

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 979 Village of Wellington, Palm Beach County

**SPONSOR(S):** Willhite

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	16 Y, 1 N	Renner	Miller
2) Regulatory Reform Subcommittee	15 Y, 0 N	Thompson	Anstead
3) State Affairs Committee			

### SUMMARY ANALYSIS

In Florida, the sale and use of fireworks are generally prohibited. However, many exceptions to the prohibition exist. The most commonly used exceptions allow approved fireworks to be sold by a licensed retailer to a buyer who:

- Has obtained a permit for a public display from a municipality or a board of county commissioners;
- Is using the fireworks to scare birds away from agricultural works or fish hatcheries; or
- Uses fireworks on New Year's Eve, New Year's Day, or Independence Day.

The bill provides an exemption from ss. 791.001 and 791.08, F.S., and prohibits the sale and use of fireworks located within the Equestrian Preserve of the Village of Wellington on all days of the year except for public displays supervised and conducted by a competent operator. The displays must be approved by the chiefs of the police and fire departments of Wellington and must not be hazardous to property or endanger any person.

Written applications for permits must be made at least 15 days in advance of the date of the display. After permit approval, the sales, possession, use, and distribution of fireworks for the display must be lawful for the permitted purpose only. Permits are non-transferrable.

The prohibitions in the bill do not prevent the importation, purchase, sale, or use of fireworks for agricultural purposes.

The Economic Impact Statement filed with the bill indicates the bill does not appear to have a fiscal impact on the state or local governments.

**Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Fireworks

The Division of the State Fire Marshal within the Department of Financial Services regulates the sale and use of fireworks and sparklers in Florida.<sup>1</sup> While ch. 791, F.S., applies uniformly throughout the state, enforcement of these statutes resides with local law enforcement departments.<sup>2</sup>

Fireworks are defined as “any combustible or explosive composition or substance or combination of substances or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation.”<sup>3</sup>

The retail sale and use of fireworks by the public is prohibited.<sup>4</sup> However, provisions of ch. 791, F.S., exempt certain wholesale sales and commercial uses of fireworks from this general ban. The law does allow sparklers and other novelty products,<sup>5</sup> like smoke devices and noisemakers, to be sold at retail to the public and to be used by the public.<sup>6</sup>

Fireworks may be used solely and exclusively for the following holidays:<sup>7</sup>

- New Year’s Eve, December 31<sup>st</sup>;
- New Year’s Day, January 1<sup>st</sup>; and
- Independence Day, July 4.

This statute is not intended to supersede any local government regulation relating to the use of fireworks.<sup>8</sup>

Counties and cities may adopt reasonable rules and regulations to grant permits for the supervised public display of fireworks within their boundaries.<sup>9</sup> Display operators must apply for a permit at least 15 days in advance of obtaining approval from municipal chiefs of police and fire departments.<sup>10</sup> Counties must require a bond of not less than \$500 for any damages caused by a fireworks display.<sup>11</sup>

The statute authorizes the importation, purchase, sale, or use of fireworks solely and exclusively to frighten birds from agricultural works and fish hatcheries. Such use is governed by the Department of Agriculture and Consumer Services.<sup>12</sup>

#### Equestrian Preserve of the Village of Wellington<sup>13</sup>

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<sup>1</sup> S. 791.012, F.S.

<sup>2</sup> S. 791.001, F.S.

<sup>3</sup> S. 791.01(4)(a), F.S.;

<sup>4</sup> S. 791.02(1), F.S.

<sup>5</sup> S. 791.01(4)(c), F.S.

<sup>6</sup> See s. 791.015, F.S.

<sup>7</sup> S. 791.08, F.S.

<sup>8</sup> S. 791.08(3), F.S.

<sup>9</sup> S. 791.02, F.S.

<sup>10</sup> *Id.*

<sup>11</sup> S. 791.03, F.S.

<sup>12</sup> S. 791.07, F.S.

<sup>13</sup> The Village of Wellington, *Equestrian Community*, <https://www.wellingtonfl.gov/FAQ.aspx?TID=23> (last visited Feb. 16, 2021).

The Village of Wellington has a dynamic equestrian community and features several venues for a variety of equestrian disciplines as well as family-owned farms. Wellington's Equestrian Preserve Area is an equestrian community located on 9,000 acres in the western and southern portions of Wellington. The area includes trails, businesses and parks that support horses, facilities, and land. During the equestrian show and polo season, there could be upwards of 20,000 horses in Wellington.<sup>14</sup>

### Effect of the Bill

The bill provides an exemption from ss. 791.001 and 791.08, F.S., and prohibits the sale and use of fireworks located within the Equestrian Preserve of the Village of Wellington on all days of the year except for supervised public displays handled by a competent operator. The displays must be approved by the chiefs of the police and fire departments of Wellington and must not be hazardous to property or endanger any person.

Written applications for permits must be made at least 15 days in advance of the date of the display. After permit approval, the sales, possession, use, and distribution of fireworks for the display must be lawful for the permitted purpose only. Permits are non-transferrable.

The prohibitions in the bill do not prevent the importation, purchase, sale, or use of fireworks for agricultural purposes.

### B. SECTION DIRECTORY:

Section 1. Creates an exception to general law, prohibiting the sale and use of fireworks within the Equestrian Preserve of the Village of Wellington under certain circumstances; providing applicability.

Section 2. Provides that the bill takes effect upon becoming a law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 15, 2021

WHERE? *The Palm Beach Post*, a daily newspaper published in West Palm Beach, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes  No

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

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<sup>14</sup> World Polo News, *Equestrian Committee Reviews Venue Data and Horse Counts* (Oct. 12, 2019), <https://www.worldpolonews.com/2019/equestrian-committee-reviews-venue-data-and-horse-counts/> (last visited Feb. 25, 2021).

None.

**B. RULE-MAKING AUTHORITY:**

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.