

H. B. 4533

(By Delegates Cooper, Ireland, D. Evans,
Azinger and Ambler)

[Introduced February 14, 2014; referred to the
Committee on Agriculture and Natural Resources then
Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §20-1-2 of the Code of West Virginia,
1931, as amended; and to amend said code by adding thereto a
new section, designated §20-2-45, all relating to providing a
fee discount for certain nonresident hunting, fishing and
trapping licenses for native nonresidents of the state;
definitions; limitation upon the fee amounts; providing for
emergency rule and legislative rules.

Be it enacted by the Legislature of West Virginia:

That §20-1-2 of the Code of West Virginia, 1931, as amended,
be amended and reenacted; and that said code be amended by adding
thereto a new section, designated §20-2-45, all to read as follows:

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

§20-1-2. Definitions.

As used in this chapter, unless the context clearly requires
a different meaning:

1 "Agency" means any branch, department or unit of the state
2 government, however designated or constituted.

3 "Alien" means any person not a citizen of the United States.

4 "Bag limit" or "creel limit" means the maximum number of
5 wildlife which may be taken, caught, killed or possessed by any
6 person.

7 "Big game" means elk, deer, black bears, wild boars and wild
8 turkeys.

9 "Bona fide resident, tenant or lessee" means a person who
10 permanently resides on the land.

11 "Citizen" means any native-born citizen of the United States
12 and foreign-born persons who have procured their final
13 naturalization papers.

14 "Closed season" means the time or period during which it shall
15 be unlawful to take any wildlife as specified and limited by the
16 provisions of this chapter.

17 "Commission" means the Natural Resources Commission.

18 "Commissioner" means a member of the advisory commission of
19 the Natural Resources Commission.

20 "Director" means the Director of the Division of Natural
21 Resources.

22 "Fishing" or "to fish" means the taking, by any means, of
23 fish, minnows, frogs or other amphibians, aquatic turtles and other
24 forms of aquatic life used as fish bait.

1 "Fur-bearing animals" include: (a) The mink; (b) the weasel;
2 (c) the muskrat; (d) the beaver; (e) the opossum; (f) the skunk and
3 civet cat, commonly called polecat; (g) the otter; (h) the red fox;
4 (i) the gray fox; (j) the wildcat, bobcat or bay lynx; (k) the
5 raccoon; and (l) the fisher.

6 "Game" means game animals, game birds and game fish as herein
7 defined.

8 "Game animals" include: (a) The elk; (b) the deer; (c) the
9 cottontail rabbits and hares; (d) the fox squirrels, commonly
10 called red squirrels, and gray squirrels and all their color phases
11 - red, gray, black or albino; (e) the raccoon; (f) the black bear;
12 and (g) the wild boar.

13 "Game birds" include: (a) The anatidae, commonly known as
14 swan, geese, brants and river and sea ducks; (b) the rallidae,
15 commonly known as rails, sora, coots, mudhens and gallinule; (c)
16 the limicolae, commonly known as shorebirds, plover, snipe,
17 woodcock, sandpipers, yellow legs and curlews; (d) the galliformes,
18 commonly known as wild turkey, grouse, pheasants, quails and
19 partridges (both native and foreign species); (e) the columbidae,
20 commonly known as doves; (f) the icteridae, commonly known as
21 blackbirds, redwings and grackle; and (g) the corvidae, commonly
22 known as crows.

23 "Game fish" include: (a) Brook trout; (b) brown trout; (c)
24 rainbow trout; (d) golden rainbow trout; (e) largemouth bass; (f)

1 smallmouth bass; (g) spotted bass; (h) striped bass; (i) chain
2 pickerel; (j) muskellunge; (k) walleye; (l) northern pike; (m) rock
3 bass; (n) white bass; (o) white crappie; (p) black crappie; (q) all
4 sunfish species; (r) channel catfish; (s) flathead catfish; (t)
5 blue catfish, (u) sauger; and (v) all game fish hybrids.

6 "Hunt" means to pursue, chase, catch or take any wild birds or
7 wild animals: *Provided*, That the definition of "hunt" does not
8 include an officially sanctioned and properly licensed field trial,
9 water race or wild hunt as long as that field trial is not a shoot-
10 to-retrieve field trial.

11 "Lands" means land, waters and all other appurtenances
12 connected therewith.

13 "Migratory birds" means any migratory game or nongame birds
14 included in the terms of conventions between the United States and
15 Great Britain and between the United States and United Mexican
16 States, known as the Migratory Bird Treaty Act, for the protection
17 of migratory birds and game mammals concluded, respectively, August
18 16, 1916, and February 7, 1936.

