

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Originating

House Bill 2759

BY DELEGATES DEAN, PHILLIPS, PAYNTER, BRIDGES,
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[Originating in the Committee on Agriculture and
Natural Resources and then referred to the

Committee on Finance;

Reported on February 24, 2021

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto §11-13KK-1
2 through §11-13KK-3; amending §20-2-28 and amending §20-2B-7, all relating to tax credit
3 offered to disabled veterans that have been Honorably Discharged from the military for
4 the cost of their lifetime hunting, trapping and fishing license.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11. TAXATION.

ARTICLE 13KK. WEST VIRGINIA HONORABLY DISCHARGED VETERAN LIFETIME HUNTING, TRAPPING, AND FISHING LICENSE TAX CREDIT.

§11-13kk-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
6 has completed the purchase of and been issued a lifetime hunting, fishing, and trapping license
7 for veterans pursuant to §20-2B-1 et seq.

§11-13KK-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)
3 of this section.

4 (b) The amount of the tax credit is equal to the amount paid by the eligible veteran for his
5 or 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. If both taxpayers
7 filing a joint tax return are eligible for the credit authorized by this article, the amount of the credit
8 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
10 not be applied to any other tax year.

§11-13KK-3. Qualification for credit.

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

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

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

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
4 bona fide resident tenants of the land may hunt, trap, or fish on their own land during open season
5 in accordance with the laws and rules applying to the hunting, trapping, and fishing without
6 obtaining 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 ~~(c)~~ (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 ~~section twenty-seven of this article §20-2-27~~
16 of this code, any resident ~~sixty-five~~ 65 years of age or older before January 1, 2012, is not required
17 to have a license to hunt, trap, or fish during the legal seasons in West Virginia, but in lieu of the
18 license the person shall at all times while hunting, trapping, or fishing carry on his or her person
19 a valid West Virginia driver's license or nondriver identification card issued by the Division of Motor
20 Vehicles.

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

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

36 ~~(g) Any resident of West Virginia who was honorably discharged from the Armed Forces~~
37 ~~of the United States of America and who receives a veteran's pension based on total permanent~~
38 ~~service-connected disability as certified to by the Veterans Administration may hunt, trap or fish~~
39 ~~in this state without obtaining a license. The director shall propose rules for legislative approval in~~

40 ~~accordance with the provisions of article three, chapter twenty-nine-a of this code setting forth the~~
41 ~~procedure for the certification of the veteran, manner of applying for and receiving the certification~~
42 ~~and requirements as to identification while the veteran is hunting, trapping or fishing.~~

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

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

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

60 ~~(1) (A) Is attributable to a mental or physical impairment or a combination of mental and~~
61 ~~physical impairments;~~

62 ~~(2) (B) Is manifested before the person attains age ~~twenty-two~~ 22;~~

63 ~~(3) (C) Results in substantial functional limitations in three or more of the following areas~~
64 ~~of major life activity:~~

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

- 66 ~~(B)~~ (ii) Receptive and expressive language;
- 67 ~~(C)~~ (iii) Learning;
- 68 ~~(D)~~ (iv) Mobility;
- 69 ~~(E)~~ (v) Self-direction;
- 70 ~~(F)~~ (vi) Capacity for independent living; and
- 71 ~~(G)~~ (vii) Economic self-sufficiency; and
- 72 ~~(4)~~ (D) Reflects the person's need for a combination and sequence of care, treatment, or
- 73 supportive services which are of lifelong or extended duration and are individually planned and
- 74 coordinated.
- 75 ~~(k)~~ (9) A student ~~eighteen~~ 18 years of age or younger receiving instruction in fly fishing in
- 76 a public, private, parochial, or Christian school in this state may fly fish in the state for catch and
- 77 release only without obtaining a fishing license while under the supervision of an instructor
- 78 authorized by 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 statewide fishing
- 5 license; and lifetime resident trout fishing license.
- 6 (b) The director shall propose a rule for legislative approval in accordance with §29A-3-1
- 7 *et seq.*, of this code, setting the fees for the lifetime licenses. The rule shall provide that the fee
- 8 for any resident who has not reached his or her second birthday shall be one half of the adult fee
- 9 set under the rule. The rule shall also provide that the fee for any resident who has not reached
- 10 his or her 12th birthday and has been legally adopted, shall be provided with a period of two years
- 11 from the date of entry of the order or decree of adoption to obtain his or her lifetime license at one

12 half of the adult fee set under the rule. The rule shall further provide that the fee for any
13 combination hunting, trapping, and fishing license for any resident who served in the active
14 military, naval, or air service of the United States of America, and who was discharged or released
15 therefrom under conditions other than dishonorable and receives service-related disability
16 compensation based on a total disability rating of not less than 50% as certified by the Veterans
17 Administration shall be one half of the adult fee set under the rule. The fees for lifetime licenses
18 shall be 23 times the fee for the equivalent annual licenses or stamps.

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.