

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

Senate Bill 447

By Senators Smith, Deeds, Chapman, Taylor, and

Maynard

[Originating in the Committee on Military; reported on

February 8, 2023]

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 veterans that have been honorably discharged from the military for the cost of
5 their lifetime hunting, trapping, and fishing license; defining "eligible veteran"; establishing
6 amount of credit; setting procedures to claim credit; requiring that disabled veterans obtain
7 a hunting, trapping, and fishing license; and requiring proposal of appropriate legislative
8 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 any West Virginia resident who has served as an active member
3 of the armed forces of the United States, the National Guard, or a reserve component as described
4 in 38 U.S.C. 36 §101. Notwithstanding any provision in this code to the contrary, a veteran must be
5 honorably discharge, or under honorable conditions as described in 38 U.S.C. §101, 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) Eligible veterans in this state are allowed a nonrefundable one-time credit against taxes
2 imposed by §11-21-1 et seq. of this code in the amount set forth in subsection (b) of this section.

3 (b) The amount of the tax credit is equal to the amount paid by the eligible veteran for his or
4 her West Virginia resident veteran lifetime hunting and fishing license and shall not exceed one

5 half of the adult fee for a lifetime license purchased pursuant to §20-2B-1 et seq. of this code. If
6 both taxpayers filing a joint tax return are eligible for the credit authorized by this article, the
7 amount of the credit is equal to the amount paid by both taxpayers,

8 (c) If the amount of the credit authorized by this article is unused in any tax year, it may not
9 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 hunting, trapping and fishing without obtaining a
6 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)~~ (7) Any resident of West Virginia who was honorably discharged from the Armed

35 Forces of the United States of America, and who receives a veteran's pension based on total
36 permanent service-connected disability as certified to by the Veterans Administration, may hunt,
37 trap, or fish in this state without obtaining a license. The director shall propose rules for legislative
38 approval in accordance with the provisions of §29A-3-1 of this code setting forth the procedure for
39 the certification of the veteran, manner of applying for and receiving the certification, and
40 requirements as to identification while the veteran is hunting, trapping, or fishing.

41 ~~(h)~~ (8) Any disabled veteran who is a resident of West Virginia and who, as certified to by
42 the Commissioner of Motor Vehicles, is eligible to be exempt from the payment of any fee on
43 account of registration of any motor vehicle owned by the disabled veteran as provided in §17A-
44 10-8 of this code shall be permitted to hunt, trap or fish in this state without obtaining a license. The
45 director shall propose rules for legislative approval in accordance with the provisions of §29A-3-1
46 of this code setting forth the procedure for the certification of the disabled veteran, manner of
47 applying for and receiving the certification and requirements as to identification while the disabled
48 veteran is hunting, trapping, or fishing.

49 (i) (9) 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) (10) 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 (1) (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 22;

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)~~ (11) 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 West Virginia resident who has served as an active member of the armed forces of
30 the United States, the National Guard, or a reserve component as described in 38 U.S.C. 36 §101.
31 Notwithstanding any provision in this code to the contrary, a veteran must be honorably
32 discharged or under honorable conditions as described in 38 U.S.C. §101.

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.

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