

By the Committee on Environmental Preservation and Conservation;
and Senators Stewart and Torres

592-04103A-17

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

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

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

19 379.3018 Florida black bear habitat restoration.—

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

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

23 (a) "Florida black bear" means the subspecies *Ursus*
24 *americanus floridanus*.

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

28 (3) HUNTING PROHIBITION.—The commission may not allow any
29 person issued a recreational hunting permit authorizing the

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30 hunting of Florida black bears to kill a Florida black bear
31 mothering cubs under 100 pounds pursuant to such permit.

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

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

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

41 (b) Sensitive habitats containing critical food sources for
42 Florida black bears.

43 Section 2. Paragraph (b) of subsection (3) of section
44 590.125, Florida Statutes, is amended to read:

45 590.125 Open burning authorized by the Florida Forest
46 Service.—

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

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

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

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

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

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

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

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

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

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

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

86 c. Continued smoldering of a certified prescribed burn
87 resulting in a subsequent wildfire does not by itself constitute

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88 evidence of gross negligence under this section.

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

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

95 8. May not be conducted during the month of February in a
96 habitat designated by the Fish and Wildlife Conservation
97 Commission under s. 379.3018(5) (a).

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