

116TH CONGRESS
1ST SESSION

H. R. 788

To amend and enhance the High Seas Driftnet Fishing Moratorium Protection Act to improve the conservation of sharks.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2019

Mr. WEBSTER of Florida (for himself, Mr. TED LIEU of California, Mr. YOUNG, Mr. SERRANO, Mr. FORTENBERRY, Mr. RODNEY DAVIS of Illinois, Mr. KING of New York, Mr. JONES, Mr. BILIRAKIS, Mr. TONKO, Mr. YOHO, Mr. GAETZ, Mr. POSEY, and Mr. HIGGINS of New York) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend and enhance the High Seas Driftnet Fishing Moratorium Protection Act to improve the conservation of sharks.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sustainable Shark
5 Fisheries and Trade Act of 2019”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to establish a certification
3 process to ensure that foreign nations engaging in shark
4 trade into or through the United States conserve and man-
5 age populations of sharks in a manner that is comparable
6 to regulatory programs in the United States and that ef-
7 fectively prohibits the practice of removing shark fins and
8 discarding the carcass at sea.

9 **SEC. 3. SHARK CONSERVATION AND TRADE FAIRNESS CER-**
10 **TIFICATION.**

11 Section 610 of the High Seas Driftnet Fishing Mora-
12 torium Protection Act (16 U.S.C. 1826k) is amended—

13 (1) in subsection (a)—

14 (A) in paragraph (1), by striking “and”
15 after the semicolon at the end;

16 (B) in paragraph (2), by striking the pe-
17 riod at the end and inserting “; and”; and

18 (C) by adding at the end the following:

19 “(3) a nation if—

20 “(A) that nation or any individual or entity
21 of that nation has imported shark products into
22 the United States or seeks to import shark
23 products into the United States; and

24 “(B) the nation has not sought and ob-
25 tained, by not later than the effective date of
26 subsection (g)(1), a certification from the Sec-

1 retary under that subsection that the nation
2 has in effect a regulatory program to provide
3 for the conservation of sharks, including meas-
4 ures to prohibit removal of any of the fins of
5 a shark (including the tail) and discarding the
6 carcass of the shark at sea, that is comparable
7 to that of the United States.”;

8 (2) in subsection (b), in paragraphs (2) and
9 (3), by striking “subsection (a)” each place it ap-
10 pears and inserting “subsection (a)(1)”;

11 (3) in subsection (c)—

12 (A) in paragraph (1), by striking “sub-
13 section (a)” and inserting “subsection (a)(1)”;
14 and

15 (B) by adding at the end the following:

16 “(6) APPLICABILITY TO CERTAIN COUNTRIES.—
17 This subsection does not apply to a nation identified
18 under subsection (a)(3).”;

19 (4) in subsection (d)—

20 (A) in paragraph (1), by inserting “or
21 (g)” after “under subsection (c)”;

22 (B) in paragraph (3), by inserting “or (g)”
23 after “under subsection (c)”;

24 (5) by adding at the end the following:

1 “(g) SHARK CONSERVATION AND TRADE FAIRNESS
2 CERTIFICATION.—

3 “(1) PROHIBITION ON IMPORTATION.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), shark products shall not be
6 imported into the United States unless the
7 shark products are of a species of shark that
8 were landed in a nation to which the Secretary
9 has granted a certification or partial certifi-
10 cation for such species under paragraph (2).

11 “(B) EXCEPTIONS.—Subparagraph (A)
12 shall not apply to shark products that are—

13 “(i) traded, owned, held, or otherwise
14 possessed by an employee or agent of a
15 governmental agency for law enforcement
16 purposes;

17 “(ii) used for noncommercial subsist-
18 ence purposes in accordance with Federal,
19 State, Tribal, or territorial law;

20 “(iii) used solely for display, edu-
21 cation, conservation, or research purposes,
22 by an accredited zoo, aquarium, museum,
23 college, or university; or

1 “(iv) used by any other person under
2 a State or Federal permit to conduct non-
3 commercial scientific research.

4 “(2) CERTIFICATIONS.—Pursuant to the regu-
5 lations promulgated under paragraphs (3) and (5),
6 the Secretary—

7 “(A) shall grant a certification to any na-
8 tion that has adopted and effectively enforces
9 regulatory programs to provide for the con-
10 servation and management of sharks, and
11 measures to prohibit shark finning, that are
12 comparable to those of the United States; and

13 “(B) may grant a partial certification for
14 one or more specific species of shark to a na-
15 tion if the Secretary determines that such na-
16 tion—

17 “(i) has adopted and effectively en-
18 forces regulatory programs that are com-
19 parable to the regulatory programs of the
20 United States to provide for the conserva-
21 tion and management of such species im-
22 ported into the United States or used to
23 produce the shark products imported into
24 the United States; and

1 “(ii) has in effect an effective ban on
2 shark finning, that is comparable to that
3 of the United States.

4 “(3) EXPIRATION; RENEWAL.—A certification
5 or partial certification issued under this sub-
6 section—

7 “(A) shall be effective for no more than
8 three years after the date of issuance; and

9 “(B) may be renewed in accordance with
10 the provisions of this subsection relating to the
11 initial issuance of the certification.

12 “(4) CERTAIN DETERMINATIONS.—The Sec-
13 retary shall make a determination with respect to
14 whether to renew under paragraph (3) or revoke
15 pursuant to paragraph (5)(A)(ii) a certification or
16 partial certification issued under this subsection, by
17 not later than 180 days after the submission of the
18 application for renewal or the petition for revocation,
19 respectively.

