

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

**Introduced**

### **Senate Bill 348**

**FISCAL  
NOTE**

BY SENATORS BOSO, GAUNCH, LEONHARDT, MULLINS,

PALUMBO, WALTERS AND WILLIAMS

[Introduced January 21, 2016;

Referred to the Committee on Natural Resources; and then

to the Committee on Finance.]

1 A BILL to amend and reenact §20-2-28 of the Code of West Virginia, 1931, as amended, relating  
2 to permitting lineal descendants of landowner to hunt, trap and fish on that landowner's  
3 property without obtaining a license.

*Be it enacted by the Legislature of West Virginia:*

1 That §20-2-28 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

## **ARTICLE 2. WILDLIFE RESOURCES.**

### **§20-2-28. When licenses or permits not required.**

1 Persons in the following categories are not required to obtain licenses or permits as  
2 indicated:

3 (a) Bona fide resident landowners or their ~~resident children~~ lineal descendants, or resident  
4 parents, or bona fide resident tenants of the land may hunt, trap or fish on their own land during  
5 open season in accordance with the laws and rules applying to the hunting, trapping and fishing  
6 without obtaining a license, unless the lands have been designated as a wildlife refuge or  
7 preserve.

8 (b) Any bona fide resident of this state who is totally blind may fish in this state without  
9 obtaining a fishing license. A written statement or certificate from a duly licensed physician of this  
10 state showing the resident to be totally blind shall serve in lieu of a fishing license and shall be  
11 carried on the person of the resident at all times while he or she is fishing in this state.

12 (c) All residents of West Virginia on active duty in the Armed Forces of the United States  
13 of America, while on leave or furlough, may hunt, trap or fish in season in West Virginia without  
14 obtaining a license. Leave or furlough papers shall serve in lieu of any license and shall be carried  
15 on the person at all times while trapping, hunting or fishing.

16 (d) In accordance with the provisions of section twenty-seven of this article, any resident  
17 sixty-five years of age or older before January 1, 2012, is not required to have a license to hunt,  
18 trap or fish during the legal seasons in West Virginia, but in lieu of the license the person shall at

19 all times while hunting, trapping or fishing carry on his or her person a valid West Virginia driver's  
20 license or nondriver identification card issued by the Division of Motor Vehicles.

21 (e) Except as otherwise provided for in this section, residents of states that share river  
22 borders with the State of West Virginia who carry hunting or fishing licenses valid in that state  
23 may hunt or fish without obtaining licenses, but the hunting or fishing shall be confined to the fish  
24 and waterfowl of the river proper and not on its tributaries: *Provided*, That the state shall first enter  
25 into a reciprocal agreement with the director extending a like privilege of hunting and fishing to  
26 licensed residents of West Virginia without requiring the residents to obtain that state's hunting  
27 and fishing licenses.

28 (f) Residents of the state of Ohio who carry hunting or fishing licenses valid in that state  
29 may hunt or fish on the Ohio River or from the West Virginia banks of the river without obtaining  
30 licenses, but the hunting or fishing shall be confined to fish and waterfowl of the river proper and  
31 to points on West Virginia tributaries and embayments identified by the director: *Provided*, That  
32 the state of Ohio shall first enter into a reciprocal agreement with the director extending a like  
33 privilege of hunting and fishing from the Ohio banks of the river to licensed residents of West  
34 Virginia without requiring the residents to obtain Ohio hunting and fishing licenses.

35 (g) Any resident of West Virginia who was honorably discharged from the Armed Forces  
36 of the United States of America and who receives a veteran's pension based on total permanent  
37 service-connected disability as certified to by the Veterans Administration may hunt, trap or fish  
38 in this state without obtaining a license. The director shall propose rules for legislative approval in  
39 accordance with the provisions of article three, chapter twenty-nine-a of this code setting forth the  
40 procedure for the certification of the veteran, manner of applying for and receiving the certification  
41 and requirements as to identification while the veteran is hunting, trapping or fishing.

42 (h) Any disabled veteran who is a resident of West Virginia and who, as certified to by the  
43 Commissioner of Motor Vehicles, is eligible to be exempt from the payment of any fee on account

44 of registration of any motor vehicle owned by the disabled veteran as provided in section eight,  
45 article ten, chapter seventeen-a of this code shall be permitted to hunt, trap or fish in this state  
46 without obtaining a license. The director shall propose rules for legislative approval in accordance  
47 with the provisions of article three, chapter twenty-nine-a of this code setting forth the procedure  
48 for the certification of the disabled veteran, manner of applying for and receiving the certification  
49 and requirements as to identification while the disabled veteran is hunting, trapping or fishing.

50 (i) Any resident or inpatient in any state mental health, health or benevolent institution or  
51 facility may fish in this state, under proper supervision of the institution involved, without obtaining  
52 a fishing license. A written statement or certificate signed by the superintendent of the mental  
53 health, health or benevolent institution or facility in which the resident or inpatient, as the case  
54 may be, is institutionalized shall serve in lieu of a fishing license and shall be carried on the person  
55 of the resident or inpatient at all times while he or she is fishing in this state.

56 (j) Any resident who is developmentally disabled, as certified by a physician and the  
57 Director of the Division of Health, may fish in this state without obtaining a fishing license. As used  
58 in this section, "developmentally disabled" means a person with a severe, chronic disability which:

59 (1) Is attributable to a mental or physical impairment or a combination of mental and  
60 physical impairments;

61 (2) Is manifested before the person attains age twenty-two;

62 (3) Results in substantial functional limitations in three or more of the following areas of  
63 major life activity:

64 (A) Self-care;

65 (B) Receptive and expressive language;

66 (C) Learning;

67 (D) Mobility;

68 (E) Self-direction;

- 69 (F) Capacity for independent living; and
- 70 (G) Economic self-sufficiency; and
- 71 (4) Reflects the persons need for a combination and sequence of care, treatment or
- 72 supportive services which are of lifelong or extended duration and are individually planned and
- 73 coordinated.
- 74 (k) A student eighteen years of age or younger receiving instruction in fly fishing in a public,
- 75 private, parochial or Christian school in this state may fly fish in the state for catch and release
- 76 only without obtaining a fishing license while under the supervision of an instructor authorized by
- 77 the school.

NOTE: The purpose of this bill is to permit lineal descendants of a landowner to hunt, trap and fish on that landowner's property without obtaining a license.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.