

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4203

BY DELEGATES WESTFALL, B. WHITE, GEARHEART,
STANSBURY, BUTLER, ATKINSON, R. PHILLIPS, WELD AND
MCCUSKEY

[Introduced January 21, 2016; Referred
to the Committee on Agriculture and Natural
Resources then the Judiciary.]

1 A BILL to amend and reenact 20-2-28 of the Code of West Virginia, 1931, as amended, relating
 2 to providing a hunting license exemption for certain nonresident landowners and their
 3 spouses and children residing with the nonresident landowner.

Be it enacted by the Legislature of West Virginia:

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

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) 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) 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 (c) 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) In accordance with the provisions of section twenty-seven of this article, any resident
 16 sixty-five years of age or older before January 1, 2012, is not required to have a license to hunt,
 17 trap or fish during the legal seasons in West Virginia, but in lieu of the license the person shall at
 18 all times while hunting, trapping or fishing carry on his or her person a valid West Virginia driver's

19 license or nondriver identification card issued by the Division of Motor Vehicles.

20 (e) 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
22 may hunt or fish without obtaining licenses, but the hunting or fishing shall be confined to the fish
23 and waterfowl of the river proper and not on its tributaries: *Provided*, That the state shall first enter
24 into a reciprocal agreement with the director extending a like privilege of hunting and fishing to
25 licensed residents of West Virginia without requiring the residents to obtain that state's hunting
26 and fishing licenses.

27 (f) 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
30 to points on West Virginia tributaries and embayments identified by the director: *Provided*, That
31 the state of Ohio shall first enter into a reciprocal agreement with the director extending a like
32 privilege of hunting and fishing from the Ohio banks of the river to licensed residents of West
33 Virginia 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
35 of 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
37 in 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) Any resident or inpatient in any state mental health, health or benevolent institution or
50 facility may fish in this state, under proper supervision of the institution involved, without obtaining
51 a fishing license. A written statement or certificate signed by the superintendent of the mental
52 health, health or benevolent institution or facility in which the resident or inpatient, as the case
53 may be, is institutionalized shall serve in lieu of a fishing license and shall be carried on the person
54 of the resident or inpatient at all times while he or she is fishing in this state.

55 (j) 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) Is attributable to a mental or physical impairment or a combination of mental and
59 physical impairments;

60 (2) Is manifested before the person attains age twenty-two;(3) Results in substantial
61 functional limitations in three or more of the following areas of major life activity:

62 (A) Self-care;

63 (B) Receptive and expressive language;

64 (C) Learning;

65 (D) Mobility;

66 (E) Self-direction;

67 (F) Capacity for independent living; and

68 (G) Economic self-sufficiency; and

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

72 (k) A student eighteen years of age or younger receiving instruction in fly fishing in a public,
73 private, parochial or Christian school in this state may fly fish in the state for catch and release
74 only without obtaining a fishing license while under the supervision of an instructor authorized by
75 the school.

1 (l) A nonresident landowner and his or her spouse and children that reside with the
2 nonresident landowner may hunt on that property without obtaining a hunting license during open
3 season in accordance with the laws and rules applying to hunting: *Provided*, That the
4 nonresident's home state allows residents of West Virginia owning property in the nonresident's
5 home state and his or her spouse and children residing with the West Virginia resident to hunt on
6 that property in that state without obtaining a hunting license. The director shall propose rules for
7 legislative approval in accordance with article three, chapter twenty nine-a of this code setting
8 forth a procedure for the identification of persons entitled to the exemption provided in this
9 subdivision.

NOTE: The purpose of this bill is to provide a hunting license exemption for certain nonresident landowners and their spouses and children residing with the nonresident landowner.

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