

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 143

FISCAL
NOTE

BY SENATORS SYPOLT, SMITH, JEFFRIES, ROMANO,

LINDSAY, AND MARONEY

[Introduced January 12, 2022; referred
to the Committee on Natural Resources; and then to
the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §11-13KK-1, §11-13KK-2, and §11-13KK-3; to amend and reenact §20-2-28
3 of said code; and to amend and reenact §20-2B-7 of said code, all relating to creating a
4 personal income tax credit of the cost of a lifetime hunting, fishing, and trapping license
5 issued to certain disabled veterans discharged from the armed forces of the United States.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11. TAXATION.

ARTICLE 13KK. MILITARY VETERAN LIFETIME HUNTING, TRAPPING, AND FISHING LICENSE FEE TAX CREDIT.

§11-13KK-1. Definitions.

6 As used in this article:

7 “Eligible veteran” means a West Virginia resident who served on full-time active duty in
8 the armed forces of the United States, and who was discharged or released therefrom under
9 conditions other than dishonorable, receives service-related disability compensation based on a
10 total disability rating of not less than 50% as certified by the Veterans Administration, and has
11 purchased and been issued a lifetime hunting, fishing, and trapping license for veterans pursuant
12 to §20-2B-1 et seq. of this code.

§11-13KK-2. Amount of credit; limitation of credit.

13 (a) There is allowed to eligible veterans in this state a nonrefundable one-time credit
14 against taxes imposed by §11-21-1 et seq. of this code in the amount set forth in subsection (b)
15 of this section.

16 (b) The amount of the tax credit is equal to the amount paid by the eligible veteran for his
17 or her West Virginia resident veteran lifetime hunting and fishing license and shall not exceed one
18 half of the adult fee for a lifetime license purchased pursuant to §20-2B-1 et seq. of this code. If
19 both taxpayers filing a joint tax return are eligible for the credit authorized by this article, the

20 amount of the credit is equal to the amount paid by both taxpayers.

21 (c) If the amount of the credit authorized by this article is unused in any tax year, it may
22 not be applied to any other tax year.

§11-13KK-3. Qualification for credit.

23 (a) To be an eligible veteran under §11-13KK-2 of this code, an individual shall obtain a
24 lifetime hunting, fishing, and trapping license for veterans issued by the Division of Natural
25 Resources pursuant to §20-2B-1 et seq. of this code.

26 (b) To claim the tax credit, an eligible veteran shall submit proof of purchase showing the
27 dollar amount paid for and date of issuance of a lifetime license for veterans from the Division of
28 Natural Resources.

29 (c) This tax credit is not allowed with respect to any person who fails to qualify or is denied
30 a license after applying therefor.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 2. WILDLIFE RESOURCES.

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

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

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

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

41 (c) All residents of West Virginia on active duty in the armed forces of the United States of
42 America, while on leave or furlough, may hunt, trap, or fish in season in West Virginia without
43 obtaining a license. Leave or furlough papers shall serve in lieu of any license and shall be carried
44 on the person at all times while trapping, hunting, or fishing.

45 (d) In accordance with the provisions of §20-2-27 of this code, any resident 65 years of
46 age or older before January 1, 2012, is not required to have a license to hunt, trap, or fish during
47 the legal seasons in West Virginia, but in lieu of the license the person shall at all times while
48 hunting, trapping, or fishing carry on his or her person a valid West Virginia driver's license or
49 nondriver identification card issued by the Division of Motor Vehicles.

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

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

64 ~~(g) Any resident of West Virginia who was honorably discharged from the Armed Forces~~
65 ~~of the United States of America and who receives a veteran's pension based on total permanent~~

66 ~~service-connected disability as certified to by the Veterans Administration may hunt, trap or fish~~
67 ~~in this state without obtaining a license. The director shall propose rules for legislative approval in~~
68 ~~accordance with the provisions of article three, chapter twenty-nine-a of this code setting forth the~~
69 ~~procedure for the certification of the veteran, manner of applying for and receiving the certification~~
70 ~~and requirements as to identification while the veteran is hunting, trapping or fishing.~~

