

H. B. 2231

(By Delegates Hill, J. Nelson, Border, Kessinger, Foster,
Householder, Cadle and Espinosa)

[Introduced January 22, 2015; referred to the

Committee on Agriculture and Natural Resources then the Judiciary.]

**FISCAL
NOTE**

A BILL to amend and reenact §20-2-28 of the Code of West Virginia, 1931, as amended, relating to permitting grandchildren of resident landowners to hunt, trap or fish on that landowner's property without a license.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. WILDLIFE RESOURCES.

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

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

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

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

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

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

8 (d) In accordance with the provisions of section twenty-seven of this article, any resident
9 sixty-five years of age or older before January 1, 2012, is not required to have a license to hunt, trap
10 or fish during the legal seasons in West Virginia, but in lieu of the license the person shall at all
11 times while hunting, trapping or fishing carry on his or her person a valid West Virginia driver's
12 license or nondriver identification card issued by the Division of Motor Vehicles.

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

20 (f) Residents of the state of Ohio who carry hunting or fishing licenses valid in that state may
21 hunt or fish on the Ohio River or from the West Virginia banks of the river without obtaining
22 licenses, but the hunting or fishing shall be confined to fish and waterfowl of the river proper and

1 to points on West Virginia tributaries and embayments identified by the director: *Provided*, That
2 the state of Ohio shall first enter into a reciprocal agreement with the director extending a like
3 privilege of hunting and fishing from the Ohio banks of the river to licensed residents of West
4 Virginia without requiring the residents to obtain Ohio hunting and fishing licenses.

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

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

20 (i) Any resident or inpatient in any state mental health, health or benevolent institution or
21 facility may fish in this state, under proper supervision of the institution involved, without obtaining
22 a fishing license. A written statement or certificate signed by the superintendent of the mental health,

1 health or benevolent institution or facility in which the resident or inpatient, as the case may be, is
2 institutionalized shall serve in lieu of a fishing license and shall be carried on the person of the
3 resident or inpatient at all times while he or she is fishing in this state.

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

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

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

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

12 (A) Self-care;

13 (B) Receptive and expressive language;

14 (C) Learning;

15 (D) Mobility;

16 (E) Self-direction;

17 (F) Capacity for independent living; and

18 (G) Economic self-sufficiency; and

19 (4) Reflects the person’s need for a combination and sequence of care, treatment or
20 supportive services which are of lifelong or extended duration and are individually planned and
21 coordinated.

22 (k) A student eighteen years of age or younger receiving instruction in fly fishing in a public,

- 1 private, parochial or Christian school in this state may fly fish in the state for catch and release only
- 2 without obtaining a fishing license while under the supervision of an instructor authorized by the
- 3 school.

NOTE: The purpose of this bill is to permit grandchildren of resident landowners to hunt, trap or fish on that landowner's property without a license.

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