



EVERGLADES COALITION

March 14, 2024

The Honorable Ron DeSantis
Plaza Level, The Capitol
400 S. Monroe St.
Tallahassee, FL 32399

Sent Via Email to GovernorRon.Desantis@eoq.myflorida.com

RE: Veto CS/HB 87 (Taking of Bears / “Self Defense Act”)

Dear Governor DeSantis,

The Everglades Coalition, nearly 60 organizations dedicated to protecting and restoring America’s Everglades, with a 12.2-million-constituent network of followers, is dedicated to the full restoration of the greater Everglades ecosystem. The Coalition strongly supports maintaining common sense protections for black bears and our communities. Accordingly, we urge you to veto CS/HB 87.

CS/HB 87 (Taking of Bears) would allow any person to use lethal force if they reasonably believe their action is necessary to avoid an imminent threat of death or serious bodily injury to themselves, another, or a pet, or to avoid substantial damage to a dwelling, which can include homes, porches, and even tents.

Prevention of human-bear interaction is best accomplished through non-lethal means.

The Florida Fish and Wildlife Conservation Commission (FWC) Bear Management Program and adoption of BearWise practices, such as the use of bear-proof trash cans, would better address human-bear interactions. All communities should have trash collection services. If necessary, we call for increased funding applied to [Bear-Wise](#) educational outreach and equipment. Educational opportunities for Bear-Wise practices by the U.S. Fish and Wildlife Service and FWC have been very successful where implemented, but many localities have not sufficiently deployed these measures in critical areas, particularly where development is pushing rapidly into regions with higher bear populations.

Instead of enacting this law, the Legislature should appropriate funding to Franklin and other rural and underserved counties to enable regular trash pick-up and provide bear-secure trash receptacles which would effectively eliminate human-bear interaction and the need for this Act, which will have statewide implications, including in densely populated neighborhoods. We urge you to approve funding appropriated by the state legislature to address the heart of the issue — \$600,000 for waste management and attractants in Franklin County, as a start that should be applauded and replicated.

The Everglades Coalition is a 501(c)3 alliance of local, state, and national conservation organizations dedicated to the full protection and restoration of America's Everglades.

evergladescoalition.org

CS/HB 87 is unnecessary.

This bill needlessly duplicates the common law defense of necessity, which already allows Floridians to defend themselves or others from wildlife. The FWC website describes the common law defense of necessity in [FAQs](#) on its website.

CS/HB 87 undermines protection of black bear sub-populations.

There are no guardrails in the bill that would cap the take by lethal force. This could contribute to the Florida black bear becoming imperiled and listed as threatened or endangered.

CS/HB 87 risks public safety.

The expanded authorization to use lethal force against bears around dwellings also poses a public safety threat. Where firearms are used, innocent people, including children, may be injured or killed by stray bullets, especially in suburban areas with smaller lots. This danger may only be exacerbated in a high-stress situation and depending on the shooter's level of skill. If a bear is injured rather than killed, it could become more dangerous and create an emergency situation.

CS/HB 87 is contrary to the goals of the Florida Wildlife Corridor.

HB 87 is contrary to the goals of the laudable and unanimously supported Florida Wildlife Corridor Act, the intent of which is to provide migratory and dispersal zones with sufficient habitat to support genetically viable populations of wide-roaming species.

CS/HB 87 appears to be unconstitutional.

The language in CS/HB 87 is also likely unconstitutional because it usurps FWC's exclusive constitutional authority to regulate wild animal life. The Florida Constitution states that the FWC "shall exercise the regulatory authority and executive powers of the state with respect to wild animal life and freshwater aquatic life."¹ The Florida Supreme Court and other state courts have consistently found that this language vests FWC with the exclusive legislative authority to adopt reasonable rules to regulate wild animal life.² The Legislature is, therefore, "constitutionally prohibited" from adopting statutes that are inconsistent with or conflict with FWC's regulations.³ This bill is unquestionably inconsistent with FWC's Florida Black

¹ Art. IV, § 9, Fla Const (emphasis added).

² *Caribbean Conservation Corp. v. Fla. Fish & Wildlife Conservation Coalition*, 838 So. 2d 492 (Fla. 2003) (holding that "[i]n respect to 'wild animal life and fresh water aquatic life,' the [FWC] is given 'the regulatory and executive powers of the state.' (emphasis in original)); *Wakulla Commercial Fishermen's Ass'n v. Fla. Fish & Wildlife Conservation Comm'n*, 951 So. 2d 8, 9 (Fla. 1st DCA 2007) (same); *City of Miramar v. Bain*, 429 So. 2d 40, 42 (Fla. 4th DCA 1983) (same); *Price v. St. Petersburg*, 158 Fla. 705, 708 (1947) (same); Op. Att'y Gen. 80-04 (1980) ("Section 9, Art. IV, State Const., vests in the Game and Fresh Water Fish Commission the exclusive authority to exercise all of the state's regulatory power over all wild animal life . . .").

³ *Wakulla*, 951 So. 2d at 9; Art. IV, § 9, Fla Const (providing that the "Legislature may enact laws in aid of the commission, not inconsistent with this section . . ."); *State ex rel. Griffin v. Sullivan*, 30 So. 2d 919, 920 (Fla. 1947) ("Acts of the legislature are limited to those that aid but are not inconsistent with the regulations of the Commission."); *Bell v. Vaughn*, 21 So. 2d 31,32 (Fla. 1945) ("The power to pass acts 'in aid of' the amendment does not contemplate the power to prescribe a method of taking [fish] different from that prescribed by the Commission."). This long-standing interpretation of the Florida Constitution was reaffirmed in *U.S. Association of Reptile Keepers v. Florida Fish and Wildlife Conservation Commission*, in which the Second Judicial Circuit held that section 379.372, Florida Statutes, as amended by Senate Bill 1414 (2020), was unconstitutional because it regulated the manner and purpose

Bear Conservation Rule,⁴ which prohibits take of black bears without a permit, and FWC's Florida Black Bear Management Plan, which focuses on avoiding and minimizing conflicts.⁵

For these reasons we urge you to veto CS/HB 87.

Sincerely,



Mark Perry
Co-Chair



Kelly Cox
Co-Chair

for which certain non-native reptile species could be possessed in a way that contradicted FWC's regulations. No. 2020 CA 001277 (Fla. Cir. Ct. 2d, Sept. 11, 2020).

⁴ Fla. Admin. Code R. 68A-4.009.

⁵ See <https://myfwc.com/media/21923/2019-florida-black-bear-management-plan.pdf>.

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