71 ~~(h) Any disabled veteran who is a resident of West Virginia and who, as certified to by the~~
72 ~~Commissioner of Motor Vehicles, is eligible to be exempt from the payment of any fee on account~~
73 ~~of registration of any motor vehicle owned by the disabled veteran as provided in section eight,~~
74 ~~article ten, chapter seventeen-a of this code shall be permitted to hunt, trap, or fish in this state~~
75 ~~without obtaining a license. The director shall propose rules for legislative approval in accordance~~
76 ~~with the provisions of article three, chapter twenty-nine-a of this code setting forth the procedure~~
77 ~~for the certification of the disabled veteran, manner of applying for and receiving the certification,~~
78 ~~and requirements as to identification while the disabled veteran is hunting, trapping, or fishing.~~

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

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

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

90 (2) Is manifested before the person attains age 22;

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

93 (A) Self-care;

94 (B) Receptive and expressive language;

95 (C) Learning;

96 (D) Mobility;

97 (E) Self-direction;

98 (F) Capacity for independent living; and

99 (G) Economic self-sufficiency; and

100 (4) Reflects the person's need for a combination and sequence of care, treatment, or
101 supportive services which are of lifelong or extended duration and are individually planned and
102 coordinated.

103 ~~(k)~~ (i) A student 18 years of age or younger receiving instruction in fly fishing in a public,
104 private, parochial, or Christian school in this state may fly fish in the state for catch and release
105 only without obtaining a fishing license while under the supervision of an instructor authorized by
106 the school.

ARTICLE 2B. WILDLIFE ENDOWMENT FUND.

§20-2B-7. Lifetime hunting, fishing, and trapping licenses created.

107 (a) Pursuant to §20-2B-3 of this code, the director may issue the following lifetime hunting,
108 fishing, and trapping licenses and for the lifetime of the licensee, the lifetime licenses serve in lieu
109 of the equivalent annual license: Lifetime resident statewide hunting and trapping license; lifetime
110 resident combination statewide hunting, fishing, and trapping license; lifetime resident statewide
111 fishing license; and lifetime resident trout fishing license.

112 (b) (1) The director shall propose a rule for legislative approval in accordance with §29A-
113 3-1 *et seq.* of this code, setting fees for lifetime licenses and shall have authority to promulgate

114 emergency legislative rules necessary to make effective the provisions of this section by July 1,
115 2021. The fees for adult lifetime licenses shall be 23 times the fee for the equivalent annual
116 licenses or stamps. The rule shall provide that the fee for any resident who has not reached his
117 or her 15th birthday shall be:

118 ~~(4)~~ (A) Forty percent of the adult fee set under rule for any resident who has not reached
119 his or her first birthday;

120 ~~(2)~~ (B) Fifty-five percent of the adult fee set under rule for any resident who is over one
121 year old but has not reached his or her fifth birthday;

122 ~~(3)~~ (C) Seventy-five percent of the adult fee set under rule for any resident who is over five
123 years old but has not reached his or her 10th birthday; and

124 ~~(4)~~ (D) Ninety percent of the adult fee set under rule for any resident who is over 10 years
125 old but has not reached his or her 15th birthday.

126 (2) The rule shall also provide that any resident who has not reached his or her 15th
127 birthday and has been legally adopted shall be provided the same fee schedule, except the
128 division shall use the date of entry of the order or decree of adoption as the licensee's date of
129 birth for purposes of calculating the appropriate fee: *Provided*, That in addition to the provisions
130 of this subsection for adopted children, foster parents may also purchase a lifetime license for
131 their respective foster children under the same guidelines, except the division shall use the date
132 of entry of the order placing the child in foster care as the licensee's date of birth for purposes of
133 calculating the appropriate fee.

134 (3) The rule shall further provide that the fee for any combination hunting, trapping, and
135 fishing license for any resident who served on full-time active duty in the armed forces of the
136 United States, and who was discharged or released therefrom under conditions other than
137 dishonorable, receives service-related disability compensation based on a total disability rating of
138 not less than 50% as certified by the Veterans Administration, shall be one half of the adult fee

139 set under the rule.

NOTE: The purpose of this bill is to provide a personal income tax credit for 50% of the cost of a lifetime hunting, trapping and fishing license for certain veterans who have been discharged from the armed services and who are certified by the Veterans Administration as not less than 50% totally disabled.

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