

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 447

FISCAL
NOTE

By Senators Smith, Deeds, Chapman, Taylor, and

Caputo

[Introduced January 24, 2023; referred
to the Committee on Military; 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 §11-13MM-1, §11-13MM-2, and §11-13MM-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 tax credit
 4 offered to disabled veterans that have been honorably discharged from the military for the
 5 cost of their lifetime hunting, trapping, and fishing license; defining "eligible veteran";
 6 establishing amount of credit; setting procedures to claim credit; requiring that disabled
 7 veterans obtaining a hunting, trapping, and fishing license; and requiring proposal of
 8 appropriate legislative rule.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11. TAXATION.

ARTICLE 13MM. WEST VIRGINIA HONORABLY DISCHARGED VETERAN LIFETIME

HUNTING, TRAPPING, AND FISHING LICENSE TAX CREDIT.

§11-13MM-1. Definitions.

1 As used in this article:

2 "Eligible veteran" means a West Virginia resident who served in the active military, naval,
 3 or air service of the United States of America, and who was discharged or released therefrom
 4 under conditions other than dishonorable, receives service-related disability compensation based
 5 on a total disability rating of not less than 50% as certified by the Veterans Administration, and has
 6 completed the purchase of and been issued a lifetime hunting, fishing, and trapping license for
 7 veterans pursuant to §20-2B-1 et seq. of this code.

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

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

4 (b) The amount of the tax credit is equal to the amount paid by the eligible veteran for his or

5 her West Virginia resident veteran lifetime hunting and fishing license and shall not exceed one
 6 half of the adult fee for a lifetime license purchased pursuant to §20-2B-1 et seq. of this code. If
 7 both taxpayers filing a joint tax return are eligible for the credit authorized by this article, the
 8 amount of the credit is equal to the amount paid by both taxpayers.

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

§11-13MM-3. Qualification for credit.

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

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

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

CHAPTER 20. NATURAL RESOURCES.

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)~~ (1) Bona fide resident landowners or their resident children, or resident parents, or bona
 4 fide resident tenants of the land may hunt, trap, or fish on their own land during open season in
 5 accordance with the laws and rules applying to the hunting, trapping and fishing without obtaining
 6 a license, unless the lands have been designated as a wildlife refuge or preserve.

7 ~~(b)~~ (2) Any bona fide resident of this state who is totally blind may fish in this state without

8 obtaining a fishing license. A written statement or certificate from a duly licensed physician of this
9 state showing the resident to be totally blind shall serve in lieu of a fishing license and shall be
10 carried on the person of the resident at all times while he or she is fishing in this state.

11 ~~(e)~~ (3) All residents of West Virginia on active duty in the armed forces of the United States
12 of America, while on leave or furlough, may hunt, trap, or fish in season in West Virginia without
13 obtaining a license. Leave or furlough papers shall serve in lieu of any license and shall be carried
14 on the person at all times while trapping, hunting, or fishing.

15 ~~(d)~~ (4) In accordance with the provisions of §20-2-28 of this code, any resident 65 years of
16 age or older before January 1, 2012, is not required to have a license to hunt, trap, or fish during
17 the legal seasons in West Virginia, but in lieu of the license the person shall at all times while
18 hunting, trapping or fishing carry on his or her person a valid West Virginia driver's license or
19 nondriver identification card issued by the Division of Motor Vehicles.

20 ~~(e)~~ (5) Except as otherwise provided for in this section, residents of states that share river
21 borders with the State of West Virginia who carry hunting or fishing licenses valid in that state may
22 hunt or fish without obtaining licenses, but the hunting or fishing shall be confined to the fish and
23 waterfowl of the river proper and not on its tributaries: *Provided*, That the state shall first enter into
24 a reciprocal agreement with the director extending a like privilege of hunting and fishing to licensed
25 residents of West Virginia without requiring the residents to obtain that state's hunting and fishing
26 licenses.

27 ~~(f)~~ (6) Residents of the State of Ohio who carry hunting or fishing licenses valid in that state
28 may hunt or fish on the Ohio River or from the West Virginia banks of the river without obtaining
29 licenses, but the hunting or fishing shall be confined to fish and waterfowl of the river proper and to
30 points on West Virginia tributaries and embayments identified by the director: *Provided*, That the
31 State of Ohio shall first enter into a reciprocal agreement with the director extending a like privilege
32 of hunting and fishing from the Ohio banks of the river to licensed residents of West Virginia
33 without requiring the residents to obtain Ohio hunting and fishing licenses.

