020> (last updated June 19, 2020).

<sup>121</sup> *Sharks*, FLA. FISH AND WILDLIFE CONSERVATION COMM'N, *supra* note 115; *Oceanic Whitetip Shark*, *supra* note 115; *Prionace Glauca*, Fla. Museum (Oct. 18, 2018), <https://www.floridamuseum.ufl.edu/discover-fish/species-profiles/prionace-glauca/>.

<sup>122</sup> *Id.*

<sup>123</sup> *Atlantic Sharks Commercial Minimum Sizes and Retention Limits*, NOAA FISHERIES (July 1, 2020), <https://www.fisheries.noaa.gov/action/atlantic-sharks-commercial-minimum-sizes-and-retention-limits>.

<sup>124</sup> *Listing of the Scalloped Hammerhead Shark Under the ESA*, NOAA FISHERIES, <https://www.fisheries.noaa.gov/action/listing-scalloped-hammerhead-shark-under-esa> (last updated May 14, 2020).

protection under the ESA.<sup>125</sup> Fishermen specifically target hammerhead sharks because their large fins are very valuable in the shark fin trade.<sup>126</sup> Even if fishermen accidentally catch hammerheads as bycatch, many choose to keep them because of their high value.<sup>127</sup> In 2018, commercial fishermen landed over 28,000 pounds of hammerhead sharks just in the Gulf of Mexico's eastern shore line, which borders Florida.<sup>128</sup>

The oceanic whitetip shark is also in danger in both state and federal waters.<sup>129</sup> These sharks are among the most commonly caught species in the Gulf of Mexico, which is likely the reason for its 88 percent population decline in the region.<sup>130</sup> Even though they are listed as threatened under the ESA, the FWC still allows oceanic whitetips to be harvested in Florida waters.<sup>131</sup> Commercial fishermen in both state and federal waters target ocean whitetips because, like hammerheads, their fins are valued in the shark fin trade.<sup>132</sup> Allowing their fins to be sold and exported in Florida will only contribute to their demise.

## V. SOLUTIONS AND COUNTERARGUMENTS

### A. Solutions

#### 1. Pass a Federal Law Banning the Trade

Even though shark finning is illegal in the U.S., allowing the trade throughout the country continues to provide an incentive for finning to occur overseas. It also provides an incentive for U.S. fishermen to kill sharks for their highly-valued fins. This is why the U.S. needs stricter federal legislation to eliminate its role entirely.

The Shark Fin Sales Elimination Act is a step in the right direction since it bans the country's ability to possess, buy, and sell shark fins, with the exception of smooth and spiny dogfish.<sup>133</sup> Despite concerns raised by the exceptions for smooth and spiny dogfish, the bill was passed by the House of Representatives at the time of writing and was referred to the Senate's Committee on Commerce,

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<sup>125</sup> C.L. Rigby et al., *Great Hammerhead*, IUCN RED LIST OF THREATENED SPECIES (Nov. 9, 2018), <https://www.iucnredlist.org/species/39386/2920499#assessment-information>; *Shark Conservation*, NOAA (Aug. 11, 2020), <https://www.fisheries.noaa.gov/national/international-affairs/shark-conservation>.

<sup>126</sup> *Hammerhead Sharks (Sphyrna spp.)*, *supra* note 41.

<sup>127</sup> *Id.*

<sup>128</sup> *2018 Atlantic Shark Commercial Fishery Landings and Retention Limit Update*, NOAA FISHERIES, <https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/2018-atlantic-shark-commercial-fishery-landings-and-retention> (last updated Dec. 13, 2019).

<sup>129</sup> *Atlantic Sharks Commercial Minimum Sizes and Retention Limits*, *supra* note 123; *Sharks*, *supra* note 115.

<sup>130</sup> *Oceanic Whitetip Shark*, *supra* note 44.

<sup>131</sup> *Sharks*, FLA. FISH AND WILDLIFE CONSERVATION COMM'N, *supra* note 115.

<sup>132</sup> *Oceanic Whitetip Shark*, *supra* note 44.

<sup>133</sup> Shark Fin Sales Elimination Act of 2019, H.R. 737, 116th Cong. § 1-4 (2019).

Science, and Transportation.<sup>134</sup> The best course of action is to support the bill becoming law and make amendments later on.

