

By Senator Stewart

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A bill to be entitled

An act relating to Florida black bears; creating s. 379.3018, F.S.; providing a short title; defining terms; providing legislative findings and intent; requiring the Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, and the Department of Environmental Protection to coordinate certain duties and responsibilities to protect Florida black bears and to preserve their habitat; establishing a Bear-Resistant Garbage Container Account within the Nongame Wildlife Trust Fund; requiring the commission to establish a process by rule through which certain county and municipal governments may apply for and obtain funds to purchase bear-resistant garbage containers; requiring burn schedules for state forests and parks containing Florida black bear habitat to be adjusted to meet certain conditions; prohibiting state agencies from conducting or causing to be conducted roller-chopping of saw palmettos in Florida black bear habitat; prohibiting the sale of timbering rights to certain trees in state forests and parks that contain Florida black bear habitat; requiring the commission to adopt rules establishing standards for the designation of Florida black bear habitat and areas of human-bear conflict; requiring the commission, in coordination with the Department of Agriculture and Consumer Services and the Department of Environmental Protection, to designate areas of the state as Florida

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black bear habitat and identify state lands containing such habitat and areas of human-bear conflict by a specific date; requiring periodic review of the designations by the commission and agencies; requiring that specified information be posted and maintained on the commission website; prohibiting the recreational hunting of Florida black bears for a specified period; requiring the commission to conduct a Florida black bear population trend study; prohibiting the harvesting of saw palmetto berries on state lands identified as Florida black bear habitat; providing penalties; requiring purchasers to obtain sales certificates for purchases of specified amounts of saw palmetto berries; requiring harvesters to provide such certificates to initial purchasers; specifying the requirements of such certificates; requiring the certificate to accompany the berries from harvesting until delivery to the final processor or wholesaler; requiring the Commissioner of Agriculture to prescribe the form of the certificates; providing penalties; amending s. 590.125, F.S.; requiring that before conducting prescribed burns in Florida black bear habitats during certain periods, a certification must be obtained that certain female Florida black bears with juvenile offspring are unlikely to be denning in the burn site; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 379.3018, Florida Statutes, is created to read:

379.3018 Florida black bear habitat restoration.—

(1) SHORT TITLE.—This section may be cited as the “Florida Black Bear Habitat Restoration Act.”

(2) DEFINITIONS.—As used in this section, the term:

(a) “Bear-resistant garbage containers” means receptacles used for storage of garbage on residential properties which have the design and structure to significantly impede access to the contents by bears.

(b) “Coordinating agencies” means the Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, and the Department of Environmental Protection.

(c) “Florida black bear” means the subspecies *Ursus americanus floridanus*.

(d) “Florida black bear habitat” means the portions of this state, as identified by the coordinating agencies, meeting the standards set forth in subsection (8).

(e) “Human-bear conflicts” means interactions between humans and bears which lead to negative consequences.

(f) “State lands” means all lands under public ownership or control, including state forests, state parks, and conservation easements authorized by the state.

(3) FINDINGS AND INTENT.—The Legislature finds that the commission has jurisdiction over the state’s wildlife and certain areas of wildlife habitat, that the Department of Agriculture and Consumer Services has jurisdiction over 1 million acres of state forests, that the Department of

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88 Environmental Protection has jurisdiction over the state's 174
89 state parks, and that both state forests and state parks
90 constitute prime habitat for the Florida black bear. The
91 Legislature also finds that there is a need for interagency
92 coordination to preserve the habitat of the Florida black bear
93 as a lack of coordination has resulted in an increase in human-
94 bear conflicts. In order to provide for public safety, it is the
95 intent of the Legislature to enact measures to ensure the
96 restoration of the Florida black bear's habitat and thereby
97 reduce the number of human-bear conflicts.

98 (4) POWERS AND DUTIES.—Except as otherwise provided, the
99 coordinating agencies shall administer and enforce this section
100 and all rules and orders adopted or issued under this section.

101 (5) BEAR-RESISTANT GARBAGE CONTAINER ACCOUNT.—The Bear-
102 Resistant Garbage Container Account is established within the
103 Nongame Wildlife Trust Fund, subject to appropriation by the
104 Legislature of at least \$1 million. The commission shall
105 establish a process by rule through which county and municipal
106 governments located in counties that include areas designated
107 pursuant to subsection (8) as being prone to human-bear
108 conflicts may apply for funds to be used in the purchase of
109 bear-resistant garbage containers.

110 (6) BURN SCHEDULE AND ROLLER-CHOPPING.—

111 (a) Burn schedules for state forests and state parks
112 identified as including Florida black bear habitat must be
113 adjusted to allow for the regrowth of oak trees, saw palmettos,
114 and other berry-producing plants that supply the Florida black
115 bear with sufficient natural food to the extent that, after such
116 regrowth, the species is not compelled to enter residential

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117 areas in search of food.

118 (b) A state agency may not conduct or cause to be conducted
119 roller-chopping of saw palmettos in Florida black bear habitat.

120 (7) SALE OF TIMBERING RIGHTS ON STATE LANDS.—The sale of
121 timbering rights to acorn-producing oak trees in all state
122 forests and state parks that are identified as including Florida
123 black bear habitat is prohibited.

124 (8) IDENTIFICATION OF FLORIDA BLACK BEAR HABITAT.—

125 (a) By July 1, 2018, the commission shall establish by rule
126 standards for the designation of specific areas of the state as
127 Florida black bear habitat and shall identify areas prone to
128 human-bear conflicts.

