ENROLLED

House Bill No. 2703

(By Delegates Campbell, Williams, Eldridge, Hrutkay, Stemple, Paxton and Martin)

Passed March 10, 2007

In Effect Ninety Days from Passage
AN ACT to amend and reenact §20-2-28 of the Code of West Virginia, 1931, as amended, relating to authorizing certain students receiving instruction in fly fishing to fly fish while under the supervision of an instructor without obtaining a license; conditions.

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.

1 Persons in the following categories shall not be required to obtain licenses or permits as indicated:

3 (a) Bona fide resident landowners or their resident children, or resident parents, or bona fide resident tenants of such land may hunt, trap or fish on their own land during
open season in accordance with the laws and regulations applying to such hunting, trapping and fishing without obtaining a license to do so unless such 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 obtaining a fishing license to do so. A written statement or certificate from a duly licensed physician of this state showing the resident to be totally blind shall serve in lieu of a fishing license and shall be carried on the person of the resident at all times while he or she is fishing in this state.

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

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

(e) Residents of the state of Maryland who carry hunting or fishing licenses valid in that state may hunt or fish from the West Virginia banks of the Potomac River without obtaining licenses to do so, but the hunting or fishing shall be confined to the fish and waterfowl of the river proper and not on its tributaries: Provided, That the state of Maryland shall first enter into a reciprocal agreement with the director extending a like privilege of hunting and fishing on the Potomac River from the Maryland banks of said river to licensed residents of West Virginia without requiring said residents to obtain Maryland hunting and fishing licenses.
(f) Residents of the state of Ohio who carry hunting or fishing licenses valid in that state may hunt or fish on the Ohio River or from the West Virginia banks of the river without obtaining licenses to do so, but the hunting or fishing shall be confined to fish and waterfowl of the river proper and to points on West Virginia tributaries and embayments identified by the director: Provided, That the state of Ohio shall first enter into a reciprocal agreement with the director extending a like privilege of hunting and fishing from the Ohio banks of the river to licensed residents of West Virginia without requiring the residents to obtain Ohio hunting and fishing licenses.

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

(h) Any disabled veteran who is a resident of West Virginia and who, as certified to by the Commissioner of Motor Vehicles, is eligible to be exempt from the payment of any fee on account of registration of any motor vehicle owned by such disabled veteran as provided in section eight, article ten, chapter seventeen-a of this code shall be permitted to hunt, trap or fish in this state without obtaining a license therefor. The director shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code setting forth the procedure for the certification of the disabled veteran, manner of applying for and receiving the certification and requirements as to identification while the disabled veteran is hunting, trapping or fishing.
(i) Any resident or inpatient in any state mental health, health or benevolent institution or facility may fish in this state, under proper supervision of the institution involved, without obtaining a fishing license to do so. A written statement or certificate signed by the superintendent of the mental health, health or benevolent institution or facility in which the resident or inpatient, as the case may be, is institutionalized shall serve in lieu of a fishing license and shall be carried on the person of the resident or inpatient at all times while he or she is fishing in this state.

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

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

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

(3) Results in substantial functional limitations in three or more of the following areas of major life activity: (A) Self-care; (B) receptive and expressive language; (C) learning; (D) mobility; (E) self-direction; (F) capacity for independent living; and (G) economic self-sufficiency; and

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

(k) A student eighteen years of age or younger receiving instruction in fly fishing in a public, private, parochial or Christian school in this state may fish in the state for catch and release only without obtaining a fishing license to do so while under the supervision of an instructor authorized by the school.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 28th day of March, 2007.

Governor
PRESENTED TO THE GOVERNOR

MAR 21 2007

Time 4:00 pm