

By Senator Stewart

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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

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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 before
51 conducting prescribed burns in Florida black bear
52 habitats during certain periods, a certification must
53 be obtained that certain female Florida black bears
54 with juvenile offspring are unlikely to be denning in
55 the burn site; providing an effective date.

56
57 Be It Enacted by the Legislature of the State of Florida:
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59 Section 1. Section 379.3018, Florida Statutes, is created
60 to read:

61 379.3018 Florida black bear habitat restoration.-

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

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

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

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

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

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

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

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

83 (3) FINDINGS AND INTENT.-The Legislature finds that the
84 commission has jurisdiction over the state's wildlife and
85 certain areas of wildlife habitat, that the Department of
86 Agriculture and Consumer Services has jurisdiction over 1
87 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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175 his or her name, address, and telephone number, and the date
176 that he or she purchased the berries.

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

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

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

187 590.125 Open burning authorized by the Florida Forest
188 Service.—

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

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

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

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

203 a. A new prescription or authorization is not required for

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

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

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

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

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

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

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

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

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

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233 applicable state air pollution statutes and rules.

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

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

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