Signing this bill into law would prevent the “whack-a-mole” effect that is currently taking place among the states that do not have any shark fin bans.<sup>135</sup> If all the states come under the same federal ban, there will no longer be room for different regulations in different states. A federal ban would also eliminate illegal shark fin smuggling operations known as shark fin trafficking rings. For example, a company based in California was recently indicted for a conspiracy to traffic shark fins in and out of Florida.<sup>136</sup> At the time of the indictment, California banned the import and export of shark fins, but Florida had yet to do so.<sup>137</sup> Even though Florida has recently banned the trade, many states still do not have any additional regulations; therefore, other illegal shark fin rings are likely to grow if a federal ban does not come soon.<sup>138</sup>

## 2. Close Florida’s Loopholes and Strengthen Penalties

If the Shark Fin Sales Elimination Act or a similar federal bill is not signed into law, the Florida legislature can make adjustments to Florida Statute § 379.2426 to eliminate its role in the trade entirely. Since Florida was the top shark fin importer and transit hub in the U.S., any amendments made to its new legislation can significantly decrease the U.S.’s role in the trade entirely.<sup>139</sup>

Florida should aim to eliminate the exemptions it carved out for commercial fishermen. Allowing commercial fishermen to export shark fins only fuels the demand for shark fins abroad and motivates fishermen to kill sharks for profit.<sup>140</sup> If these loopholes are closed, threatened shark species, such as the hammerhead and oceanic whitetip, may have the chance to recover and thrive in Florida waters and beyond. As is discussed in Section \*\*\* of this article, sharks are crucial to maintaining the ocean’s ecosystem. Leaving sharks untouched creates fuller, cleaner oceans for fishermen to fish in.<sup>141</sup>

Florida should also aim to strengthen the penalties for those who violate the Ocean Conservation Act. Currently, first and second-time offenders face up to 60 days in jail; third-time offenders face up to one year in jail.<sup>142</sup> Administrative fines

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<sup>134</sup> *Id.*

<sup>135</sup> *Examining the Regulation of Shark Finning in the United States: Hearing Before the Subcomm. On the Interior, Energy, and Env’t, 115th Cong. 5-6 (2017)* (statement of Lora Snyder).

<sup>136</sup> Ashoka Mukpo, *Shark Fin Trafficking Ring Busted As Trade Ban Comes into Effect in Florida*, MONGABAY (Sept. 28, 2020), <https://news.mongabay.com/2020/09/shark-fin-trafficking-ring-busted-as-trade-ban-comes-into-effect-in-florida/>.

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> Ivanov, *supra* note 69.

<sup>140</sup> Killer, *supra* note 70.

<sup>141</sup> Marquez, *supra* note 27.

<sup>142</sup> Fla. Stat. Ann. § 379.2426(5)(a)-(c) (West 2020).

begin at \$4,500 and never exceed \$9,500.<sup>143</sup> These penalties can have little deterrent effect considering that just one pound of shark fins can sell for \$400.<sup>144</sup> So, the benefits of breaking the law may outweigh any potential penalties. New York has similarly low penalties.<sup>145</sup> Several law enforcement agents in New York have found that the light deterrent effects have led the shark fin trade to continue in the state despite its tight regulations.<sup>146</sup> Florida should therefore seek to implement stricter penalties to deter individuals from violating this new law.

### B. Counterarguments

#### 1. A Complete Ban Would Punish Sustainable Fisheries

Many people are opposed to the U.S. completely banning the fin trade. Some environmental advocates oppose the Shark Fin Sales Elimination Act because they believe a complete ban would punish sustainable fisheries.<sup>147</sup> The U.S. currently bans shark finning in its waters; therefore, a complete ban would punish fishermen who practice sustainable and ethical shark fishing while allowing foreign countries who do not have similar regulations to continue participating in the trade.<sup>148</sup> These environmental advocates also argue that the fins supplied to other countries by the U.S. will just be replaced by fins obtained through shark finning abroad.<sup>149</sup>

Many of these opponents support a different bill: the Sustainable Shark Fisheries and Trade Act (H.R. 5248).<sup>150</sup> This approach would require the U.S. to only accept shark fin imports from countries that prohibit shark finning.<sup>151</sup> Proponents argue this bill would encourage other countries to tighten their regulations if they wish to continue to export fins to the U.S. or transit them through U.S. ports.<sup>152</sup> They believe it would encourage change within other countries more than the Shark Fin Sales Elimination Act would.<sup>153</sup>

While the Sustainable Shark Fisheries and Trade Act would be an improvement to current legislation, it does not do enough to reduce shark finning. A complete ban on the shark fin trade is the best option, because it would encourage change

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<sup>143</sup> *Id.*

<sup>144</sup> Fobar, *supra* note 6.

<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

<sup>147</sup> Chris Chase, *Opponents Continue Push-Back Against U.S. Shark Fin Ban*, SEAFOODSOURCE (May 4, 2018), <https://www.seafoodsource.com/news/environment-sustainability/opponents-continue-push-back-against-us-shark-fin-ban>.

<sup>148</sup> *Id.*

<sup>149</sup> *Id.*

<sup>150</sup> Sustainable Shark Fisheries and Trade Act of 2019, S. 1008, 116th Cong. §§ 1-6 (1st Sess. 2019).

<sup>151</sup> *Id.*

<sup>152</sup> Chase, *supra* note 147.

