

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; 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 Florida black bear hunting
8 permit; specifying a penalty for the unlawful
9 harvesting of saw palmetto berries on state lands;
10 authorizing the Fish and Wildlife Conservation
11 Commission to designate certain habitats on state
12 lands and to update such habitat information as
13 necessary; amending s. 590.125, F.S.; prohibiting
14 prescribed burns in certain designated habitats during
15 specified times; providing an 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 or
28 control, including state forests, state parks, and conservation
29 easements authorized by the state.

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30 (3) HUNTING PROHIBITION.—The commission may not allow a
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 for
45 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 broadcast
53 burning for purposes of silviculture, wildland fire hazard
54 reduction, wildlife management, ecological maintenance and
55 restoration, and agriculture. It must be conducted in accordance
56 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

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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 the
85 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

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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).

101 Section 3. This act shall take effect July 1, 2019.