

# Staff Report 64

## **PROPOSED ACTION:**

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Consider supporting AB 2109 (Bennett and Bloom), which would make it unlawful to use any bait, lure, or chum to attract any white shark or to place any bait, lure, or chum into the water when a white shark is either visible or known to be present except if the activity is authorized by a permit issued by the California Department of Fish and Wildlife for scientific, educational, or propagation purposes.

## **BACKGROUND AND PURPOSE:**

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Most of us do not encounter sharks when we recreate in the Pacific Ocean. If we did, fewer people would use and enjoy the ocean and more shark mortalities would occur. White sharks, also called great white sharks, are the earth's largest ocean predatory fish and the most dangerous and aggressive shark, yet one of the least understood sea creatures. White sharks play a crucial role in the marine ecosystem by keeping different fish species from becoming overabundant, keeping the ocean clean by scavenging dead animals, and by keeping other species more fit by weeding out sick and weaker individuals. White sharks are threatened by low reproductive rates (female white sharks may breed only once every two years), vulnerability to direct and indirect fishing mortality, and occasional predation by killer whales. Biologists agree that losing even a few great white sharks can impact the larger population because sharks are slow to reproduce.

White sharks live along the Northern California coast from September to February, then swim 1,500 miles each way to an area between Hawaii and Mexico called the Shark Cafe, where they congregate, eat, and are believed to mate. White sharks are commonly seen at the ocean surface and juvenile white sharks are frequently seen in shallow nearshore waters off Southern California, especially in the summer and during warm water periods. They are increasingly found in Monterey Bay owing to warming ocean waters caused by climate change.

Ocean activities have increased over the past few decades because of the growing population and greater popularity of ocean activities such as surfing, swimming, and scuba diving. Wildlife tourism, one of the fastest growing sectors of the tourism industry, is the observation and interaction with local animal and plant

life in their natural habitats. Cage diving and viewing great white sharks by boat are examples of wildlife tourism and are a growing business in California.

It has been reported that some individuals operating white shark viewing tours by boat have requested to use attractants (e.g., chum, bait, or decoy) for cage diving operations in areas with an abundance of white sharks and ocean users, potentially putting the public at risk. Boat operators may attempt to use some form of attractant to bring white sharks near the vessel to increase the likelihood of successful viewing. The use of attractants for sharks has been linked with potential negative effects on habitat use, surface behavior, bioenergetics and conditioning, and a probable increase in human interactions.

It is illegal under state law to catch, pursue, hunt, capture or kill a white shark. White sharks in California are also protected by federal regulations and must be immediately released if accidentally caught. Existing California law is defined in terms of a taking. It is unlawful to take any white shark, except under permits issued by the California Department of Fish and Wildlife for scientific or educational purposes (Fish and Game code section 5517). "The word "take" is defined as "hunt, pursue, catch, capture, or kill, or attempting to hunt, pursue, catch, capture, or kill" (Fish and Game code section 86). Although attracting white sharks with bait or decoys is considered an attempt to pursue the animal, when excursion companies use attractants (bait) or decoys to lure sharks, they are technically not "taking" the shark. It is therefore unclear whether existing white shark protections prohibit attracting white sharks for entertainment purposes.

One of the most important responsibilities of the Commission is to preserve and increase public access to tide and submerged lands, including those that run along California's over 800 miles of shoreline. Great white sharks are important to the marine ecosystem. Using bait or other attractants in areas where there is human activity increases the likelihood of a shark incident occurring. AB 2109 will make it clear that it is illegal to use bait or decoys to attract great white sharks. The bill is designed to make the oceans safer for human use and ocean activities, and safer for great white sharks. This aligns with the Commission's public access and public trust responsibilities.

As the author of AB 2109 states: "People who attend our beaches should feel safe entering the water. When companies use bait or decoys to lure sharks, they are putting everyone and the shark at enormous risk. The use of attractants, which are feeding cues for white sharks, may increase their reactivity to other things in the water, such as swimmers and surfers. This bill ensures the safety of everyone, including our marine life."

## **BILL INFORMATION:**

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AB 2109 makes it unlawful to use any bait, lure, or chum to attract any white shark (*Carcharodon carcharias*) or to place any bait, lure, or chum into the water when a white shark is either visible or known to be present. AB 2109 allows the use of bait, lure, or chum if the activity is authorized by a permit issued by the California Department of Fish and Wildlife for scientific, educational, or propagation purposes.

## **OTHER PERTINENT INFORMATION:**

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AB 1832 has not received any opposition. The bill is supported by California Fish & Game Warden Supervisors and Managers Association, Defenders of Wildlife, Monterey Bay Aquarium Foundation, and Oceana. On April 5, 2022, the Assembly Water, Parks, and Wildlife Committee approved AB 2109 on an 10-0-5 vote and referred it to the Assembly Appropriations Committee.

This action is consistent with the “Meeting Evolving Public Trust Needs” strategic focus area of the Commission’s 2021-2025 Strategic Plan.

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

Support AB 2109 (Bennett and Bloom), which would make it unlawful to use any bait, lure, or chum to attract any white shark or to place any bait, lure, or chum into the water when a white shark is either visible or known to be present except if the activity is authorized by a permit issued by the Department of Fish and Wildlife for scientific, educational, or propagation purposes.