129 (b) By February 1, 2019, the commission, in coordination
130 with the Department of Agriculture and Consumer Services and the
131 Department of Environmental Protection, shall designate areas of
132 the state as Florida black bear habitat and identify all state
133 lands that contain such habitat. The commission shall also
134 identify areas affected by human-bear conflicts. The commission
135 shall apply the standards developed pursuant to paragraph (a) in
136 making these determinations, which must be reviewed and, if
137 necessary, revised by the coordinating agencies at least once
138 every 3 years.

139 (c) The commission shall post and maintain on its website
140 the current list of the areas of the state which are designated
141 as Florida black bear habitat and the state lands that contain
142 such habitat.

143 (9) MORATORIUM ON RECREATIONAL BEAR HUNTING; STUDY.—

144 (a) The recreational hunting of Florida black bears is
145 prohibited in this state until July 1, 2027.

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146 (b) The Florida Fish and Wildlife Conservation Commission
147 shall conduct a 5-year population trend study of the Florida
148 black bear which includes an analysis of the potential impact of
149 Florida black bear hunting using biological stock assessment of
150 the species.

151 (10) SAW PALMETTO BERRY HARVESTING.—

152 (a) Permits to harvest saw palmetto berries may not be
153 issued for any state lands identified as including Florida black
154 bear habitat.

155 (b) A person unlawfully harvesting saw palmetto berries on
156 state lands commits theft, punishable as provided in s. 812.014.

157 (11) PURCHASE OF SAW PALMETTO BERRIES.—

158 (a) Every initial purchaser of more than one bushel or
159 crate of saw palmetto berries shall obtain a sales certificate
160 from the harvester, who must prepare and furnish such
161 certificates. The sales certificate must accompany the berries
162 from the point of harvesting to the final processor or the
163 wholesaler who will offer the berries for retail sale. Such
164 processor or wholesaler shall keep the sales certificate for 1
165 year after date of purchase and shall produce the certificate
166 for inspection upon request by a peace officer.

167 (b) The sales certificate must include:

- 168 1. The quantity of berries purchased;
169 2. The name, address, and telephone number of the harvester
170 from whom the berries were purchased;
171 3. The name and address of the property where the berries
172 were harvested, and contact information for the owner or manager
173 of the property; and
174 4. For the initial purchaser and each subsequent purchaser,

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his or her name, address, and telephone number, and the date
that he or she purchased the berries.

(c) The harvester and initial purchaser shall each keep a
copy of the sales certificate for 1 year after the date of the
initial purchase. The Commissioner of Agriculture shall
prescribe the form of sales certificates required by this
subsection.

(d) A person who violates this subsection commits a
misdemeanor of the third degree, punishable as provided in s.
775.082 or s. 775.083.

Section 2. Paragraph (b) of subsection (3) of section
590.125, Florida Statutes, is amended to read:

590.125 Open burning authorized by the Florida Forest
Service.—

(3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND
PURPOSE.—

(b) Certified prescribed burning pertains only to broadcast
burning for purposes of silviculture, wildland fire hazard
reduction, wildlife management, ecological maintenance and
restoration, and agriculture. It must be conducted in accordance
with this subsection and:

1. May be accomplished only when a certified prescribed
burn manager is present on site with a copy of the prescription
and directly supervises the certified prescribed burn until the
burn is completed, after which the certified prescribed burn
manager is not required to be present.

2. Requires that a written prescription be prepared before
receiving authorization to burn from the Florida Forest Service.

a. A new prescription or authorization is not required for

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smoldering that occurs within the authorized burn area unless new ignitions are conducted by the certified prescribed burn manager.

b. Monitoring the smoldering activity of a certified prescribed burn does not require a prescription or an additional authorization even if flames begin to spread within the authorized burn area due to ongoing smoldering.

3. Requires that the specific consent of the landowner or his or her designee be obtained before requesting an authorization.

4. Requires that an authorization to burn be obtained from the Florida Forest Service before igniting the burn.

5. Requires that there be adequate firebreaks at the burn site and sufficient personnel and firefighting equipment to contain the fire within the authorized burn area.

a. Fire spreading outside the authorized burn area on the day of the certified prescribed burn ignition does not constitute conclusive proof of inadequate firebreaks, insufficient personnel, or a lack of firefighting equipment.

b. If the certified prescribed burn is contained within the authorized burn area during the authorized period, a strong rebuttable presumption shall exist that adequate firebreaks, sufficient personnel, and sufficient firefighting equipment were present.

c. Continued smoldering of a certified prescribed burn resulting in a subsequent wildfire does not by itself constitute evidence of gross negligence under this section.

6. Is considered to be in the public interest and does not constitute a public or private nuisance when conducted under

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applicable state air pollution statutes and rules.

7. Is considered to be a property right of the property owner if vegetative fuels are burned as required in this subsection.

8. Requires that, for any prescribed burn to be conducted in Florida black bear habitat, as designated by the Fish and Wildlife Conservation Commission pursuant to s. 379.3018, during months when female bears with juvenile offspring are likely denning in such habitat, a certification must be obtained from the Florida Fish and Wildlife Conservation Commission that it is unlikely, based on the commission's best knowledge, that adult female bears with juvenile offspring are denning in the burn site. Such certification must be obtained before igniting the burn.

Section 3. This act shall take effect July 1, 2017.