

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; prohibiting the Fish and Wildlife Conservation  
 5           Commission from allowing the recreational hunting of  
 6           Florida black bears mothering cubs that weigh less  
 7           than 100 pounds under a black bear hunting permit;  
 8           specifying a penalty for the unlawful harvesting of  
 9           saw palmetto berries on state lands; authorizing the  
 10          Fish and Wildlife Conservation Commission to designate  
 11          certain habitats and to update such habitat  
 12          information as necessary; amending s. 590.125, F.S.;  
 13          prohibiting prescribed burns in certain designated  
 14          habitats during specified times; providing an  
 15          effective date.

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

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

21           379.3018 Florida black bear habitat restoration.—

22           (1) SHORT TITLE.—This section may be cited as the "Florida  
 23 Black Bear Protection Act."

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

25           (a) "Florida black bear" means the subspecies *Ursus*

26 americanus floridanus.

27 (b) "State lands" means all lands under public ownership  
28 or control, including state forests, state parks, and  
29 conservation easements authorized by the state.

30 (3) HUNTING PROHIBITION.—The commission may not allow any  
31 person who is issued a recreational hunting permit that  
32 authorizes the hunting of Florida black bears to kill under such  
33 permit a Florida black bear mothering a cub that weighs less  
34 than 100 pounds.

35 (4) SAW PALMETTO BERRY HARVESTING.—Regardless of the value  
36 of berries stolen, a person unlawfully harvesting saw palmetto  
37 berries on state lands commits petit theft of the second degree,  
38 punishable as provided in s. 812.014.

39 (5) DESIGNATION OF HABITATS.—The commission may, on state  
40 lands, designate and update as necessary using a science-based  
41 approach:

42 (a) Florida black bear habitats in which female bears are  
43 likely to be denning during the month of February; and

44 (b) Sensitive habitats containing critical food sources  
45 for Florida black bears.

46 Section 2. Paragraph (b) of subsection (3) of section  
47 590.125, Florida Statutes, is amended to read:

48 590.125 Open burning authorized by the Florida Forest  
49 Service.—

50 (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND

51 | PURPOSE.—

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

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

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

64 |       a. A new prescription or authorization is not required for  
65 | smoldering that occurs within the authorized burn area unless  
66 | new ignitions are conducted by the certified prescribed burn  
67 | manager.

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

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

75 |       4. Requires that an authorization to burn be obtained from

76 | the Florida Forest Service before igniting the burn.

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

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

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

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

92 |         6. Is considered to be in the public interest and does not  
93 | constitute a public or private nuisance when conducted under  
94 | applicable state air pollution statutes and rules.

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

98 |         8. May not be conducted during the month of February in a  
99 | black bear habitat designated by the Fish and Wildlife  
100 | Conservation Commission under s. 379.3018(5)(a).

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101 | Section 3. This act shall take effect July 1, 2018. |