

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2035

**FISCAL
NOTE**

BY DELEGATES HAMRICK, PAYNTER, MANDT AND MALLOW

[Introduced February 10, 2021; Referred to the Committee
on Agriculture and Natural Resources then Finance]

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

Be it enacted by the Legislature of West Virginia:

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~~ lineal descendants or resident
4 parents, or bona fide resident tenants of the land may hunt, trap or fish on their own land during
5 open season in accordance with the laws and rules applying to the hunting, trapping, and fishing
6 without obtaining a license, unless the lands have been designated as a wildlife refuge or
7 preserve.

8 (b) Any bona fide resident of this state who is totally blind may fish in this state without
9 obtaining a fishing license. A written statement or certificate from a duly licensed physician of this
10 state showing the resident to be totally blind shall serve in lieu of a fishing license and shall be
11 carried on the person of the resident at all times while he or she is fishing in this state.

12 (c) All residents of West Virginia on active duty in the armed forces of the United States of
13 America, while on leave or furlough, may hunt, trap or fish in season in West Virginia without
14 obtaining a license. Leave or furlough papers shall serve in lieu of any license and shall be carried
15 on the person at all times while trapping, hunting, or fishing.

16 (d) In accordance with ~~the provisions of~~ §20-2-27 of this code, any resident 65 years of
17 age or older before January 1, 2012, is not required to have a license to hunt, trap or fish during
18 the legal seasons in West Virginia, but in lieu of the license the person shall at all times while
19 hunting, trapping, or fishing carry on his or her person a valid West Virginia driver's license or
20 nondriver identification card issued by the Division of Motor Vehicles.

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

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

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

47 1 *et seq.* of this code setting forth the procedure for the certification of the disabled veteran,
48 manner of applying for and receiving the certification and requirements as to identification while
49 the disabled veteran is hunting, trapping, or fishing.

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

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

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

61 (2) Is manifested before the person attains age 22;

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

64 (A) Self-care;

65 (B) Receptive and expressive language;

66 (C) Learning;

67 (D) Mobility;

68 (E) Self-direction;

69 (F) Capacity for independent living; and

70 (G) Economic self-sufficiency; and

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

73 coordinated.

74 (k) A student 18 years of age or younger receiving instruction in fly fishing in a public,
75 private, parochial, or Christian school in this state may fly fish in the state for catch and release
76 only without obtaining a fishing license while under the supervision of an instructor authorized by
77 the school.

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

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