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

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

49 ~~(i) (7) Any resident or inpatient in any state mental health, health, or benevolent institution~~
50 ~~or facility may fish in this state, under proper supervision of the institution involved, without~~
51 ~~obtaining a fishing license. A written statement or certificate signed by the superintendent of the~~
52 ~~mental health, health or benevolent institution or facility in which the resident or inpatient, as the~~
53 ~~case may be, is institutionalized shall serve in lieu of a fishing license and shall be carried on the~~
54 ~~person of the resident or inpatient at all times while he or she is fishing in this state.~~

55 ~~(j) (8) Any resident who is developmentally disabled, as certified by a physician and the~~
56 ~~Director of the Division of Health, may fish in this state without obtaining a fishing license. As used~~
57 ~~in this section, "developmentally disabled" means a person with a severe, chronic disability which:~~

58 ~~(4) (A) Is attributable to a mental or physical impairment or a combination of mental and~~
59 ~~physical impairments;~~

60 ~~(2)~~ (B) Is manifested before the person attains age twenty-two;

61 ~~(3)~~ (C) Results in substantial functional limitations in three or more of the following areas of

62 major life activity:

63 ~~(A)~~ (i) Self-care;

64 ~~(B)~~ (ii) Receptive and expressive language;

65 ~~(C)~~ (iii) Learning;

66 ~~(D)~~ (iv) Mobility;

67 ~~(E)~~ (v) Self-direction;

68 ~~(F)~~ (vi) Capacity for independent living; and

69 ~~(G)~~ (vii) Economic self-sufficiency; and

70 ~~(4)~~ (D) Reflects the person's need for a combination and sequence of care, treatment or

71 supportive services which are of lifelong or extended duration and are individually planned and

72 coordinated.

73 ~~(k)~~ (9) A student 18 years of age or younger receiving instruction in fly fishing in a public,

74 private, parochial, or Christian school in this state may fly fish in the state for catch and release

75 only without obtaining a fishing license while under the supervision of an instructor authorized by

76 the school.

ARTICLE 2B. WILDLIFE ENDOWMENT FUND.

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

1 (a) Pursuant to §20-2B-3 of this code, the director may issue the following lifetime hunting,

2 fishing, and trapping licenses and for the lifetime of the licensee, the lifetime licenses serve in lieu

3 of the equivalent annual license: Lifetime resident statewide hunting and trapping license; lifetime

4 resident combination statewide hunting, fishing, and trapping license; lifetime resident statewide

5 fishing license; and lifetime resident trout fishing license.

6 (b) The director shall propose a rule for legislative approval in accordance with §29A-3-1 *et*

7 *seq.* of this code, setting fees for lifetime licenses and shall have authority to promulgate

8 emergency legislative rules necessary to make effective the provisions of this section by July 1,
9 2021. The fees for adult lifetime licenses shall be 23 times the fee for the equivalent annual
10 licenses or stamps, except as otherwise provided in this section. The rule shall provide that the fee
11 for any resident who has not reached his or her 15th birthday shall be:

12 (1) Forty percent of the adult fee set under rule for any resident who has not reached his or
13 her first birthday;

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

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

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

20 The rule shall also provide that any resident who has not reached his or her 15th birthday
21 and has been legally adopted shall be provided the same fee schedule, except the division shall
22 use the date of entry of the order or decree of adoption as the licensee's date of birth for purposes
23 of calculating the appropriate fee: *Provided*, That in addition to the provisions of this subsection for
24 adopted children, foster parents may also purchase a lifetime license for their respective foster
25 children under the same guidelines, except the division shall use the date of entry of the order
26 placing the child in foster care as the licensee's date of birth for purposes of calculating the
27 appropriate fee.

28 The rule shall further provide that the fee for any combination hunting, trapping, and fishing
29 license for any resident who served in the active military, naval, or air service of the United States
30 of America, and who was discharged or released therefrom under conditions other than
31 dishonorable, and receives service-related disability compensation based on a total disability
32 rating of not less than 50%, as certified by the Veterans Administration, shall be one half of the
33 adult fee set under the rule.

NOTE: The purpose of this bill is to provide a tax credit for 50% of the cost of a lifetime hunting, trapping and fishing license for veterans who have been honorably 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.