

117TH CONGRESS
1ST SESSION

H. R. 3360

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

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2021

Mr. WEBSTER of Florida (for himself, Mr. LIEU, Mr. POSEY, Mr. VAN DREW, Mr. CALVERT, Mr. GAETZ, Mr. YOUNG, Mr. MAST, Mr. STEUBE, and Mr. CROW) 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 2021”.

1 **SEC. 2. SHARK CONSERVATION AND TRADE FAIRNESS CER-**
2 **TIFICATION.**

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

5 (1) in subsection (a)—

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

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

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

11 “(3) a nation if—

12 “(A) that nation or any individual or entity
13 of that nation has imported shark products into
14 the United States or seeks to import shark
15 products into the United States; and

16 “(B) the nation has not sought and ob-
17 tained, by not later than the effective date of
18 subsection (g)(1), a certification from the Sec-
19 retary under that subsection that the nation
20 has in effect a regulatory program to provide
21 for the conservation of sharks, including meas-
22 ures to prohibit removal of any of the fins of
23 a shark (including the tail) and discarding the
24 carcass of the shark at sea, that is comparable
25 to that of the United States.”;

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

4 (3) in subsection (c)—

5 (A) in paragraph (1), by striking “sub-
6 section (a)” and inserting “subsection (a)(1)”;
7 and

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

9 “(6) APPLICABILITY TO CERTAIN COUNTRIES.—

10 This subsection does not apply to a nation identified
11 under subsection (a)(3).”;

12 (4) in subsection (d)—

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

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

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

18 “(g) SHARK CONSERVATION AND TRADE FAIRNESS

19 CERTIFICATION.—

20 “(1) PROHIBITION ON IMPORTATION.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), shark products shall not be
23 imported into the United States unless the
24 shark products are of a species of shark that
25 were landed in a nation to which the Secretary

1 has granted a certification or partial certifi-
2 cation for such species under paragraph (2).

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

5 “(i) traded, owned, held, or otherwise
6 possessed by an employee or agent of a
7 governmental agency for law enforcement
8 purposes;

9 “(ii) used for noncommercial subsist-
10 ence purposes in accordance with Federal,
11 State, Tribal, or territorial law;

12 “(iii) used solely for display, edu-
13 cation, conservation, or research purposes,
14 by an accredited zoo, aquarium, museum,
15 college, or university; or

16 “(iv) used by any other person under
17 a State or Federal permit to conduct non-
18 commercial scientific research.

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

22 “(A) shall grant a certification to any na-
23 tion that has adopted and effectively enforces
24 regulatory programs to provide for the con-
25 servation and management of sharks, and

1 measures to prohibit shark finning, that are
2 comparable to those of the United States; and

3 “(B) may grant a partial certification for
4 one or more specific species of shark to a na-
5 tion if the Secretary determines that such na-
6 tion—

7 “(i) has adopted and effectively en-
8 forces regulatory programs that are com-
9 parable to the regulatory programs of the
10 United States to provide for the conserva-
11 tion and management of such species im-
12 ported into the United States or used to
13 produce the shark products imported into
14 the United States; and

15 “(ii) has in effect an effective ban on
16 shark finning, that is comparable to that
17 of the United States.

18 “(3) EXPIRATION; RENEWAL.—A certification
19 or partial certification issued under this sub-
20 section—

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

23 “(B) may be renewed in accordance with
24 the provisions of this subsection relating to the
25 initial issuance of the certification.

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

9 “(5) REGULATIONS.—

10 “(A) IN GENERAL.—Not later than 2 years
11 after the date of the enactment of the Sustain-
12 able Shark Fisheries and Trade Act of 2021,
13 the Secretary shall prescribe regulations under
14 chapter 5 of title 5, United States Code, gov-
15 erning the submission, evaluation, revocation,
16 and renewal of applications for certifications
17 and partial certifications under paragraph (2).

18 “(B) CONTENT OF REGULATIONS.—Such
19 regulations shall—

20 “(i) prescribe the content and format
21 of applications and standards for informa-
22 tion to be provided in such applications;
23 and

24 “(ii) establish a process for petitioning
25 the Secretary for revocation of the certifi-

1 cation or partial certification of any nation,
2 including standards for the information re-
3 quired to be provided to demonstrate that
4 the nation no longer meets the criteria es-
5 tablished under this paragraph for the cer-
6 tification.

