

1 A bill to be entitled
2 An act relating to Florida black bears; creating s.
3 379.3018, F.S.; providing a short title; defining
4 terms; providing legislative findings and intent;
5 requiring the Fish and Wildlife Conservation
6 Commission, the Department of Agriculture and Consumer
7 Services, and the Department of Environmental
8 Protection to coordinate certain duties and
9 responsibilities to protect Florida black bears and to
10 preserve their habitat; establishing a Bear-Resistant
11 Garbage Container Account within the Nongame Wildlife
12 Trust Fund; requiring the commission to establish a
13 process by rule through which certain county and
14 municipal governments may apply for and obtain funds
15 to purchase bear-resistant garbage containers;
16 requiring burn schedules for state forests and parks
17 containing Florida black bear habitat to be adjusted
18 to meet certain conditions; prohibiting state agencies
19 from conducting or causing to be conducted roller-
20 chopping of saw palmettos in Florida black bear
21 habitat; prohibiting the sale of timbering rights to
22 certain trees in state forests and parks that contain
23 Florida black bear habitat; requiring the commission
24 to adopt rules establishing standards for the
25 designation of Florida black bear habitat and areas of

26 human-bear conflict; requiring the commission, in
27 coordination with the Department of Agriculture and
28 Consumer Services, and the Department of Environmental
29 Protection, to designate areas of the state as Florida
30 black bear habitat and identify state lands containing
31 such habitat and areas of human-bear conflict by a
32 specific date; requiring periodic review of the
33 designations by the commission and agencies; requiring
34 that specified information be posted and maintained on
35 the commission website; prohibiting the recreational
36 hunting of Florida black bears for a specified period;
37 requiring the commission to conduct a Florida black
38 bear population trend study; prohibiting the
39 harvesting of saw palmetto berries on state lands
40 identified as Florida black bear habitat; providing
41 penalties; requiring purchasers to obtain sales
42 certificates for purchases of specified amounts of saw
43 palmetto berries; requiring harvesters to provide such
44 certificates to initial purchasers; specifying the
45 requirements of such certificates; requiring the
46 certificate to accompany the berries from harvesting
47 until delivery to the final processor or wholesaler;
48 requiring the Commissioner of Agriculture to prescribe
49 the form of the certificates; providing penalties;
50 amending s. 590.125, F.S.; requiring that for

51 prescribed burns in Florida black bear habitats, a
 52 certification must be obtained that certain female
 53 Florida black bears with juvenile offspring are not
 54 denning in the burn site; providing an effective date.
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56 Be It Enacted by the Legislature of the State of Florida:
 57

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

60 379.3018 Florida black bear restoration.-

61 (1) SHORT TITLE.-This section may be cited as the "Florida
 62 Black Bear Habitat Restoration Act."

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

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

68 (b) "Coordinating agencies" means the Fish and Wildlife
 69 Conservation Commission, the Department of Agriculture and
 70 Consumer Services, and the Department of Environmental
 71 Protection.

72 (c) "Florida black bear" means the subspecies Ursus
 73 americanus floridanus.

74 (d) "Florida black bear habitat" means the portions of
 75 this state, as identified by the coordinating agencies, meeting

76 | the standards set forth in subsection (8).

77 | (e) "Human-bear conflicts" means interactions between
78 | humans and bears which lead to negative consequences.

79 | (f) "State lands" means all lands under public ownership
80 | or control, including state forests, state parks, and
81 | conservation easements authorized by the state.

82 | (3) FINDINGS AND INTENT.—The Legislature finds that the
83 | commission has jurisdiction over the state's wildlife and
84 | certain areas of wildlife habitat, that the Department of
85 | Agriculture and Consumer Services has jurisdiction over 1
86 | million acres of state forests, that the Department of
87 | Environmental Protection has jurisdiction over the state's 174
88 | state parks, and that both state forests and state parks
89 | constitute prime habitat for the Florida black bear. The
90 | Legislature also finds that there is a need for interagency
91 | coordination to preserve the habitat of the Florida black bear.
92 | This lack of coordination has resulted in an increase in human-
93 | bear conflicts. In order to provide for public safety, it is the
94 | intent of the Legislature to enact measures to ensure the
95 | restoration of the Florida black bear's habitat and thereby
96 | reduce the number of human-bear conflicts.

97 | (4) POWERS AND DUTIES.—Except as otherwise provided, the
98 | coordinating agencies shall administer and enforce the
99 | provisions of this section and all rules and orders adopted or
100 | 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
117 areas in search of food.

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

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

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

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

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

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

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

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

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

151 the species.

152 (10) SAW PALMETTO BERRY HARVESTING.—

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

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

158 (11) PURCHASE OF SAW PALMETTO BERRIES.—

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

168 (b) The sales certificate must include:

169 1. The quantity of berries purchased;

170 2. The name, address, and telephone number of the
171 harvester from whom the berries were purchased;

172 3. The name and address of the property where the berries
173 were harvested, and contact information for the owner or manager
174 of the property; and

175 4. For the initial purchaser and each subsequent

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

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

183 | (d) A person who violates this subsection commits a
 184 | misdemeanor of the second degree, punishable as provided in s.
 185 | 775.082 or s. 775.083.

186 | Section 2. Paragraph (b) of subsection (3) of section
 187 | 590.125, Florida Statutes, is amended to read:

188 | 590.125 Open burning authorized by the Florida Forest
 189 | Service.—

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

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

197 | 1. May be accomplished only when a certified prescribed
 198 | burn manager is present on site with a copy of the prescription
 199 | and directly supervises the certified prescribed burn until the
 200 | burn is completed, after which the certified prescribed burn

201 manager is not required to be present.

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

204 a. A new prescription or authorization is not required for
205 smoldering that occurs within the authorized burn area unless
206 new ignitions are conducted by the certified prescribed burn
207 manager.

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

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

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

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

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

224 b. If the certified prescribed burn is contained within
225 the authorized burn area during the authorized period, a strong

226 rebuttable presumption shall exist that adequate firebreaks,
227 sufficient personnel, and sufficient firefighting equipment were
228 present.

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

232 6. Is considered to be in the public interest and does not
233 constitute a public or private nuisance when conducted under
234 applicable state air pollution statutes and rules.

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

238 8. Requires that for any prescribed burn to be conducted
239 in Florida black bear habitat, as designated by the Fish and
240 Wildlife Conservation Commission pursuant to s. 379.3018, during
241 the months of January, February, March, April, and May, a
242 certification must be obtained from the Florida Fish and
243 Wildlife Conservation Commission that no adult female bears with
244 juvenile offspring are currently denning in the burn site. Such
245 certification must be obtained before igniting the burn.

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