<sup>153</sup> *Id.*

in other countries while immediately providing strong protections for vulnerable shark species.<sup>154</sup> Such strong and decisive legislation would send the message that selling and consuming shark fins is not acceptable. When the U.S. leads with a message, other countries are likely to follow. For example, when the U.S. banned the ivory trade, China, Australia, and the United Kingdom followed.<sup>155</sup> Additionally, although U.S. fishermen do not actively fin sharks, there is still no “sustainable” way for fishermen, here or in other countries, to fish sharks that are threatened with extinction. Sharks such as the hammerhead and oceanic whitetip take too long to reproduce and do not recover well from population declines.<sup>156</sup> Thus, the only sustainable practice includes not fishing for them at all.

## 2. A Complete Ban Would Have Negative Economic Impacts

Many opponents to a complete U.S. shark fin ban include commercial fishermen, especially those in Florida.<sup>157</sup> These fishermen argue that a shark fin ban could “offset a lot of lives” because shark fin sales generally account for more than half of their profits.<sup>158</sup> These profits help fishermen feed their families, pay their crew members, and plan for retirement.<sup>159</sup>

Shark fin sales do generate revenue for commercial fishermen; however, a living shark is worth more than a dead shark. The U.S., on average, generates just over \$1 million a year in shark fin sales.<sup>160</sup> However, the shark diving industry generates over \$221 million each year in Florida alone.<sup>161</sup> The Florida shark diving industry also fuels over 3,800 jobs and \$116 million in income for employees.<sup>162</sup> Tourists coming to Florida to dive with sharks also fuel local economies by purchasing food and beverages, lodging, auto rentals, and other

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<sup>154</sup> Fobar, *supra* note 6.

<sup>155</sup> *China’s Ban on Ivory Trade Comes into Force*, BBC NEWS (Jan 1, 2018), <https://www.bbc.com/news/world-asia-china-42532017>; *World-Leading UK Ivory Bill Becomes Law*, GOV.UK (Dec. 20, 2018), <https://www.gov.uk/government/news/world-leading-uk-ivory-bill-becomes-law—2>; *U.S. to Enforce Strict Elephant Ivory Ban*, MONGABAY (June 3, 2016), <https://news.mongabay.com/2016/06/u-s-to-enforce-strict-elephant-ivory-ban/>; *Australia to Ban Domestic Trade in Elephant Ivory and Rhino Horn*, MongaBay (Aug. 22, 2019), <https://news.mongabay.com/2019/08/australia-to-ban-domestic-trade-in-elephant-ivory-and-rhino-horn/>.

<sup>156</sup> Lewis, *supra* note 71.

<sup>157</sup> Ivanov, *supra* note 69.

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> Chris Oliver & Tim Gallaudet, *2017 Shark Finning Report to Congress*, NOAA FISHERIES 24, <https://media.fisheries.noaa.gov/dam-migration/2017-shark-finning-report-to-congress.pdf> (last updated Feb. 26, 2019) (multiplying each year’s cost per metric ton by amount of metric tons exported, adding the sums together, and dividing by 5 to receive an average of \$1.3 million a year in shark fin exports over a 5-year period).

<sup>161</sup> Anthony J. Fedler, *The Economic Impact of Shark Diving in Florida*, OCEANA 11 (Feb. 2017), [https://usa.oceana.org/sites/default/files/economic\\_impact\\_of\\_shark\\_diving\\_in\\_florida\\_report.pdf](https://usa.oceana.org/sites/default/files/economic_impact_of_shark_diving_in_florida_report.pdf).

<sup>162</sup> *Id.*

expenditures.<sup>163</sup> Contrastingly, shark fin sales in Florida only bring in, on average, about \$380,000 each year from commercial harvesters.<sup>164</sup> So, living sharks positively affect the economy more than their detached fins ever could.

## VI. CONCLUSION

The future for sharks appears bleak. Many shark species used in the shark fin trade face extinction; this is the time to enact legislation that ends the United States' role in this destructive industry.<sup>165</sup> Even though the U.S. does not allow finning in its waters, it still enables it internationally. The U.S. should set an example for other countries by banning the trade completely and paving the way for a more sustainable future. By enacting a federal ban or by strengthening existing legislation, the U.S. can reduce the demand for shark fin soup while increasing the ocean's resources. According to Yao Ming, the solution is simple: "When the buying stops, the killing can too."<sup>166</sup>

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<sup>163</sup> *Id.* at 8.

<sup>164</sup> *Commercial Fisheries Landings Summaries (see 2015-2019 shark fin report)*, FLA. FISH AND WILDLIFE CONSERVATION COMM'N, <https://public.myfwc.com/FWRI/PFDM/ReportCreator.aspx> (last visited May 24, 2021).

<sup>165</sup> Fields et al., *supra* note 40, at 376.

<sup>166</sup> Fobar, *supra* note 6.