20 “(5) REGULATIONS.—

21 “(A) IN GENERAL.—Not later than 2 years
22 after the date of the enactment of the Sustain-
23 able Shark Fisheries and Trade Act of 2019,
24 the Secretary shall prescribe regulations under
25 chapter 5 of title 5, United States Code, gov-

1 erning the submission, evaluation, revocation,
2 and renewal of applications for certifications
3 and partial certifications under paragraph (2).

4 “(B) CONTENT OF REGULATIONS.—Such
5 regulations shall—

6 “(i) prescribe the content and format
7 of applications and standards for informa-
8 tion to be provided in such applications;
9 and

10 “(ii) establish a process for petitioning
11 the Secretary for revocation of the certifi-
12 cation or partial certification of any nation,
13 including standards for the information re-
14 quired to be provided to demonstrate that
15 the nation no longer meets the criteria es-
16 tablished under this paragraph for the cer-
17 tification.

18 “(C) CRITERIA FOR CERTIFICATION OR
19 PARTIAL CERTIFICATION.—The regulations pro-
20 mulgated under subparagraph (A) shall estab-
21 lish criteria for determining whether a nation
22 has and effectively enforces regulatory pro-
23 grams for the conservation and management of
24 sharks, and measures to prohibit shark finning,
25 that are comparable to those of the United

1 States, including, at a minimum, a requirement
2 that such programs—

3 “(i) be consistent with the national
4 standards for fishery conservation and
5 management set forth in section 301(a) of
6 the Magnuson-Stevens Conservation and
7 Management Act (16 U.S.C. 1851(a));

8 “(ii) provide for regularly updated
9 management plans, scientifically estab-
10 lished catch limits, and bycatch assess-
11 ments and minimization;

12 “(iii) include a program to prevent
13 overfishing and to rebuild overfished
14 stocks;

15 “(iv) require reporting and data col-
16 lection;

17 “(v) be consistent with the Inter-
18 national Plan of Action for Conservation
19 and Management of Sharks of the United
20 Nations Food and Agriculture Organiza-
21 tion; and

22 “(vi) include a mechanism to ensure
23 that, if the nation allows landings of
24 sharks by foreign vessels that are not sub-
25 ject to such programs of such nation, only

1 shark products that comply with such pro-
2 grams are exported to the United States.

3 “(6) PUBLICATION; PUBLIC COMMENT.—The
4 Secretary shall—

5 “(A) publish in the Federal Register notice
6 of applications, petitions, and decisions with re-
7 spect to certifications, renewal of certifications,
8 or revocation of certifications under this sub-
9 section; and

10 “(B) provide an opportunity for public
11 comment with respect to such applications, peti-
12 tions, and decisions.

13 “(7) FINAL AGENCY ACTION.—A decision of the
14 Secretary with respect to the issuance, renewal, or
15 revocation of a certification or partial certification
16 under this subsection, and a failure to make a deter-
17 mination required under paragraph (4), shall be con-
18 sidered a final agency action for the purposes of
19 chapter 7 of title 5, United States Code.

20 “(8) EFFECTIVE DATE.—Paragraph (1) shall
21 take effect on the earlier of—

22 “(A) the date on which regulations are
23 issued under paragraph (5); or

1 “(B) the date that is 3 years after the date
2 of the date of the enactment of the Sustainable
3 Shark Fisheries and Trade Act of 2019.

4 “(9) DEFINITIONS.—In this subsection:

5 “(A) SHARK.—The term ‘shark’ means
6 any species of the subclass Elasmobranchii.

7 “(B) SHARK PRODUCT.—The term ‘shark
8 product’ means a live shark; a whole shark; the
9 meat, skin, oil, fin (including a wing or tail),
10 gill raker, cartilage, jaw, tooth, or liver of a
11 shark; or any product containing meat, skin,
12 oil, a fin (including a wing or tail), gill raker,
13 cartilage, jaw, tooth, or liver derived from a
14 shark.

15 “(C) SHARK FINNING.—The term ‘shark
16 finning’ means the removal of a shark’s fins, in-
17 cluding the tail, and discarding the remaining
18 carcass of the shark at sea.”.

19 **SEC. 4. ACTIONS TO STRENGTHEN INTERNATIONAL FISH-**
20 **ERY MANAGEMENT ORGANIZATIONS.**

21 Section 608(a) of the High Seas Driftnet Fishing
22 Moratorium Protection Act (16 U.S.C. 1826i(a)) is
23 amended—

24 (1) in paragraph (1), by striking subparagraph
25 (F), and inserting the following:

1 “(F) to adopt shark conservation and man-
2 agement measures and measures to prevent
3 shark finning, which are consistent with the
4 International Plan of Action for Conservation
5 and Management of Sharks of the Food and
6 Agriculture Organization of the United Na-
7 tions;” and

8 (2) by striking paragraph (3), and inserting the
9 following:

10 “(3) seeking to enter into international agree-
11 ment that require measures for the conservation and
12 management of sharks and measures to prevent
13 shark finning, which are consistent with the Inter-
14 national Plan of Action for Conservation and Man-
15 agement of Sharks of the Food and Agriculture Or-
16 ganization of the United Nations; and”.

17 **SEC. 5. INCLUSION OF RAYS AND SKATES IN SEAFOOD**
18 **TRACEABILITY PROGRAM.**

19 Not later than one year after the date of the enact-
20 ment of this Act, the Secretary of Commerce shall revise
21 section 300.324 of title 50, Code of Federal Regulations,
22 to include rays and skates in the species and species
23 groups specified in subsection (a)(2) of that section.

1 **SEC. 6. RULE OF CONSTRUCTION.**

2 Nothing in this Act shall be construed to preempt any
3 Federal or State law establishing additional or more strin-
4 gent requirements than the requirements of subsection (g)
5 of section 610 of the High Seas Driftnet Fishing Morato-
6 rium Protection Act (16 U.S.C. 1826k), as added by sec-
7 tion 3.

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