19 "Native nonresident" means a nonresident who was a resident of
20 the State of West Virginia at the time of his or her birth.

21 "Nonresident" means any person who is a citizen of the United
22 States and who has not been a domiciled resident of the State of
23 West Virginia for a period of thirty consecutive days immediately
24 prior to the date of his or her application for a license or permit

1 except any full-time student of any college or university of this
2 state, even though he or she is paying a nonresident tuition.

3 "Open season" means the time during which the various species
4 of wildlife may be legally caught, taken, killed or chased in a
5 specified manner and shall include both the first and the last day
6 of the season or period designated by the director.

7 "Person", except as otherwise defined elsewhere in this
8 chapter, means the plural "persons" and shall include individuals,
9 partnerships, corporations or other legal entities.

10 "Preserve" means all duly licensed private game farmlands, or
11 private plants, ponds or areas, where hunting or fishing is
12 permitted under special licenses or seasons other than the regular
13 public hunting or fishing seasons.

14 "Protected birds" means all wild birds not included within the
15 definition of "game birds" and "unprotected birds".

16 "Resident" means any person who is a citizen of the United
17 States and who has been a domiciled resident of the State of West
18 Virginia for a period of thirty consecutive days or more
19 immediately prior to the date of his or her application for license
20 or permit: *Provided*, That a member of the Armed Forces of the
21 United States who is stationed beyond the territorial limits of
22 this state, but who was a resident of this state at the time of his
23 or her entry into such service and any full-time student of any
24 college or university of this state, even though he or she is

1 paying a nonresident tuition, shall be considered a resident under
2 the provisions of this chapter.

3 "Roadside menagerie" means any place of business, other than
4 a commercial game farm, commercial fish preserve, place or pond,
5 where any wild bird, game bird, unprotected bird, game animal or
6 fur-bearing animal is kept in confinement for the attraction and
7 amusement of the people for commercial purposes.

8 "Small game" includes all game animals, furbearing animals and
9 game birds except elk, deer, black bears, wild boars and wild
10 turkeys.

11 "Take" means to hunt, shoot, pursue, lure, kill, destroy,
12 catch, capture, keep in captivity, gig, spear, trap, ensnare, wound
13 or injure any wildlife, or attempt to do so: *Provided*, That the
14 definition of "take" does not include an officially sanctioned and
15 properly licensed field trial, water race or wild hunt as long as
16 that field trial is not a shoot-to-retrieve field trial.

17 "Unprotected birds" shall include: (a) The English sparrow;
18 (b) the European starling; and (c) the cowbird.

19 "Wild animals" means all mammals native to the State of West
20 Virginia occurring either in a natural state or in captivity,
21 except house mice or rats.

22 "Wild birds" shall include all birds other than: (a) Domestic
23 poultry - chickens, ducks, geese, guinea fowl, peafowls and
24 turkeys; (b) psittacidae, commonly called parrots and parakeets;

1 and (c) other foreign cage birds such as the common canary, exotic
2 finches and ring dove. All wild birds, either: (i) Those
3 occurring in a natural state in West Virginia; or (ii) those
4 imported foreign game birds, such as waterfowl, pheasants,
5 partridges, quail and grouse, regardless of how long raised or held
6 in captivity, shall remain wild birds under the meaning of this
7 chapter.

8 "Wildlife" means wild birds, wild animals, game and fur-
9 bearing animals, fish (including minnows,) reptiles, amphibians,
10 mollusks, crustaceans and all forms of aquatic life used as fish
11 bait, whether dead or alive.

12 "Wildlife refuge" means any land set aside by action of the
13 director as an inviolate refuge or sanctuary for the protection of
14 designated forms of wildlife.

15 **ARTICLE 2. WILDLIFE RESOURCES.**

16 **§20-2-45. Hunting, fishing and trapping license and stamp fees for**
17 **native nonresidents.**

18 A person that can establish by a birth certificate that he or
19 she is a native nonresident may purchase a nonresident license or
20 stamp to hunt, fish or trap at a discount of fifty percent of the
21 fee for any nonresident license or stamp authorised in this
22 chapter: *Provided*, That the fee for any nonresident license or
23 stamp may not be less than an equivalent resident license or stamp.

1 The Director shall propose rules for legislative approval as
2 well as emergency rules in accordance with the provisions of
3 article three, chapter twenty-nine-a of this code to administer the
4 provisions of this section, including setting the fees for
5 nonresident licenses and stamps for native nonresidents established
6 in this section.

NOTE: The purpose of this bill is to provide a fee discount for certain nonresident hunting, fishing and trapping licenses for native nonresidents of the state.

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

§2-12-45 is new; therefore, it has been completely underscored.