7 “(C) CRITERIA FOR CERTIFICATION OR
8 PARTIAL CERTIFICATION.—The regulations pro-
9 mulgated under subparagraph (A) shall estab-
10 lish criteria for determining whether a nation
11 has and effectively enforces regulatory pro-
12 grams for the conservation and management of
13 sharks, and measures to prohibit shark finning,
14 that are comparable to those of the United
15 States, including, at a minimum, a requirement
16 that such programs—

17 “(i) be consistent with the national
18 standards for fishery conservation and
19 management set forth in section 301(a) of
20 the Magnuson-Stevens Conservation and
21 Management Act (16 U.S.C. 1851(a));

22 “(ii) provide for regularly updated
23 management plans, scientifically estab-
24 lished catch limits, and bycatch assess-
25 ments and minimization;

1 “(iii) include a program to prevent
2 overfishing and to rebuild overfished
3 stocks;

4 “(iv) require reporting and data col-
5 lection;

6 “(v) be consistent with the Inter-
7 national Plan of Action for Conservation
8 and Management of Sharks of the United
9 Nations Food and Agriculture Organiza-
10 tion; and

11 “(vi) include a mechanism to ensure
12 that, if the nation allows landings of
13 sharks by foreign vessels that are not sub-
14 ject to such programs of such nation, only
15 shark products that comply with such pro-
16 grams are exported to the United States.

17 “(6) PUBLICATION; PUBLIC COMMENT.—The
18 Secretary shall—

19 “(A) publish in the Federal Register notice
20 of applications, petitions, and decisions with re-
21 spect to certifications, renewal of certifications,
22 or revocation of certifications under this sub-
23 section; and

1 “(B) provide an opportunity for public
2 comment with respect to such applications, peti-
3 tions, and decisions.

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

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

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

15 “(B) the date that is 3 years after the date
16 of the date of the enactment of the Sustainable
17 Shark Fisheries and Trade Act of 2021.

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

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

21 “(B) SHARK PRODUCT.—The term ‘shark
22 product’ means a live shark; a whole shark; the
23 meat, skin, oil, fin (including a wing or tail),
24 gill raker, cartilage, jaw, tooth, or liver of a
25 shark; or any product containing meat, skin,

1 oil, a fin (including a wing or tail), gill raker,
2 cartilage, jaw, tooth, or liver derived from a
3 shark.

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

8 **SEC. 3. ACTIONS TO STRENGTHEN INTERNATIONAL FISH-**
9 **ERY MANAGEMENT ORGANIZATIONS.**

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

13 (1) in paragraph (1), by striking subparagraph
14 (F), and inserting the following:

15 “(F) to adopt shark conservation and man-
16 agement measures and measures to prevent
17 shark finning, which are consistent with the
18 International Plan of Action for Conservation
19 and Management of Sharks of the Food and
20 Agriculture Organization of the United Na-
21 tions;”; and

22 (2) by striking paragraph (3), and inserting the
23 following:

24 “(3) seeking to enter into international agree-
25 ment that require measures for the conservation and

1 management of sharks and measures to prevent
2 shark finning, which are consistent with the Inter-
3 national Plan of Action for Conservation and Man-
4 agement of Sharks of the Food and Agriculture Or-
5 ganization of the United Nations; and”.

6 **SEC. 4. INCLUSION OF RAYS AND SKATES IN SEAFOOD**
7 **TRACEABILITY PROGRAM.**

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

13 **SEC. 5. RULE OF CONSTRUCTION.**

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

20 **SEC. 6. FUNDING.**

21 There are authorized to be appropriated to the Sec-
22 retary of Commerce to carry out this Act, and the amend-
23 ments made by this Act—

24 (1) \$325,000 for fiscal year 2022;

25 (2) \$325,000 for fiscal year 2023;

- 1 (3) \$400,000 for each of fiscal years 2024,
- 2 2025, and 2026; and
- 3 (4) \$250,000 for fiscal year 2027.

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